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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

RIN 3206–AG77

Reduction in Force Retreat Right

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim retention regulations that clarify existing policy on employees' ''Retreat'' rights. These interim regulations also clarify existing policy concerning the content of specific written reduction in force notices, and issuance of a Certification of Separation.

DATES: These interim regulations are effective August 25, 1995. Written comments will be considered if received no later than October 24, 1995.

ADDRESSES: Send written comments to Leonard R. Klein, Associate Director for Employment Service, Office of Personnel Management, Room 6F08, 1900 E Street, NW, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Thomas A. Glennon or Edward P. McHugh, 202–606–0960, FAX 202–606–2329.

SUPPLEMENTARY INFORMATION:

Assignments Rights—General

Reduction in force assignment rights are covered in subpart 351–G of title 5, Code of Federal Regulations. A competing employee in retention tenure Groups I and II with current performance ratings of at least ''Minimally Successful'' who has been released from a competitive level is entitled to an offer of assignment under the ''retention regulations if the employee has ''Bumping'' or ''Retreating'' rights to an available position in the same competitive area. The available position must be within three grades or grade-intervals (or equivalent) of the employee's present position. However, an employee who is eligible for veterans' preference under the retention regulations, and who has a service-connected disability of 30 percent or more, has a retreat right to positions up to five grades or grade-intervals (or equivalent) of the employee's present position.

Assignment Rights—Bumping

5 CFR 351.701(b) covers employee ''Bump'' rights. ''Bumping'' means displacing an employee in a lower tenure group, or in a lower subgroup within the released employee's own tenure group. Although the released employee must be qualified for the position, it may be a position that the employee has never held.

Assignment Rights—Retreating

5 CFR 351.701 (c) and (d) cover ''Retreat'' rights. ''Retreating'' means displacing an employee with less service within the released employees own tenure group and subgroup (i.e., a limited form of bumping within the same retention group and subgroup). 5 CFR 351.701(c)(3) provides that the position must also be the same position or essentially identical to a position held by the released employee in a Federal agency.

An employee with a current annual performance rating of ''Minimally Successful'' has retreat rights only to a position held by an employee with the same or a lower rating.

5 CFR 351.701(c)(3) is revised to provide that, for purposes of determining an employee's retreat rights, a position is considered essentially identical to one previously held (1) if the employee held the previous position on a permanent basis, and (2) the agency determines on the basis of available information that the two positions are otherwise interchangeable under the competitive level criteria found in section 5 CFR 351.403, but without regard to the respective grade, classification series, type of work schedule, or type of service, of the two positions. In short, an employee has the right to retreat if the employee's former position and a position held by a lower-standing employee are interchangeable under the competitive level standard found in 5 CFR 351.403 on the basis of the duties, responsibilities, and qualification, even if the two positions differ in regard to grade, classification series, type of work schedule, or type of service.

Examples

Example number 1: A GS–7 employee formerly held a GS–322–5 position. Because of a new classification standard, the GS–322–5 is reclassified to a GS–326–5 with no change in duties, responsibilities, and qualifications. This regulation clarifies that the GS–7 employee would have a right to retreat to the GS–326–5 position held by a lower-standing employee if the agency determines that the employee's former GS–322–5 position and the GS–326–5 position are otherwise essentially identical using the competitive level test found in 5 CFR 351.403.

Example number 2: A WG–4204–10 employee formerly held a WG–4204–7 position. Because of classification error, the WG–4204–7 position is reclassified to a WG–4204–8 with no change in duties, responsibilities, and qualifications. This regulation clarifies that the WG–4204–10 employee would have a right to retreat to the WG–4204–8 position held by a lower-standing employee if the agency determines that the employee's former WG–4204–7 position and the WG–4204–8 position are otherwise essentially identical using the competitive level test found in 5 CFR 351.403.

Example number 3: A full-time GS–343–11 employee formerly held a part-time GS–343–7 position. This regulation clarifies that the full-time GS–343–11 employee would have a right to retreat to a full-time GS–343–7 held by a lower-standing employee if the agency determines that the employee's former part-time GS–343–7 position and the GS–343–7 position are otherwise essentially identical using the competitive level test found in 5 CFR 351.403.

Example number 4: A GS–334–11 competitive service employee formerly held a GS–334–7 position under an excepted service Veterans Readjustment Appointment (VRA). This regulation clarifies that the GS–343–11 employee would have a right to retreat to a GS–343–7 position held by a lower-standing competitive service employee if the agency determines that the employee's former GS–334–7 VRA position and the

GS–334–7 position are otherwise essentially identical using the competitive level test found in 5 CFR 351.403.

Reduction in Force Notices

5 U.S.C. 3502(d)(1) provides that an agency must give each employee a minimum of 60 days specific written notice before effecting a reduction in force action. Pub. L. 102–484 provided that each employee of the Department of Defense is entitled to a minimum of 120 days specific written notice when a significant number of employees will be separated during the period from January 20, 1993, through January 31, 1998.

Section 911(a) of Pub. L. 103–337 extended the window period for the 120 days specific written notice applicable to the Department of Defense to cover the period from January 20, 1993, through January 31, 2000. 5 CFR 351.801(a)(2) is revised to include this statutory change.

5 U.S.C. 3502(d)(2)(A) provides that an agency must cover in a specific reduction in force notice the personnel action that is being taken. 5 CFR 351.802(a)(1) is revised to provide that a specific reduction in force notice must cover the action to be taken, the effective date of the action, and the reasons for the action.

Certification of Expected Separation

5 CFR 351.807 provides that an agency may issue a Certification of Expected Separation to employees likely to be separated by reduction in force within 6 months. 5 CFR 351.807(b) covers the conditions under which an agency may issue a Certification. In final regulations published on January 11, 1995, at 60 FR 2677, the word ''or'' inadvertently followed 5 CFR 351.807(b)(3) rather than the word ''and,'' which was used in interim regulations published on June 27, 1994, at 59 FR 32873. 5 CFR 351.807 is revised to provide that ''and'' again follows 5 CFR 351.807(b)(3), consistent with the interim regulations.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking because it would be contrary to the public interest to delay access to benefits. Also, pursuant to 5 U.S.C. 553(d)(3), I find that food cause exists to make this amendment effective in less than 30 days. The delay in the effective date is being waived to clarify OPM's retention regulations as agencies undertake potential downsizing actions and to give effect to the benefits extended by the amended provisions at the earliest practicable date.

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 351

Administrative practice and procedure, Government employees.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is amending 5 CFR part 351 as follows:

PART 351—REDUCTION IN FORCE

1. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 1302, 3502, 3503, Section 351.801 also issued under E.O. 12828, 58 FR 2965.

2. In § 351.701, paragraph (c)(3) is revised to read as follows:

§ 351.701 Assignment involving displacement.

* * * * *

(c) * * *

(3) Is the same position, or an essentially identical position, held by the released employee on a permanent basis in a Federal agency. (In determining whether a position is essentially identical, the determination is based on the competitive level criteria found in 5 CFR 351.403, but not necessarily in regard to the respective grade, classification series, type of work schedule, or type of service, of the two positions.)

* * * * *

3. In § 351.801, paragraph (a)(2) is revised to read as follows:

§ 351.801 Notice period.

(a) * * *

(2) Under authority of section 4433 of Pub. L. 102–484, as amended by section 911(a) of Pub. L. 103–337, each competing employee of the Department of Defense is entitled, under implementing regulations issued by that agency to a specific written notice at least 120 full days before the effective date of release when a significant number of employees will be separated by reduction in force. The 120 days notice requirement is applicable during the period from January 20, 1993, through January 31, 2000. The basic requirement for 60 full days specific written notice set forth in paragraph (a) of this section is still applicable when less than a significant number of employees will be separated by reduction in force.

* * * * *

4. In § 351.802, paragraph (a)(1) is revised to read as follows:

§ 351.802 Content of notice.

(a)(1) The action to be taken, the reasons for the action, and its effective date;

* * * * *

5. In § 351.807, paragraph (b)(3) is revised to read as follows:

§ 351.807 Certification of expected separation.

* * * * *

(b) * * *

(3) Placement opportunities within the employee's own or other Federal agencies in the local commuting area are limited or nonexistent; and

* * * * *

[FR Doc. 95–21019 Filed 8–24–95; 8:45 am]

BILLING CODE 6325–01–M

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Notice of Practice and Procedure; Realignment of Regional Offices

AGENCY: Merit Systems Protection Board.

ACTION: Final rule; Correction.

SUMMARY: The document on Practice and Procedure; Realignment of Regional Offices which was published on August 10, 1995 (60 FR 40744), contained an error in the address for the Atlanta Regional Office. This document contains the correct address and facsimile number for the Atlanta Regional Office and amends the Approved Hearing Locations by Regional Appeals for the Atlanta Regional Office.

EFFECTIVE DATE: August 25, 1995.

FOR FURTHER INFORMATION CONTACT: Darrell L. Netherton, Senior Executive for Regional Administration, (202) 653–7980.

SUPPLEMENTARY INFORMATION: In FR Doc. 95–19729, on page 40744, Column 3, in Appendix II to part 1201, item 1 is corrected to read as follows:

Atlanta Regional Office, 401 West Peachtree Street NW., 10th floor, Atlanta, Georgia 30308–3519, Facsimile No.: (404) 730–2767 (Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee)

In FR Doc. 95–19729, on page 40745, Column 1 in Appendix III to part 1201, item *Atlanta Regional Office* is amended to read as follows:

Atlanta Regional Office

Atlanta, Georgia
Augusta, Georgia
Macon, Georgia
Savannah, Georgia
Birmingham, Alabama
Huntsville, Alabama
Mobile, Alabama
Montgomery, Alabama
Jacksonville, Florida
Miami, Florida
Orlando, Florida
Pensacola, Florida
Tallahassee, Florida
Tampa/St. Petersburg, Florida
Jackson, Mississippi
Columbia, South Carolina
Charleston, South Carolina
Chattanooga, Tennessee
Knoxville, Tennessee
Nashville, Tennessee

Dated: August 21, 1995.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 95–21135 Filed 8–24–95; 8:45 am]

BILLING CODE 7400–01–M

DEPARTMENT OF AGRICULTURE

Consolidated Farm Service Agency

7 CFR Part 718

Commodity Credit Corporation

7 CFR Parts 1413, 1414, 1415, and 1416

RIN 0560–AE29

1995 Wheat, Feed Grains, Upland and Extra Long Staple Cotton, and Rice Price Support Programs

AGENCIES: Consolidated Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule sets forth amendments to: delete references to obsolete provisions; add references relating to current policy; set forth revisions for the Compliance Program, Acreage Reduction Program, (ARP), Options Pilot Program (OPP), and Voluntary Production Limitation Program (VPLP); and improve the operations of these programs for the 1995 through 1997 crop years.

DATES: Interim rule effective August 25, 1995. Comments must be received on or before September 25, 1995 in order to be assured of consideration.

ADDRESSES: Submit comments to: Director, Compliance and Production Adjustment Division, Consolidated Farm Service Agency (CFSA), United States Department of Agriculture (USDA), PO Box 2415, Washington, DC 20013–2415. Comments may be inspected at USDA, CFSA, 14th and Independence Avenue, South Agriculture Building, room 3640, Washington, DC 20013–2415 between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Jack Welch, Chief, Production Adjustment Branch, Cotton, Grain, and Rice Division, CFSA, USDA, PO Box 2415, Washington, DC 20013–2415, telephone 202–720–9884.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Federal Assistance Programs

The titles and numbers of the Federal Assistance Programs, as found in the Catalog of Federal Domestic Assistance, to which this interim rule applies are Cotton Production Stabilization—10.052; Feed Grain Production Stabilization—10.055; Wheat Production Stabilization—10.058; and Rice Production Stabilization—10.065.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since neither CFSA nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12778

This interim rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. The provisions of this rule are not retroactive. Before any judicial action may be brought concerning the provisions of this rule, the administrative remedies at 7 CFR part 780 must be exhausted.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

This interim rule amends the existing information collections as approved by OMB pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), under OMB control numbers 0560–0004 and 0560–0092. These revised collections have been submitted to OMB for clearance.

Background

This interim rule:

(1) Sets forth policy changes for acreage measurement and tolerance;

(2) Revises the eligibility provisions in the regulations for enrolling in an ARP to include the requirement for purchasing catastrophic crop insurance;

(3) Revises the number of States and counties eligible to participate in the OPP; and

(4) Makes minor editorial changes.

Discussion of Changes

A. 7 CFR part 718, Determination of Acreage and Compliance

Section 718.3 Definitions

This section has been amended to delete the reference to administrative variance (AV) applying only to marketing quota crops.

Section 718.21 Measurement Services

This section has been amended to provide that when a measurement service reveals acreage in excess of the permitted acreage plus available flex acreage with respect to other program crops enrolled in that crop's production adjustment program for that year, in order to keep the measurement service guarantee, the producer must: (1) Destroy the excess acreage and pay for an authorized employee of CFSA to verify destruction; or (2) pay for measurement service for an authorized employee of CFSA to verify destruction of an acreage of another crop on the farm that is enrolled in a production adjustment program equal to the excess acreage.

Section 718.22 Acreage Reports

This section has been amended to delete the reference that provided

acreage reports were not required for burley tobacco.

Section 718.40 Tolerance and Variance Rules Applicability

This section has been amended to provide that administrative variance is applicable to all marketing quota crop acreages. Marketing quota crop acreages as determined in accordance with this part shall be deemed in compliance with the effective farm allotment or program requirement when determined acreage does not exceed the effective farm allotment by more than an administrative variance determined as follows:

(1) For all kinds of tobacco subject to marketing quotas, except dark air-cured and fire-cured the larger of 0.1 acre or 2 percent of the allotment.

(2) For dark air-cured and fire-cured tobacco, an acreage based on the effective acreage allotment.

B. 7 CFR Part 1413, Feed Grain, Rice, Upland and Extra Long Staple Cotton, Wheat, and Related Programs

Section 1413.8 Definitions

This section has been revised to amend the definition of Industrial and other Crops (IOC's) to add millet.

Section 1413.26 Adjusting Crop Acreage Bases (CAB's)

This section has been revised to provide that an operator or owner's request for a one-time forfeiture of all or part of a crop's CAB shall be allowed at any time before the end of the signup period. The operator or owner shall specify whether the reduction is for the current or subsequent crop year.

Section 1413.43 Planting Flexibility

This section has been amended to provide that if spring and fall program crops are double cropped, eligible flex or idle acreage must be present on the farm during the appropriate fall or spring flex dates established by the State CFSA committee.

Section 1413.50 Requirements for Program Participation

This section has been revised to provide that to be eligible to participate in an ARP, a producer must purchase at least the minimum catastrophic level of crop insurance for each crop of economic significance grown on each farm in the county in which the producer has an interest, if such insurance is available in the county for the crop, in accordance with part 400 of this chapter.

Section 1413.54 Acreage Reduction Program Provisions

This section has been amended, for 1995 only, to allow producers to plant millet as one of the IOC's permitted on acreage designated as acreage conservation reserve (ACR) or conserving use (CU) for payment.

Section 1413.61 Eligible Land for ACR and CU for Payment Designation

This section has been revised to provide that the Deputy Administrator, Farm Programs, may grant an exception to the minimum size and width requirements to allow producers to designate small areas of at least .1 (one-tenth) of an acre as ACR or CU for payment if the farm has been affected by excessive rainfall or flooding and if all other eligibility requirements are met.

Section 1413.64 Nationally Approved Cover Crops and Practices for ACR and CU for Payment Acreages

This section has been revised to remove the exclusion of popcorn as an approved cover crop. Popcorn is an eligible cover crop on ACR and CU for payment. The section has also been revised to remove the program year designation for IOC's planted on ACR.

Section 1413.65 Locally Approved Cover Crops and Practices for ACR and CU for Payment

This section has been amended to change the specified year for the programs.

C. 7 CFR Part 1414—Integrated Farm Management Program Option

Section 1414.27 Resource-Conserving Crops on ACR

This section has been amended to remove the provision that barley, oats, and wheat may not be hayed or grazed after the small grain is harvested from the acreage.

Section 1414.30 Traditionally Underplanted Acreage and Reduction of Payment Acres

This section has been amended to provide that traditionally underplanted acreage means 8 through 15 percent, as applicable, of the producer's permitted acreage for such year.

D. 7 CFR Part 1415, Options Pilot Program

Section 1415.9 Definitions

The definition of ''agreement'' has been revised to delete the year.

Section 1415.13 Eligibility

This section has been revised to change the program year; to add another county each in Kansas and North Dakota; to add three counties for corn and soft red winter wheat in Ohio, and to add three counties for corn, soybeans, and hard red winter wheat in Nebraska.

Section 1415.15 Agreements

This section has been amended to revise the year for purchasing target price and loan rate put option contracts.

Section 1415.20 Premium and Incentive Payments

This section has been amended to revise the year in reference to the acreage reduction program.

E. 7 CFR Part 1416, Voluntary Production Limitation Program

Section 1416.100 Eligible VPLP Counties

This section has been amended to change the effective year for VPLP.

Section 1416.101 Basic Program Provisions

This section has been amended to:

(i) Revise the reference to the signup period for the ARP for enrollment into VPLP, and

(ii) Require that producers must purchase at least the minimum catastrophic level of crop insurance for crops grown in the county in order to participate in VPLP, according to part 400 of this chapter.

Section 1416.103 Production Evidence for Actual Yields

This section has been amended to provide that producers with an interest in enrolled crops on more than one farm shall certify the production from any farm not enrolled in VPLP and may be subject to a spot check for such certifications.

Section 1416.400 Program Payments and Price Support Loans and Loan Deficiency Payments

This section has been amended to provide that producers of enrolled CAB's shall be eligible to earn deficiency payments on the lesser of the planted acres or the maximum payment acreage of such CAB's including CAB's planted to an enrolled wheat or feed grain crop different from the crop to which the CAB is assigned.

List of Subjects

7 CFR part 718

Acreage allotments, Marketing quotas, Reporting and recordkeeping requirements.

7 CFR parts 1413 and 1414

Acreage allotments, Cotton, Disaster assistance, Feed grains, Price support

programs, Reporting and recordkeeping requirements, Rice, Soil conservation, wheat.

7 CFR part 1415

Options pilot program.

7 CFR Part 1416

Voluntary production limitation program.

Accordingly, chapters VII and XIV of the Code of Federal Regulations are amended as follows:

PART 718—DETERMINATION OF ACREAGE AND COMPLIANCE

1. The authority citation for 7 CFR part 718 continues to read as follows:

Authority: 7 U.S.C. 1373 and 1374; 15 U.S.C. 714b and 714c.

2. Section 718.3(b) is amended by revising the definition of administrative variance to read as follows:

§ 718.3 Definitions.

* * * * *

(b) * * *

* * * * *

Administrative variance (AV). The amount by which the determined acreage may exceed the effective allotment and be considered in compliance with program regulations.

* * * * *

3. Section 718.21 is amended by revising paragraph (e) to read as follows:

§ 718.21 Measurement Services.

* * * * *

(e) When a measurement service reveals acreage in excess of the permitted acreage plus available flex acreage with respect to other program crops enrolled in that crop's production adjustment program for that year by more than the allowable tolerance, the producer must do either of the following in order to keep the measurement service guarantee:

§ 718.22 [Amended]

4. Section 718.22 is amended by removing paragraph (d) and redesignating paragraphs (e), (f), and (g) as paragraphs (d), (e), and (f).

5. Section 718.40 is amended by removing paragraphs (a)(1), (b)(3), and (c)(1), redesignating paragraphs (a)(2) as (a)(1), (b)(4) as (b)(3), respectively, and revising paragraph (c) introductory text, (c)(1) and (c)(2), introductory text, to read as follows:

§ 718.40 Tolerance and variance rules applicability.

(a) * * *

(b) * * *

(c) Administrative variance is applicable to all marketing quota crop acreages. Marketing quota crop acreages as determined in accordance with this part shall be deemed in compliance with the effective farm allotment or program requirement when determined acreage does not exceed the effective farm allotment by more than an administrative variance determined as follows:

(1) For all kinds of tobacco subject to marketing quotas, except dark air-cured and fire-cured the larger of 0.1 acre or 2 percent of the allotment.

(2) For dark air-cured and fire-cured tobacco, an acreage based on the effective acreage allotment as provided in the table as follows:

* * * * *

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

6. The authority citation for part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b-3a, 1461–1469; 15 U.S.C. 714b and 714c.

7. Section 1413.8 is amended by revising the definition of industrial and other crops to read as follows:

§ 1413.8 Definitions.

* * * * *

Industrial and other crops (IOC's) are: castor beans, chia, crambe, crotalaria, cuphea, guar, guayule, hesperaloe, kenaf, lesquerella, meadowfoam, milkweed, millet, plantago ovato, and sesame, or other crops as designated by the Secretary. Individual State CFSA committees may remove individual crops of IOC's from the list permitted in such State.

* * * * *

8. Section 1413.26 is amended by revising paragraph (a)(1) to read as follows:

§ 1413.26 Adjusting CAB's.

(a)(1) A one-time forfeiture of all or a portion of a farm's CAB shall be allowed at the request of the owner and operator if the request for the permanent base reduction is filed not later than the end of the ARP signup period. Producers requesting such forfeiture shall designate whether the reduction shall apply for the current year or the subsequent year.

* * * * *

9. Section 1413.43 is amended by revising subparagraph (h)(1) to read as follows:

§ 1413.43 Planting flexibility.

* * * * *

(h)(1) Acreages that are flexed according to this section may be double cropped in accordance with § 1413.24(e). State committees will establish beginning and ending flex dates for spring and fall program crops. If such acreages are double cropped, eligible flex acreage or idle acreage must be present on the farm during the appropriate fall or spring flex dates established by the State committee.

* * * * *

10. In § 1413.50 paragraphs (a) through (c) are redesignated as paragraphs (b) through (d), and a new paragraph (a) is added to read as follows:

§ 1413.50 Requirements for program participation.

(a) With respect to a crop for which an ARP is announced, to be eligible for deficiency payments and price support loans and purchases, a producer, in accordance with part 400 of this chapter, must obtain at least the minimum catastrophic level of insurance for each crop of economic significance grown on each farm in the county in which the producer has an interest, if such insurance is available in the county for the crop.

* * * * *

11. Section 1413.54 is amended by revising paragraphs (c)(1) and (4) to read as follows:

§ 1413.54 Acreage Reduction Program provisions.

* * * * *

(c)(1) (i) Acreage designated as ACR under the 1991, 1992, and 1993 wheat, feed grain, upland cotton, and rice programs may not be devoted to other program crops and must be devoted to approved uses as otherwise provided in this part.

(ii) Acreage designated as ACR under the 1991, 1992, and 1993 wheat, feed grain, upland cotton, and rice programs may not be devoted to industrial and experimental crops.

(iii) Acreage designated as ACR under the 1994 wheat, feed grain, upland cotton, and rice programs may be devoted to castor beans, chia, crambe, crotalaria, cuphea, guar, guayule, hesperaloe, Kenaf, lesquerella, meadowfoam, milkweed, plantago ovato, and sesame.

(iv) Acreage designated as ACR under the 1995 wheat, feed grain, upland cotton, and rice programs may be devoted to castor beans, chia, crambe, crotalaria, cuphea, guar, guayule, hesperaloe, kenaf, lesquerella, meadowfoam, milkweed, millet, plantago avato, and sesame. The State CFSA committee may, prior to signup,

remove individual crops from the list permitted in their State.

* * * * *

(4) (i) Acreage designated as CU for payment acreage under the ''0/92'' and ''50/92'' provisions of the 1992 and 1993 wheat, feed grain, upland cotton, and rice programs as provided in §§ 1413.41 and 1413.42 may not be planted to industrial, experimental, or other crops except as provided in paragraph (c)(2) of this section.

(ii) Acreage designated as CU for payment acreage under the ''0/85'' and ''50/85'' provisions of the 1994 wheat, feed grain, upland cotton, and rice programs as provided in §§ 1413.41 and 1413.42 may plant castor beans, chia, crotalaria, cuphea, guar, guayule, hesperaloe, kenaf, lesquerella, meadowfoam, milkweed, plantago ovato, and other crops as provided in paragraph (c)(2) of this section.

(iii) Acreage designated as CU for payment under the ''0/85'' and ''50/85'' provisions of the 1995 wheat, feed grain, upland cotton, and rice programs as provided in §§ 1413.41 and 1413.42 may plant castor beans, chia, crotalaria, cuphea, guar, guayule, hesperaloe, kenaf, lesquerella, meadowfoam, milkweed, millet, plantago ovato, and other crops as provided in paragraph (c)(2) of this section. The State CFSA committee may, prior to program signup, remove individual crops from the list permitted in their State.

* * * * *

12. Section 1413.61 is amended by adding a new paragraph (a)(5) to read as follows:

§ 1413.61 Eligible land for ACR and CU for payment designation.

(a) * * *

(5) Because of excessive rainfall and flooding, the Deputy Administrator, Farm Programs, may authorize an exception to the minimum size and width provisions as provided in paragraph (b)(1)(i) of this section, if such exception is requested by the CFSA State executive director. If an exception is authorized, producers may designate as ACR or CU for payment small areas of at least .1 (one-tenth) an acre in size, if all other eligibility requirements are met, and because of excessive rainfall and flooding, either of the following applies:

(i) Such producers have an approved ASCS–574, Application for Disaster Credit, on file in the county CFSA office, for prevented planting or failed acreage of the crop; or

(ii) The county committee determines, on a farm-by-farm basis, that the producers on the farm were forced to change planting patterns.

* * * * *

13. Section 1413.64 is amended by revising paragraphs (a), introductory text, (a)(1) and (d) to read as follows:

§ 1413.64 Nationally approved cover crops and practices for ACR and CU for payment acreages.

(a) All ACR acreage that is required to have a cover crop established must have a nationally approved cover practice installed. The following are nationally approved cover crops and practices for ACR and CU for payment acreage:

(1) Annual, biennial, or perennial grasses and legumes, including sweet sorghums, sorghum grass crosses, and sudans, excluding soybeans, corn, sweet corn, grain sorghum, cotton, fruits, and vegetables.

* * * * *

(d) Acreage designated as ACR or CU for payment under the 1995 wheat, feed grain, upland cotton, and rice programs may be planted to IOC's.

14. Section 1413.65 is amended by revising the introductory text of paragraph (g) to read as follows:

§ 1413.65 Locally approved cover crops and practices for ACR and CU for payment acreages.

* * * * *

(g) With respect to upland cotton CAB's enrolled in any of the 1995 through 1997 ARP's, the production of black-eyed peas shall be allowed on up to 50 percent of the required ACR and CU for payment acreage, subject to the following restrictions:

* * * * *

PART 1414—INTEGRATED FARM MANAGEMENT PROGRAM OPTION

15. The authority citation for Part 1414 continues to read as follows:

Authority: 7 U.S.C. 5822.

16. Section 1414.28(a) is revised to read as follows:

§ 1414.28 Resource-Conserving Crops on payment acres.

(a) Program payments with respect to acreage enrolled in the program shall not be paid to a producer if such producer hays or grazes such acreage (excluding acreage designated as ACR) during the 5-month period in which haying and grazing of conserving use acres is not allowed under the provisions of § 1413.66 of this chapter, unless the crop planted on such acreage includes a small grain and the producer harvests the small grain crop in kernel form.

* * * * *

17. Section 1414.30(b)(1)(i)(C) is revised to read as follows:

§ 1414.30 Traditionally underplanted acreage and reduction of payment acres.

* * * * *

(b)(1)(i) * * *

(C) For participating crops, the part of the CAB subject to the required ACR. If the producer is using the provisions set forth in §§ 1413.41 or 1413.42 of this chapter, traditionally underplanted acreage means 8 through 15 percent, as applicable, of the producer's permitted acreage for such year.

* * * * *

PART 1415—OPTIONS PILOT PROGRAM

18. The authority citation for Part 1415 continues to read as follows:

Authority: 7 U.S.C. 1421 note; 15 U.S.C. 714b and 714c.

19. Section 1415.9 is amended to revise the definitions of ''Agreement'' and ''Program'' to read as follows:

§ 1415.9 Definitions.

* * * * *

Agreement means form CCC–300, Options Program Agreement.

* * * * *

Program means the Options Pilot Program.

* * * * *

20. Section 1415.13 is amended by revising paragraph (a)(1) (i) through (iii) and by adding (a)(1)(iv) and (a)(1)(v) to read as follows:

§ 1415.13 Eligibility.

(a)(1) * * *

(i) 1995 corn and soybeans in Champaign, Logan, and Shelby Counties in Illinois, and Buffalo, Hamilton, and Nemaha counties in Nebraska;

(ii) 1995 corn in Carroll, Clinton, and Tippecanoe Counties in Illinois, Boone, Grundy, and Hardin Counties in Iowa, and Auglaize, Darke, and Wood Counties in Ohio.

(iii) 1995 hard red winter wheat in Ford, Sumner, and Thomas Counties in Kansas, and Buffalo, Hamilton, and Nemaha Counties in Nebraska,

(iv) 1995 hard red spring wheat in Barnes, Cass, and Grand Forks Counties in North Dakota, and

(v) 1995 soft red winter wheat in Auglaize, Darke, and Wood counties in Ohio.

* * * * *

21. Section 1415.15 is amended by revising paragraphs (b)(1)(ii), (2)(i) through (2)(v), (e), the first sentence of paragraph (f) and paragraph (h) to read as follows:

§ 1415.15 Agreements.

* * * * *

(b) * * *

(1) (i) * * *

(ii) For the target price equivalent strike price level for corn, purchase at least one December 1995 CBOT put option on or before June 15, 1995; for wheat in Kansas and Nebraska, purchase at least one September 1995 KCBOT put option on or before May 15, 1995; for wheat in North Dakota, purchase at least one September 1995, MGE put option on or before May 15, 1995; and for wheat in Ohio, purchase at least one September 1995 CBOT put option on or before May 15, 1995. * * *

(2) (i) For price support participation, purchase at least one March 1996 CBOT put option at a strike price equivalent to the county price support price for corn;

(ii) For soybeans, purchase at least one March 1996 CBOT put option contract at a strike price equivalent to the county soybean price support price;

(iii) For wheat producers in Kansas and Nebraska, purchase at least one December 1995 KCBOT put option at a strike price equivalent to the county price support price for wheat;

(iv) For wheat producers in North Dakota, purchase at least one December 1995 MGE put option at a strike price equivalent to the county price support price for wheat;

(v) For wheat producers in Ohio, purchase at least one December 1995 CBOT put option at a strike price equivalent to the county price support price for wheat;

* * * * *

(e) A producer must have a corn or wheat, respectively, crop acreage base in order to participate in the program at the target price strike price level for corn or wheat. However, a producer planting corn on a farm with a grain sorghum crop acreage base, who reports that such acreage is corn for purposes of participating in the acreage reduction program for grain sorghum, may participate in the Options Program at the price support strike price level for corn.

(f) With respect to each producer, the maximum quantity eligible for target price put options is limited to the quantity determined by multiplying the participant's production adjustment payment acreage times the crop payment yield. * * *

(g) * * *

(h) If a producer enrolled in the program is not in compliance with the provisions of the production adjustment program for wheat or corn, as applicable, the producer will be required to repay any premiums and incentive payments made, in addition to any interest determined in accordance with the provisions of such program agreement.

22. Section 1415.20 is amended by revising paragraphs (f) and (g) to read as follows:

1415.20 Premium and incentive payments.

* * * * *

(f) CCC will collect the excess premium issued at the time the actual payment acreage is reported by the producer, and no incentive payment will be issued with respect to the overstated acreage if, for target price participation, the acreage enrolled in the production adjustment program which is used in determining deficiency payments is less than the intended payment acreage specified in the agreement. However, the producer will be allowed to keep the put option with respect to the additional bushels.

(g) The producer will not be allowed to increase the quantity of the commodity enrolled in the program if, for target price participation, the acreage enrolled in the production adjustment program, which is used in determining deficiency payments, is more than the intended payment acreage specified in the agreement.

* * * * *

PART 1416—VOLUNTARY PRODUCTION LIMITATION PROGRAM

23. The authority citation for Part 1416 continues to read as follows:

Authority: 7 U.S.C. 1444f, 1445b-3a, 15 U.S.C. 714b and 714c.

24. Section 1416.100(a) is amended by revising the introductory text to read as follows:

§ 1416.100 Eligible VPLP Counties.

(a) The VPLP shall be effective for the 1995 crops of wheat and feed grains in:

* * * * *

25. Section 1416.101 is amended by revising paragraph (a) to read as follows:

§ 1416.101 Basic program provisions.

(a)(1) The enrollment period for this program will coincide with the period established for the Acreage Reduction Program (ARP) signup, which will be January 30 through May 31, 1995.

(2) In order to participate in VPLP, a producer must purchase at least the minimum catastrophic level of crop insurance, according to part 400 of this chapter, for each crop of economic significance grown on each farm in the county in which the producer has an interest, if such insurance is available in the county for the crop.

* * * * *

26. Section 1416.103 is amended by revising paragraphs (b) and (e) to read as follows:

§ 1416.103 Production evidence for actual yields.

* * * * *

(b) Producers with an interest in enrolled crops on more than one farm shall certify the production from any farm not enrolled in VPLP and may be subject to a spotcheck for such certifications. * * *

(e) (1) Documents showing the amount of production shall be reviewed to determine moisture content and dockage associated with the production. If the document does not show that the production has been reduced to standard moisture levels and shows:

(i) Specific moisture that is greater than standard;

(ii) Dockage; or

(iii) Both excess moisture and dockage, the net amount shall be adjusted on standard moisture levels and applicable dockage standards as determined by CCC.

(2) [Reserved]

* * * * *

27. Section 1416.400 is amended by revising paragraph (b) to read as follows:

§ 1416.400 Program payments and price support loans and loan deficiency payments.

* * * * *

(b) Producers of enrolled CAB's shall be eligible to earn deficiency payments on the number of acres planted to such CAB's or the maximum payment acres for the CAB's including CAB's planted to an enrolled wheat or feed grain crop different from the CAB assigned to the crop.

Signed at Washington, DC, on August 16, 1995.

Bruce R. Weber,

Acting Administrator, Consolidated Farm Service Agency and Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95–20782 Filed 8–24–95; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 208, 212, 214, 236, 242, 245, 248, 274a, and 299

[INS No. 1683–94; A.G. Order No. 1986–95]

RIN 1115–AD86

Entry of Aliens Needed as Witnesses and Informants; Nonimmigrant S Classification

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This regulation establishes procedures by which federal and state law enforcement authorities (''LEAs'') may secure from the Immigration and Naturalization Service (''the Service'') and the Department of State (''State'') nonimmigrant classification for alien witnesses and informants who may eventually be granted lawful permanent resident (''LPR'') status because of their cooperation. The regulation is necessary to provide uniform standards and responsibilities for the admission, stay, monitoring, adjustment and, if necessary, departure of such alien witnesses and informants and to enable the government to comply with record-keeping and annual reporting requirements imposed by Congress.

DATES: This interim rule is effective August 25, 1995.

ADDRESSES: Please submit written comments in triplicate to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference the INS number 1683–94 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Katharine Auchincloss-Lorr, Adjudications Officer, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 1994, the President signed the ''Violent Crime Control and Law Enforcement Act of 1994.'' Section 130003 of this legislation, Pub. L. 103–322, creates a new nonimmigrant classification providing for the admission of alien witnesses and informants who may obtain LPR status upon completion of specified conditions. Section 130003 specifically establishes section 101(a)(15)(S) of the Immigration and Nationality Act (''the Act'') and authorizes for each relevant fiscal year: (1) One hundred (100) nonimmigrant visas for aliens determined by the Attorney General to possess critical reliable information on a criminal organization or enterprise, willing to provide that information to federal and/or state authorities, and whose presence, upon the Attorney General's determination, is essential to the success of an authorized criminal investigation or the prosecution of an individual involved in the criminal organization or enterprise, and; (2) twenty-five (25) nonimmigrant visas for aliens whom the Secretary of State and the Attorney General jointly determine possess critical reliable information about a terrorist organization, enterprise, or operation, are willing to provide or have provided that information to federal authorities, will be or have been placed in danger as a result, and are eligible for a reward under 22 U.S.C. 2708(a). Although these new nonimmigrant classifications would be designated to be S–1 and S–2, respectively, to correspond with the statutory designations, the prior utilization of those codes requires that these designations be, respectively, S–5 and S–6. The spouse, married and unmarried sons and daughters, and parents of witnesses and informants in the new nonimmigrant classification may also be granted nonimmigrant status (designated S–7), if the Attorney General (or, where required, the Secretary of State and the Attorney General jointly) considers it appropriate.

Prior to the creation of section 101(a)(15)(S) of the Act, there was no standard procedure for allowing aliens needed to provide testimony or information into the United States. With the creation of the S nonimmigrant classification, Congress has authorized the admission of a limited number of alien witnesses and informants under specified conditions and provides for adjustment to LPR status after the satisfaction of certain conditions.

Regulatory Structure

Briefly stated, the enactment of the provisions creating the S nonimmigrant classification enables the Service to utilize the nonimmigrant framework to establish a process so that requesting LEAs can provide immigration benefits to certain key alien witnesses and informants. Included in the statutory scheme are reporting requirements by the alien to the Attorney General and the Attorney General to Congress.

a. Nonimmigrant Classification

By creating a new nonimmigrant category exclusively for alien witnesses and informants, Congress has authorized a temporary admission for a specific purpose, and subjected such aliens to the degree of scrutiny prior to admission that is imposed on all nonimmigrant classifications. The Act distributes responsibility for implementing its nonimmigrant provisions between the Attorney General and the Department of State; generally, nonimmigrants, including those in S classification, are subject to the jurisdiction and authority of both agencies. In formulating this regulation, the Service has worked closely with the Department of State, which is issuing a complementary regulation at this time.

With the creation of the S nonimmigrant category, alien witnesses and informants who intend to reside permanently in the United States may enter only in S classification. Alien witnesses and informants intending a permanent stay will no longer be authorized entry in B nonimmigrant classification. That classification remains available for eligible witnesses and informants seeking temporary admission, who have a residence in a foreign country which they have no intention of abandoning, who will not be employed by a United States entity or seek employment while in the United States, and who will not be seeking any of the benefits that flow from S classification.

Similarly, current procedures affecting alien witnesses and informants seeking to be allowed temporarily into the United States pursuant to parole authorization are unchanged by this regulation, except for a new provision defined in 8 CFR 212.14 specifically providing procedures for an LEA who subsequently will apply for S classification on behalf of a witness or informant.

An essential component of the admission process for nonimmigrants who are excludable is the waiver authority accorded the Attorney General under section 212(d) of the Act. In this legislation, Congress created a new provision, section 212(d)(1), enabling the Attorney General to waive all grounds of excludability (except Nazi involvement) for S nonimmigrants, if it is ''in the national interest to do so.'' Section 212(d)(3) waivers will remain available to witnesses and informants who are eligible for B–1 classification, pursuant to normal procedures.

The statute preserves the Attorney General's right to institute deportation proceedings for conduct committed after the alien's admission in or change to S classification, or for conduct or a condition not disclosed to the Attorney General prior to the alien's admission in or change to S classification.

b. Controls Imposed by Classification

As a condition for admission and maintenance of status in the United States, an S nonimmigrant is statutorily required to abide by any conditions, limitations, or restrictions imposed by the Attorney General; to file quarterly reports detailing his or her whereabouts and activities ''as the Attorney General may require,'' and to execute a form waiving the right to contest any action for deportation instituted before the nonimmigrant obtains lawful permanent resident status (other than on the basis of an application for withholding of deportation). The statute renders the alien deportable for conduct committed after admission or for conduct or a condition that was not disclosed to the Attorney General prior to admission. Further, in order to maintain status, the S nonimmigrant may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of S classification; change to another nonimmigrant classification; or be authorized admission for more than 3 years.

The S nonimmigrant may adjust status to that of an LPR exclusively by means of the new statutory provisions creating the nonimmigrant classification. These procedures are found in this regulation at 8 CFR 245.11. Finally, the alien may be deported for conviction of a crime of moral turpitude committed within 10 years after being granted LPR status under those new provisions. New provisions for the deportation of alien witnesses and informants have been provided at 8 CFR 242.26. No alien may be admitted to the United States in S classification more than 5 years after September 13, 1994, the date of enactment of Pub. L. 103–322.

The numeric limit in the S visa provision indicates a Congressional determination that the visa benefit be accorded only in extraordinary circumstances. The legislation is modeled in part after a provision of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) authorizing LPR status for no more than 100 aliens per year when the Director of Central Intelligence, the Attorney General, and the Commissioner of the Immigration and Naturalization Service (''Commissioner'') determine that the admission of a particular alien is in the national security interest. The S nonimmigrant provision's specific numeric limit authorizing issuance of only 125 visas annually does not include family members. Finally, the Attorney General is required to report annually to Congress on specific aspects of the S classification.

c. Classification Process

To facilitate implementation of this legislation and ensure a thorough awareness of LEA needs, the Service has engaged in a process of consultation with the principal federal LEAs interested in and affected by this nonimmigrant classification. With the assistance of the Department of Justice (''DOJ''), the Criminal Division's Terrorism and Violent Crimes Section (''TVCS''), the Service solicited and received written comments on the procedural aspects of how the visa application, classification, and admission process will work in practice, and a range of related concerns, from two State Department components (the Interagency Counterterrorism Rewards Committee and the Visa Office) and the following DOJ components: the Federal Bureau of Investigation (''FBI''), the Drug Enforcement Administration (DEA), the Marshals Service, and the Criminal Division's Organized Crime and Racketeering Section (''OCRS'') and Office of Enforcement Operations (''OEO'').

After considering the comments of the principal federal LEAs, the Service has devised a process for authorizing S nonimmigrant classification. This process provides federal and state LEAs access to informants and witnesses, and the benefits of S nonimmigrant classification, to the extent permitted by the statute while ensuring S nonimmigrants are appropriately controlled. The Service will develop procedures to protect the identity of the alien while ensuring maintenance of adequate control.

The process provides for the use of a new Form I–854, Inter-Agency Alien Witness and Informant Record, to record the basis of the nonimmigrant classification, related and prerequisite commitments and responsibilities, and seat-of-government certification of the need for the requested alien. The procedures for use of this new Form will bring uniformity and consistency to the process for authorizing S nonimmigrant classification for eligible criminal aliens with information needed by LEAs and provide a basis for control and tracking of the alien. A fee for the processing of Form I–854 will be proposed under a separate rulemaking. There will be no initial fee for processing of Form I–854, although the fee will go into effect as soon as the Service has responded to comments and a final fee rule has been issued.

Pursuant to Form I–854, S nonimmigrant classification is predicated on a relationship between a witness or informant and the LEA that requests classification. For purposes of this regulation, the term ''LEAs'' refers to the entities authorized to request S nonimmigrant classification for an alien witness or informant in a given case, namely state and federal law enforcement authorities, which include the United States Attorneys' Offices and state and federal courts. Only a federal LEA may request S–6 nonimmigrant classification, although either a state or federal LEA may request S–5 nonimmigrant classification.

Form I–854 request an LEA seeking S nonimmigrant classification for an alien witness or informant to articulate the reasons why the presence of the alien is needed and to assume responsibility for the alien's admission, stay, and departure. In addition to the seat-of-government certification required for LEAs on Form I–854, where nonimmigrant classification is for purposes of providing testimony, the United States Attorney in whose district a case is being prosecuted must also certify the request on Form I–854.

To provide the Service with information to evaluate the needs, accomplishments, failures, and effectiveness of the S visa process, the Service is requiring that all LEA requests related to S nonimmigrant classification be processed on Form I–854, including requests for change of nonimmigrant classification to the S category or adjustment to LPR status. An LEA seeking S nonimmigrant classification for an alien who is out of status or otherwise in the United States illegally may file Form I–854 as a means of initiating procedures with the Service, subsequent to the Criminal Division's certification, in an effort to have the alien admitted to the United States in lawful status.

d. Criminal Division Certifications

A central concern of the comments offered by interested LEAs during the Service's drafting process was, given the limited number of available S nonimmigrant visas specified under the statute, how requests for this classification will be evaluated. The regulation provides that the Criminal Division of the Justice Department will establish appropriate procedures for receiving and reviewing Form I–854 and determining which applications will be

forwarded to the Commissioner with a recommendation for approval. The Criminal Division will be responsible to the Attorney General for ensuring that the cases forwarded to the Service fall within the annual numerical limitation.

No Form I–854 request for S nonimmigrant classification for an alien witness or informant may come to the Service without the Criminal Division's certification. Before being forwarded by the Criminal Division to the Service, an application for S–6 nonimmigrant classification certified by the Criminal Division will be forwarded by the Criminal Division to the Department of State for the appropriate certification.

e. Reporting Requirements

To implement the statutory framework, the regulation imposes two categories of information and reporting requirements on the government. The first involves behavior by the alien that could lead to loss of nonimmigrant status or deportability. The Service must be informed immediately by the responsible LEA of any behavior that renders the alien deportable. This information includes certain criminal conduct, failure to report quarterly, or failure to comply with the authorized terms of the particular S nonimmigrant classification or the adjustment provisions. The requesting LEA is responsible for supervising, monitoring, and otherwise accounting for the admitted alien's compliance with the statutory and regulatory requirements, for quarterly reporting on ''whereabouts and activities'' and ''other conditions, limitations, or restrictions imposed.''

Secondly, the statute requires an annual report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate. The regulation provides that the Justice Department's Criminal Division, in cooperation with the Service, will prepare this report evaluating the program's effectiveness.

f. Period of Authorized Stay

The statute explicitly provides that the period of admission on an alien in S nonimmigrant classification ''may not exceed 3 years'' and that such period ''may not be extended by the Attorney General.'' For this reason, the Attorney General has determined that the S nonimmigrant classification must be limited to situations where an alien is reasonably expected to provide the desired assistance within the authorized 3-year period. The Service, therefore, has amended 8 CFR 214.1 accordingly and will require the alien to depart the United States after the 3-year period. The LEA will be responsible for ensuring departure. Parole may not be used to extend a period of stay or to authorize a reentry. However, an S nonimmigrant who departs prior to adjustment may subsequently be readmitted in the same classification consistent with the process set forth herein.

g. Change of Status

The regulation at 8 CFR 214.2(t)(12) implements the prohibition in section 101(a)(15)(S) concerning change of status. Aliens cannot be admitted in S–5 nonimmigrant classification and change status to S–6 nonimmigrant classification, nor can they change to any other nonimmigrant classification. Pursuant to new procedures set forth at 8 CFR 248.3(h), aliens in nonimmigrant categories other than S may apply to and, if eligible, change their status to S nonimmigrant classification, unless specifically prohibited from so doing by section 248 of the Act.

h. Deportation and Exclusion

Aliens in S nonimmigrant classification will be required as a condition for admission and stay in lawful nonimmigrant status to certify Form I–854, waiving their entitlement to a deportation hearing pursuant to the statute. This rule amends the deportation regulations at 8 CFR part 242 to include aliens in S nonimmigrant classification. The exclusion regulations have similarly been amended at 8 CFR 236.10. Due to the limited nature of this nonimmigrant classification and its significance to the law enforcement community, deportation and other procedures that would effectively terminate an alien's S nonimmigrant classification will not be initiated without the concurrence of the Assistant Attorney General, Criminal Division.

i. Employment Authorization

An employment authorization document (''EAD'') for S nonimmigrants will be issued through normal procedures. The regulation specifies that, pursuant to the terms of 8 CFR part 274a, S nonimmigrants are authorized to work in the United States and that the LEA may assist the alien in applying for employment authorization.

j. Criminal Conduct

Section 212(d)(1) of the Act provides that the Service can institute deportation proceedings against an S nonimmigrant for conduct committed after the alien's admission into the United States or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's classification as a nonimmigrant under section 101(a)(15)(S) of the Act. Accordingly, the Service will take appropriate steps to remove such an alien.

In addition, section 214(j)(4)(B) of the Act requires, as a condition for the admission, and continued lawful status, the S nonimmigrant ''may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission.''

The revised parole provisions at 8 CFR 212.14 enable an alien to be paroled into the United States so that an LEA can secure a guilty plea and conviction. In such a case, upon the recommendation of an LEA and the approval of a certified request on Form I–854, the Service may terminate the parole authorized to such an alien, waive the nonimmigrant visa requirement as provided under section 212(d)(4) of the Act, exercise the discretionary waiver authority provided under section 212(d)(1) of the Act, and authorize the alien's admission into the United States in S nonimmigrant classification.

The precise meaning of parole in an immigration context is quite different from the parole with which LEAs are normally familiar. Under the parole authority provided in section 212(d)(5) of the Act, the Attorney General has the discretion to permit an otherwise inadmissible alien to proceed into the United States temporarily and under specific safeguards. Parole is granted on a case-by-case basis and, if granted, does not constitute admission into the United States. The paroled alien does not make an entry as defined by section 101(a)(13) of the Act and, as a result, is subject to exclusion proceedings (not deportation proceedings) if the terms and conditions of the parole are violated. The due process rights of aliens subject to exclusion proceedings are more limited than those of aliens subject to deportation proceedings.

Parole may be authorized only for emergent reasons or reasons deemed strictly in the public interest and is available only if the Service has custody of the alien. It should not be used as a means of circumventing a waiver of inadmissibility. In an immigration context, parole is considered, in itself, a form of constructive custody, and is available only to an alien ''applying for admission to the United States.'' A request for parole of an alien in exclusion proceedings and in Service custody must be made pursuant to the terms of 8 CFR 212.5 or, in the case of an alien for which S classification is being sought, 8 CFR 212.14. Due to the

requirement that the alien be ''applying for admission,'' parole is not available to aliens who have effected an entry. Aliens who have been ''paroled'' (in the criminal sense) from prison or who are in prison, and who are deemed to be arriving aliens may not be granted parole unless the Service has custody.

k. Monitoring and Control

The regulation and the certifications on Form I–854 require that, as a prerequisite to S nonimmigrant classification, the requesting LEA assume responsibility, during the period of the S nonimmigrant's presence in the United States, for the safety of the public and for keeping the Service appropriately informed of matters that might impact on the alien's immigration status. Once an alien achieves immigrant status through adjustment from S nonimmigrant classification to LPR status, the LEAs responsibility for monitoring and reporting will cease. In addition, if the Marshals Service assumes responsibility for the alien, LEA monitoring will be minimal. Further, an alien will become deportable upon the commission of conduct that violates either the regulatory requirements or the specified terms and limitations of the authorized status. In such a case, the LEA should immediately advise the Service, request that the Service proceed to remove the alien, and assist with, and verify, the alien's departure. Consistent with this monitoring responsibility, an LEA is responsible for ensuring departure, if necessary, and verifying departure in a manner acceptable to the Service, so that monitoring is formally concluded.

l. Adjustment

Section 245(i) of the Act provides for the ''Exclusive Means of Adjustment'' of aliens admitted as S nonimmigrants. The Service has interpreted this to mean that S nonimmigrants may not adjust to permanent resident status pursuant to section 506(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies 1995 Appropriations Act, Public Law 103–317, which allows most otherwise ineligible persons to adjust status upon payment of an additional sum. The provisions for ''Exclusive Means of Adjustment'' for S nonimmigrants provide clearly that these statutory terms and conditions are to be the exclusive means of adjustment for S nonimmigrants described in section 101(a)(15)(S) of the Act. Adjustment of status pursuant to terms other than those specified therein are not available to aliens in S classification.

In the statute, Congress appears inadvertently to have created a new, second subsection 245(i) of the Act, which the Service interprets as an error. There is no indication that Congress intended to repeal or superseded the provisions of section 506(b) of Public Law 103–317, enacted one month earlier. The Service regards the establishment of the second subsection 245(i) of the Act as a numbering error and will recommend that Congress enact a technical amendment to redesignate the Crime Bill's provision as subsection 245(j) of the Act.

The regulations, at 8 CFR 212.14(a)(1)(vi) and 214.2(t)(4)(i), place certain restrictions on the promises LEAs can make to alien witnesses and informants for whom they seek parole or S nonimmigrant classification.

Changes to Current Regulations

This interim rule implements section 130003 of Public Law 103–322, which establishes section 101(a)(15)(S) of the Act. It amends 8 CFR at parts 208, 212, 214, 236, 242, 245, 248, 274a, and 299 to provide uniform and consistent application, admission, reporting, control, deportation, and adjustment criteria for the entry, parole, and stay of alien witnesses and informants who intend to remain in the United States.

Other than the changes to 8 CFR 214.2(t) previously discussed, the following specific changes to Title 8 of the Code of Federal Regulations are necessary to fully implement this regulation:

8 CFR 208.2 and 208.16 are amended to enable asylum officers to determine whether an alien classified pursuant to section 101(a0(15)(S) of the Act is entitled to withholding of deportation.

8 CFR 212.1(m) is added to require that aliens seeking admission in S nonimmigrant classification must be in possession of appropriate documents issued by an American consular officer.

8 CFR 212.4(i) is added to enable the Attorney General to determine pursuant to section 101(a)(15)(S) of the Act whether to exercise the discretion to waive a ground of excludability, other than under section 212(a)(3)(E) of the Act, if it is in the national interest to do so. The Service may remove an alien classified as a nonimmigrant under section 101(a)(15)(S) of the Act for conduct committed after the alien's admission to the United States or for conduct or a condition undisclosed to the Attorney General prior to the alien's admission in, or change to, S nonimmigrant classification.

8 CFR 212.14 is added to specify the process by which LEAs may obtain parole status for alien witnesses and informants who intend to apply for S nonimmigrant classification.

8 CFR 214.1(a)(2) is amended to add nonimmigrant classifications for S–5, S–6, and S–7.

8 CFR 214.1(c)(3) is amended to add a reference to nonimmigrants defined in section 101(a)(15)(S) of the Act, so that such aliens are ineligible for an extension of stay beyond a total of 3 years.

8 CFR 236.10 is added to provide exclusion procedures for aliens requesting admission in S nonimmigrant classification.

8 CFR 242.26 is added to provide deportation procedures for aliens in S nonimmigrant classification who, as a condition of their admission and stay in lawful status in the United States, must waive their right to a deportation hearing and to contest, other than on the basis of an application for withholding of deportation, any action for deportation instituted before lawful permanent resident status is obtained.

8 CFR 245.11 is added to set forth the exclusive terms of adjustment of status to that of lawful permanent resident for an S nonimmigrant.

8 CFR 248.2(b) is amended by removing the reference to ''or (K)'' to read ''(K), or (S)'' in order to prohibit change of status from S classification.

8 CFR 248.3(h) is added to set forth procedures for change of nonimmigrant classification to S classification pursuant to the request of a law enforcement agency.

8 CFR 274a.12(c) is amended to authorize aliens in S classification to apply for employment authorization. Pursuant to 8 CFR 274a.12(c)(21), an alien granted S nonimmigrant classification may apply for employment authorization by filing Form I–765, Application for Employment Authorization, with the applicable fee.

8 CFR 299.1 is amended to add Form I–854 to the list of prescribed Service forms.

8 CFR 299.5 is amended to add Form I–854 to the listing of Service forms approved by the Office of Management and Budget.

Good Cause Exception

The Attorney General has determined that there is good cause for publishing this as an interim rule. Law enforcement authorities need access to the benefits provided in this legislation, which cannot be conferred without these regulatory provisions and the guidance, controls, and structure they afford. Since prior notice and public comment with respect to this interim rule are impracticable and contrary to the public

interest under these circumstances, there is good cause under 5 U.S.C. 553 to make it effective upon publication. We will consider comments received within 60 days of publication of this interim rule in the **Federal Register**.

Regulatory Flexibility Act

The Attorney General in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities for purposes of that Act.

Executive Order 12866

This rule is not considered by the Attorney General to be a ''significant regulatory action'' under Executive Order 12866, section 3(f) Regulatory Planning and Review, and accordingly, this rule has not been reviewed by the Office of Management and Budget.

Executive Order 12612

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

Paperwork Reduction Act

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget, under the provisions of the Paperwork Reduction Act. The clearance number for this collection is contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects

8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange programs, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 236

Administrative practice and procedure, Aliens, Immigration.

8 CFR Part 242

Administrative practice and procedure, Aliens.

8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 248

Aliens, Reporting and recordkeeping requirements.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows.

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF DEPORTATION

1. The authority citation for part 208 continues to read as follows:

Authority: 8 U.S.C. 1103, 1158, 1226, 1252, 1282; 31 U.S.C. 9701; 8 CFR part 2.

§ 208.2 [Amended]

2. In § 208.2, paragraph (a) is amended in the third sentence by adding the phrase ''and aliens classified pursuant to section 101(a)(15)(S) of the Act,'' immediately after the phrase ''§ 253.1(f) of this chapter,''.

§ 208.16 [Amended]

3. In § 208.16, paragraph (a) is amended in the first sentence by adding the phase ''and aliens classified pursuant to section 101(a)(15)(S) of the Act,'' immediately after the phrase ''§ 253.1(f) of this chapter,''.

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

4. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

5. In § 212.1, paragraph (m) is added to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(m) *Aliens in S classification.* Notwithstanding any of the provisions of this part, an alien seeking admission pursuant to section 101(a)(15)(S) of the Act must be in possession of appropriate documents issued by a United States consular officer classifying the alien under that section.

6. In § 212.4, the section heading is revised, and paragraph (i) is added to read as follows:

§ 212.4 Applications for the exercise of discretion under section 212(d)(1) and 212(d)(3).

* * * * *

(i) *Alien witnesses and informants.*—(1) *Waivers under section 212(d)(1) of the Act.* Upon the application of a federal or state law enforcement authority (''LEA''), which shall include a state or federal court or United States Attorney's Office, pursuant to the filing of Form I–854, Inter-Agency Alien Witness and Informant Record, for nonimmigrant classification described in section 101(a)(15)(S) of the Act, the Commissioner shall determine whether a ground of exclusion exists with respect to the alien for whom classification is sought and, if so, whether it is in the national interest to exercise the discretion to waive the ground of excludability, other than section 212(a)(3)(E) of the Act. The Commissioner may at any time revoke a waiver previously authorized under section 212(d)(1) of the Act. In the event the Commissioner decides to revoke a previously authorized waiver for an S nonimmigrant, the Assistant Attorney General, Criminal Division, and the relevant LEA shall be notified in writing to that effect. The Assistant Attorney General, Criminal Division, shall concur in or object to the decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to revoke.

(2) *Grounds of removal.* Nothing shall prohibit the Service from removing from the United States and alien classified pursuant to section 101(a)(15)(S) of the Act for conduct committed after the alien has been admitted to the United States as an S nonimmigrant, or after the alien's change to S classification, or for conduct or a condition undisclosed to

the Attorney General prior to the alien's admission in, or change to, S classification, unless such conduct or condition is waived prior to admission and classification. In the event the Commissioner decides to remove an S nonimmigrant from the United States, the Assistant Attorney General, Criminal Division, and the relevant LEA shall be notified in writing to that effect. The Assistant Attorney General, Criminal Division, shall concur in or object to that decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to remove.

7. Section 212.14 is added to read as follows:

§ 212.14 Parole determinations for alien witnesses and informants for whom a law enforcement authority ("LEA") will request S classification.

(a) *Parole authority.* Parole authorization under section 212(d)(5) of the Act for aliens whom LEAs seek to bring to the United States as witnesses or informants in criminal/counter terrorism matters and to apply for S classification shall be exercised as follows:

(1) *Grounds of eligibility.* The Commissioner may, in the exercise of discretion, grant parole to an alien (and the alien's family members) needed for law enforcement purposes provided that a state or federal LEA:

(i) Establishes its intention to file, within 30 days after the alien's arrival in the United States, a completed Form I–854, Inter-Agency Alien Witness and Informant Record, with the Assistant Attorney General, Criminal Division, Department of Justice, in accordance with the instructions on or attached to the form, which will include the names of qualified family members for whom parole is sought;

(ii) Specifies the particular operational reasons and basis for the request, and agrees to assume responsibility for the alien during the period of the alien's temporary stay in the United States, including maintaining control and supervision of the alien and the alien's whereabouts and activities, and further specifies any other terms and conditions specified by the Service during the period for which the parole is authorized;

(iii) Agrees to advise the Service of the alien's failure to report quarterly any criminal conduct by the alien, or any other activity or behavior on the alien's part that may constitute a ground of excludability or deportability;

(iv) Assumes responsibility for ensuring the alien's departure on the date of termination of the authorized parole (unless the alien has been admitted in S nonimmigrant classification pursuant to the terms of paragraph (a)(2) of this section), provides any and all assistance needed by the Service, if necessary, to ensure departure, and verifies departure in a manner acceptable to the Service;

(v) Provide LEA seat-of-government certification that parole of the alien is essential to an investigation or prosecution, is in the national interest, and is requested pursuant to the terms and authority of section 212(d)(5) of the Act;

(vi) Agrees that no promises may be, have been, or will be made by the LEA to the alien that the alien will or may:

(A) Remain in the United States in parole status or any other nonimmigrant classification;

(B) Adjust status to that of lawful permanent resident; or

(C) Otherwise attempt to remain beyond the authorized parole. The alien (and any family member of the alien who is 18 years of age or older) shall sign a statement acknowledging an awareness that parole only authorizes a temporary stay in the United States and does not convey the benefits of S nonimmigrant classification, any other nonimmigrant classification, or any entitlement to further benefits under the Act; and

(vii) Provides, in the case of a request for the release of an alien from Service custody, certification that the alien is eligible for parole pursuant to § 235.3 of this chapter.

(2) *Authorization.* (i) Upon approval of the request for parole, the Commissioner shall notify the Assistant Attorney General, Criminal Division, of the approval.

(ii) Upon notification of approval of a request for parole, the LEA will advise the Commissioner of the date, time, and place of the arrival of the alien. The Commissioner will coordinate the arrival of the alien in parole status with the port director prior to the time of arrival.

(iii) Parole will be authorized for a period of thirty (30) days to commence upon the alien's arrival in the United States in order for the LEA to submit a completed Form I–854 to the Assistant Attorney General, Criminal Division. Upon the submission to the Assistant Attorney General of the Form I–854 requesting S classification, the period of parole will be automatically extended while the request is being reviewed. The Assistant Attorney General, Criminal Division, will notify the Commissioner of the submission of a Form I–854.

(b) *Termination of parole*—(1) *General.* The Commissioner may terminate parole for any alien (including a member of the alien's family) in parole status under this section where termination is in the public interest. A district director may also terminate parole when, in the district director's opinion, termination is in the public interest and circumstances do not reasonably permit referral of the case to the Commissioner. In such a case, the Commissioner shall be notified immediately. In the event the Commissioner, or in the appropriate case, a district director, decides to terminate the parole of a alien witness or informant authorized under the terms of this paragraph, the Assistant Attorney General, Criminal Division, and the relevant LEA shall be notified in writing to that effect. The Assistant Attorney General, Criminal Division, shall concur in or object to that decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to terminate parole.

(2) *Termination of parole and admission in S classification.* When an LEA has filed a request for an alien in authorized parole status to be admitted in S nonimmigrant classification and that request has been approved by the Commissioner pursuant to the procedures outlines in 8 CFR 214.2(t), the Commissioner may, in the exercise of discretion:

(i) Terminate the alien's parole status;

(ii) Determine eligibility for waivers; and

(iii) Admit the alien in S nonimmigrant classification pursuant to the terms and conditions of section 101(a)(15(S) of the Act and 8 CFR 214.2(t).

(c) *Departure.* If the alien's parole has been terminated and the alien has been ordered excluded from the United States, the LEA shall ensure departure from the United States and so inform the district director in whose jurisdiction the alien has last resided. The district director, if necessary, shall

oversee the alien's departure from the United States and, in any event, shall notify the Commissioner of the alien's departure. The Commissioner shall be notified in writing of the failure of any alien authorized parole under this paragraph to depart in accordance with an order of exclusion and deportation entered after parole authorized under this paragraph has been terminated.

(d) *Failure to comply with procedures.* Any failure to adhere to the parole procedures contained in this section shall immediately be brought to the attention of the Commissioner, who will notify the Attorney General.

PART 214—NONIMMIGRANT CLASSES

8. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; 8 CFR part 2.

9. In § 214.1, paragraph (a)(2) is amended by adding the following nonimmigrant classification entries to the listing of designations, in proper sequence, to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

(a) * * *

(2) * * *

Section	Designation
* * * * *	
101(a)(15)(S)(i)	S–5
101(a)(15)(S)(ii)	S–6
101(a)(15)(S) qualified family members.	S–7

* * * * *

10. Section 214.1 is amended by:

a. Removing the ''or'' at the end of paragraph (c)(3)(iv);

b. Removing the ''.'' at the end of paragraph (c)(3)(v), and replacing it with a ''; or''; and by

c. Adding a new paragraph (c)(3)(iv), to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

* * * * *

(c) * * *

(3) * * *

(vi) Any nonimmigrant who is classified pursuant to section 101(a)(15)(S) of the Act beyond a total of 3 years.

* * * * *

11. Section 214.2 is amended by adding a new paragraph (t) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(t) *Alien witnesses and informants*—(1) *Alien witness or informant in criminal matter.* An alien may be classified as an S–5 alien witness or informant under the provisions of section 101(a)(15)(S)(i) of the Act if, in the exercise of discretion pursuant to an application on Form I–854 by an interested federal or state law enforcement authority (''LEA''), it is determined by the Commissioner that the alien:

(i) Possesses critical reliable information concerning a criminal organization or enterprise;

(ii) Is willing to supply, or has supplied, such information to federal or state LEA; and

(iii) Is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise.

(2) *Alien witness or informant in counterterrorism matter.* An alien may be classified as an S–6 alien counterterrorism witness or informant under the provisions of section 101(a)(15)(S)(ii) of the Act if it is determined by the Secretary of State and the Commissioner acting jointly, in the exercise of their discretion, pursuant to an application on Form I–854 by an interested federal LEA, that the alien:

(i) Possesses critical reliable information concerning a terrorist organization, enterprise, or operation;

(ii) Is willing to supply or has supplied such information to a federal LEA;

(iii) Is in danger or has been placed in danger as a result of providing such information; and

(iv) Is eligible to receive a reward under section 36(a) of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2708(a).

(3) *Spouse, married and unmarried sons and daughters, and parents of alien witness or informant in criminal or counterterrorism matter.* An alien spouse, married or unmarried son or daughter, or parent of an alien witness or informant may be granted derivative S classification (S–7) when accompanying, or following to join, the alien witness or informant if, in the exercise of discretion by, with respect to paragraph (t)(1) of this section, the Commissioner, or, with respect to paragraph (t)(2) of this section, the Secretary of State and the Commissioner acting jointly, consider it to be appropriate. A nonimmigrant in such derivative S–7 classification shall be subject to the same period of admission, limitations, and restrictions as the alien witness or informant and must be identified by the requesting LEA on the application Form I–854 in order to qualify for S nonimmigrant classification. Family members not identified on the Form I–854 application will not be eligible for S nonimmigrant classification.

(4) *Request for S nonimmigrant classification.* An application on Form I–854, requesting S nonimmigrant classification for a witness or informant, may only be filed by a federal or state LEA (which shall include a federal or state court or a United States Attorney's Office) directly in need of the information to be provided by the alien witness or informant. The completed application is filed with the Assistant Attorney General, Criminal Division, Department of Justice, who will forward only properly certified applications that fall within the numerical limitation to the Commissioner, Immigration and Naturalization Service, for approval, pursuant to the following process.

(i) *Filing request.* For an alien to qualify for status as an S nonimmigrant, S nonimmigrant classification must be requested by an LEA. The LEA shall recommend an alien for S nonimmigrant classification by: Completing Form I–854, with all necessary endorsements and attachments, in accordance with the instructions on, or attached to, that form, and agreeing, as a condition of status, that no promises may be, have been, or will be made by the LEA that the alien will or may remain in the United States in S or any other nonimmigrant classification or parole, adjust status to that of lawful permanent resident, or otherwise attempt to remain beyond a 3-year period other than by the means authorized by section 101(a)(15)(S) of the Act. The alien, including any derivative beneficiary who is 18 years or older, shall sign a statement, that is part of or affixed to Form I–854, acknowledging awareness that he or she is restricted by the terms of S nonimmigrant classification to the specific terms of section 101(a)(15)(S) of the Act as the exclusive means by which he or she may remain permanently in the United States.

(A) *District director referral.* Any district director or Service officer who receives a request by an alien, an eligible LEA, or other entity seeking S nonimmigrant classification shall advise the requestor of the process and the requirements for applying for S nonimmigrant classification. Eligible LEAs seeking S nonimmigrant classification shall be referred to the Commissioner.

(B) *United States Attorney certification.* The United States Attorney with jurisdiction over a prosecution or investigation that forms the basis for a

request for S nonimmigrant classification must certify and endorse the application on Form I–854 and agree that no promises may be, have been, or will be made that the alien will or may remain in the United States in S or any other nonimmigrant classification or parole, adjust status to lawful permanent resident, or attempt to remain beyond the authorized period of admission.

(C) *LEA certification.* LEA certifications on Form I–854 must be made at the seat-of-government level, if federal, or the highest level of the state LEA involved in the matter. With respect to the alien for whom S nonimmigrant classification is sought, the LEA shall provide evidence in the form of attachments establishing the nature of the alien's cooperation with the government, the need for the alien's presence in the United States, all conduct or conditions which may constitute a ground or grounds or excludability, and all factors and considerations warranting a favorable exercise of discretionary waiver authority by the Attorney General on the alien's behalf. The attachments submitted with a request for S nonimmigrant classification may be in the form of affidavits, statements, memoranda, or similar documentation. The LEA shall review Form I–854 for accuracy and ensure the alien understands the certifications made on Form I–854.

(D) *Filing procedure.* Upon completion of Form I–854, the LEA shall forward the form and all required attachments to the Assistant Attorney General, Criminal Division, United States Department of Justice, at the address listed on the form.

(ii) *Assistant Attorney General, Criminal Division review.*—(A) *Review of information.* Upon receipt of a complete application for S nonimmigrant classification on Form I–854, with all required attachments, the Assistant Attorney General, Criminal Division, shall ensure that all information relating to the basis of the application, the need for the witness or informant, and grounds of excludability under section 212 of the Act has been provided to the Service on Form I–854, and shall consider the negative and favorable factors warranting an exercise of discretion on the alien's behalf. No application may be acted on by the Assistant Attorney General unless the eligible LEA making the request has proceeded in accordance with the instructions on, or attached to, Form I–854 and agreed to all provisions therein.

(B) *Advisory panel.* Where necessary according to procedures established by the Assistant Attorney General, Criminal Division, an advisory panel, composed of representatives of the Service, Marshals Service, Federal Bureau of Investigation, Drug Enforcement Administration, Criminal Division, and the Department of State, and those representatives of other LEAs, including state and federal courts designated by the Attorney General, will review the completed application and submit a recommendation to the Assistant Attorney General, Criminal Division, regarding requests for S nonimmigrant classification. The function of this advisory panel is to prioritize cases in light of the numerical limitation in order to determine which cases will be forwarded to the Commissioner.

(C) *Assistant Attorney General certification.* The certification of the Assistant Attorney General, Criminal Division, to the Commissioner recommending approval of the application for S nonimmigrant classification shall contain the following:

(*1*) All information and attachments that may constitute, or relate to, a ground or grounds of excludability under section 212(a) of the Act;

(*2*) Each section of law under which the alien appears to be inadmissible;

(*3*) The reasons that waiver(s) of inadmissibility are considered to be justifiable and in the national interest;

(*4*) A detailed statement that the alien is eligible for S nonimmigrant classification, explaining the nature of the alien's cooperation with the government and the government's need for the alien's presence in the United States;

(*5*) The intended date of arrival;

(*6*) The length of the proposed stay in the United States;

(*7*) The purpose of the proposed stay; and

(*8*) A statement that the application falls within the statutorily specified numerical limitation.

(D) *Submission of certified requests for S nonimmigrant classification to Service.* (*1*) The Assistant Attorney General, Criminal Division, shall forward to the Commissioner only qualified applications for S–5 nonimmigrant classification that have been certified in accordance with the provisions of this paragraph and that fall within the annual numerical limitation.

(*2*) The Assistant Attorney General Criminal Division, shall forward to the Commissioner applications for S–6 nonimmigrant classification that have been certified in accordance with the provisions of this paragraph, certified by the Secretary of State or eligibility for S–6 classification, and that fall within the annual numerical limitation.

(5) *Decision on application.* (i) The Attorney General's authority to waive grounds of excludability pursuant to section 212 of the Act is delegated to the Commissioner and shall be exercised with regard to S nonimmigrant classification only upon the certification of the Assistant Attorney General, Criminal Division. Such certification is nonreviewable as to the matter's significance, importance, and/or worthwhileness to law enforcement. The Commissioner shall make the final decision to approve or deny a request for S nonimmigrant classification certified by the Assistant Attorney General, Criminal Division.

(ii) *Decision to approve application.* Upon approval of the application on Form I–854, the Commissioner shall notify the Assistant Attorney General, Criminal Division, the Secretary of State, and Service officers as appropriate. Admission shall be authorized for a period not to exceed 3 years.

(iii) *Decision to deny application.* In the event the Commissioner decides to deny an application for S nonimmigrant classification on Form I–854, the Assistant Attorney General, Criminal Division, and the relevant LEA shall be notified in writing to that effect. The Assistant Attorney General, Criminal Division, shall concur in or object to that decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to deny.

(6) *Submission of requests for S nonimmigrant visa classification to Secretary of State.* No request for S nonimmigrant visa classification may be presented to the Secretary of State unless it is approved and forwarded by the Commissioner.

(7) *Conditions of status.* An alien witness or informant is responsible for certifying and fulfilling the terms and conditions specified on Form I–854 as a condition of status. The LEA that assumes responsibility for the S nonimmigrant must:

(i) Ensure that the alien:

(A) Reports quarterly to the LEA on his or her whereabouts and activities, and as otherwise specified on Form I–

854 or pursuant to the terms of his or her S nonimmigrant classification;

(B) Notifies the LEA of any change of home or work address and phone numbers or any travel plans;

(C) Abides by the law and all specified terms, limitations, or restrictions on the visa, Form I–854, or any waivers pursuant to classification; and

(D) Cooperates with the responsible LEA in accordance with the terms of his or her classification and any restrictions on Form I–854;

(ii) Provide the Assistant Attorney General, Criminal Division, with the name of the control agent on an ongoing basis and provide a quarterly report indicating the whereabouts, activities, and any other control information required on Form I–854 or by the Assistant Attorney General;

(iii) Report immediately to the Service any failure on the alien's part to:

(A) Report quarterly;

(B) Cooperate with the LEA;

(C) Comply with the terms and conditions of the specific S nonimmigrant classification; or

(D) Refrain from criminal activity that may render the alien deportable, which information shall also be forwarded to the Assistant Attorney General, Criminal Division; and

(iv) Report annually to the Assistant Attorney General, Criminal Division, on whether the alien's S nonimmigrant classification and cooperation resulted in either:

(A) A successful criminal prosecution or investigation or the failure to produce a successful resolution of the matter; or

(B) The prevention or frustration of terrorist acts or the failure to prevent such acts.

(v) Assist the alien in his or her application to the Service for employment authorization.

(8) *Annual report.* The Assistant Attorney General, Criminal Division, in consultation with the Commissioner, shall compile the statutorily mandated annual report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

(9) *Admission.* The responsible LEA will coordinate the admission of an alien in S nonimmigrant classification with the Commissioner as to the date, time, place, and manner of the alien's arrival.

(10) *Employment.* An alien classified under section 101(a)(15)(S) of the Act may apply for employment authorization by filing Form I–765, Application for Employment Authorization, with fee, in accordance with the instructions on, or attached to, that form pursuant to § 274a.12(c)(21) of this chapter.

(11) *Failure to maintain status.* An alien classified under section 101(a)(15)(S) of the Act shall abide by all the terms and conditions of his or her S nonimmigrant classification imposed by the Attorney General. If the terms and conditions of S nonimmigrant classification will not be or have not been met, or have been violated, the alien is convicted of any criminal offense punishable by a term of imprisonment of 1 year or more, is otherwise rendered deportable, or it is otherwise appropriate or in the public interest to do so, the Commissioner shall proceed to deport an alien pursuant to the terms of 8 CFR 242.26. In the event the Commissioner decides to deport an alien witness or informant in S nonimmigrant classification, the Assistant Attorney General, Criminal Division, and the relevant LEA shall be notified in writing to that effect. The Assistant Attorney General, Criminal Division, shall concur in or object to that decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to deport.

(12) *Change of classification.* (i) An alien in S nonimmigrant classification is prohibited from changing to any other nonimmigrant classification.

(ii) An LEA may request that any alien lawfully admitted to the United States and maintaining status in accordance with the provisions of § 248.1 of this chapter, except for those aliens enumerated in 8 CFR 248.2, have his or her nonimmigrant classification changed to that of an alien classified pursuant to section 101(a)(15)(S) of the Act as set forth in 8 CFR 248.3(h).

PART 236—EXCLUSION OF ALIENS

12. The authority citation for part 236 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1362.

13. A new § 236.10 is added to read as follows:

§ 236.10 Exclusion of alien seeking admission under section 101(a)(15)(S) of the Act.

An alien who applies for admission under the provisions of section 101(a)(15)(S) of the Act who is determined by an immigration officer not to be eligible for admission under that section or to be excludable from the United States under one or more of the grounds of excludability listed in section 212 of the Act, which have not been previously waived by the Commissioner, will be taken into custody and will be subject to the exclusion procedures contained in 8 CFR part 236.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING AND APPEAL

14. The authority citation for part 242 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1251, 1252b, 1252 note, 1252b, 1254, 1362; 8 CFR part 2.

15. A new § 242.26 is added to read as follows:

§ 242.26 Deportation of S–5, S–6, and S–7 nonimmigrant.

(a) *Condition of classification.* As a condition of classification and continued stay in classification pursuant to section 101(a)(15)(S) of the Act, nonimmigrants in S classification must have executed Form I–854, Part B, certifying that they have knowingly waived their right to a deportation hearing and right to contest, other than on the basis of an application for withholding of deportation, any deportation action, including detention pending deportation, instituted before lawful permanent resident status is obtained.

(b) *Determination of deportability.* A determination to deport an alien classified pursuant to section 101(a)(15)(S) of the Act shall be made by the district director having jurisdiction over the place where the alien is located.

(1) A determination to deport such an alien shall be based on one or more of the deportation grounds listed in section 241 of the Act based on conduct committed after, or conduct or a condition not disclosed to the Service prior to, the alien's classification as an S nonimmigrant under section 101(a)(15)(S) of the Act, or for a violation of, or failure to adhere to, the particular terms and conditions of status in S nonimmigrant classification.

(c) *Deportation procedures.* (1) A district director who determines to deport an alien witness or informant in S nonimmigrant classification shall notify the Commissioner, the Assistant Attorney General, Criminal Division, and the relevant LEA in writing to that

effect. The Assistant Attorney General, Criminal Division, shall concur in or object to that decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to deport.

(2) A district director, who has provided notice as set forth in paragraph (c)(1) of this section and who has been advised by the Commissioner that the Assistant Attorney General, Criminal Division, has not objected, shall issue a warrant of deportation. The alien shall immediately be arrested and taken into custody by the district director initiating the deportation. An alien classified under the provisions of section 101(a)(15)(S) of the Act who is determined, pursuant to a warrant issued by a district director, to be deportable from the United States shall be deported from the United States to his or her country of nationality or last residence. The LEA who requested the alien's presence in the United States shall ensure departure from the United States and so inform the district director in whose jurisdiction the alien has last resided. The district director, if necessary, shall oversee the alien's departure from the Untied States and, in any event, shall notify the Commissioner of the alien's departure.

(d) *Withholding of deportation.* An alien classified pursuant to section 101(a)(15)(S) of the Act who applies for withholding of deportation shall have 10 days from the date the warrant of deportation is served upon the alien to file an application for such relief with the district director initiating the deportation order. The procedures contained in 8 CFR 208.2 and 208.16 shall apply to such an alien who applies for withholding of deportation.

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

16. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255, and 8 CFR part 2.

17. In § 245.1, paragraph (c)(7) is redesignated as paragraph (c)(8), and a new paragraph (c)(7) is added to read as follows:

§ 245.1 Eligibility.

* * * * *

(c) * * *

(7) A nonimmigrant classified pursuant to section 101(a)(15)(S) of the Act, unless the nonimmigrant is applying for adjustment of status pursuant to the request of a law enforcement authority, the provisions of section 101(a)(15)(S) of the Act, and 8 CFR 245.11.

* * * * *

18. A new § 245.11 is added to read as follows:

§ 245.11 Adjustment of aliens in S nonimmigrant classification.

(a) *Eligibility.* An application on Form I–854, requesting that an alien witness or informant in S nonimmigrant classification be allowed to adjust status to that of lawful permanent resident, may only be filed by the federal or state law enforcement authority (''LEA'') (which shall include a federal or state court or a United States Attorney's Office) that originally requested S classification for the alien. The completed application shall be filed with the Assistant Attorney General, Criminal Division, Department of Justice, who will forward only properly certified applications to the Commissioner, Immigration and Naturalization Service, for approval. Upon receipt of an approved Form I–854 allowing the S nonimmigrant to adjust status to that of lawful permanent resident, the alien may proceed to file with that Form, Form I–485, Application to Register Permanent Residence or Adjust Status, pursuant to the following process.

(1) *Request to allow S nonimmigrant to apply for adjustment of status to that of lawful permanent resident.* The LEA that requested S nonimmigrant classification for an S nonimmigrant witness or informant pursuant to section 101(a)(15)(S) of the Act may request that the principal S nonimmigrant be allowed to apply for adjustment of status by filing Form I–854 with the Assistant Attorney General, Criminal Division, in accordance with the instructions on, or attached to, that form and certifying that the alien has fulfilled the terms of his or her admission and classification. The same Form I–854 may be used by the LEA to request that the principals nonimmigrant's spouse, married and unmarried sons and daughters, regardless of age, and parents who are in derivative S nonimmigrant classification and who are qualified family members as described in paragraph (b) of this section similarly be allowed to apply for adjustment of status pursuant to section 101(a)(15)(S) of the Act.

(2) *Certification.* Upon receipt of an LEA's request for the adjustment of an alien in S nonimmigrant classification on Form I–854, the Assistant Attorney General, Criminal Division, shall review the information and determine whether to certify the request to the Commissioner in accordance with the instructions on the form.

(3) *Submission of requests for adjustment of status to the Commissioner.* No application by an LEA on Form I–854 requesting the adjustment to lawful permanent resident status of an S nonimmigrant shall be forwarded to the Commissioner unless first certified by the Assistant Attorney General, Criminal Division.

(4) *Decision on request to allow adjustment of S nonimmigrant.* The Commissioner shall make the final decision on a request to allow an S nonimmigrant to apply for adjustment of status to lawful permanent resident.

(i) In the event the Commissioner decides to deny an application on Form I–854 to allow an S nonimmigrant to apply for adjustment of status, the Assistant Attorney General, Criminal Division, and the relevant LEA shall be notified in writing to that effect. The Assistant Attorney General, Criminal Division, shall concur in or object to that decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall be alien or the relevant LEA have a right of appeal from any decision to deny.

(ii) Upon approval of the request on Form I–854, the Commissioner shall forward a copy of the approved form to the Assistant Attorney General and the S nonimmigrant, notifying them that the S nonimmigrant may proceed to file Form I–485 and request adjustment of status to that of lawful permanent resident, and that, to be eligible for adjustment of status, the nonimmigrant must otherwise:

(A) Meet the requirements of paragraph (b) of this section, if requesting adjustment as a qualified family member of the certified principal S nonimmigrant witness or informant;

(B) Be admissible to the United States as an immigrant, unless the ground of excludability has been waived;

(C) Establish eligibility for adjustment of status under all provisions of section 245 of the Act, unless the basis for ineligibility has been waived; and

(D) Properly file with his or her Form I–485, Application to Register Permanent Residence or Adjust Status, the approved Form I–854.

(b) *Family members*—(1) *Qualified family members.* A qualified family member of an S nonimmigrant includes the spouse, married or unmarried son or daughter, or parent of a principal S nonimmigrant who meets the requirements of paragraph (a) of this section, provided that:

(i) The family member qualified as the spouse, married or unmarried son or daughter, or parent (as defined in section 101(b) of the Act) of the principal S nonimmigrant when the family member was admitted as or granted a change of status to that of a nonimmigrant under section 101(a)(15)(S) of the Act;

(ii) The family member was admitted in S nonimmigrant classification to accompany, or follow to join, the principal S–5 or S–6 alien pursuant to the LEA's request;

(iii) The family member is not excludable from the United States as a participant in Nazi persecution or genocide as described in section 212(a)(3)(E) of the Act;

(iv) The qualifying relationship continues to exist; and

(v) The principal alien has adjusted status, has a pending application for adjustment of status or is concurrently filing an application for adjustment of status under section 101(a)(15)(S) of the Act.

(vi) Paragraphs (b)(1)(iv) and (v) of this section do not apply if the alien witness or informant has died and, in the opinion of the Attorney General, was in compliance with the terms of his or her S classification under section 245(i) (1) and (2) of the Act.

(2) *Other family member.* The adjustment provisions in this section do not apply to a family member who has not been classified as an S nonimmigrant pursuant to a request on Form I–854 or who does not otherwise meet the requirements of paragraph (b) of this section. However, a spouse or an unmarried child who is less than 21 years old, and whose relationship to the principal S nonimmigrant or qualified family member was established prior to the approval of the principal S nonimmigrant's adjustment of status application, may be accorded the priority date and preference category of the principal S nonimmigrant or qualified family member, in accordance with the provisions of section 203(d) of the Act. Such a spouse or child:

(i) May use the principal S nonimmigrant or qualified member's priority date and category when it becomes current, in accordance with the limitations set forth in sections 201 and 202 of the Act;

(ii) May seek immigrant visa issuance abroad or adjustment of status to that of a lawful permanent resident of the United States when the priority date becomes current for the spouse's or child's country of chargeability under the fourth employment-based preference classification;

(iii) Must meet all the requirements for immigrant visa issuance or adjustment of status, unless those requirements have been waived;

(iv) Is not applying for adjustment of status under 101(a)(15)(S) of the Act, is not required to file Form I–854, and is not required to obtain LEA certification; and

(v) Will lose eligibility for benefits if the child marries or has his or her twenty-first birthday before being admitted with an immigrant visa or granted adjustment of status.

(c) *Waivers of excludability.* An alien seeking to adjust status pursuant to the provisions of section 101(a)(15)(S) of the Act may not be denied adjustment of status for conduct or a condition which:

(1) Was disclosed to the Attorney General prior to admission; and

(2) Was specifically waived pursuant to the waiver provisions set forth at section 212(d)(1) and 212(d)(3) of the Act.

(d) *Application.* Each S nonimmigrant requesting adjustment of status under section 101(a)(15)(S) of the Act must:

(1) File Form I–485, with the prescribed fee, accompanied by the approved Form I–854, and the supporting documents specified in the instructions to Form I–485 and described in 8 CFR 245.2. Secondary evidence may be submitted if the nonimmigrant is unable to obtain the required primary evidence as provided in 8 CFR 103.2(b)(2). The S nonimmigrant applying to adjust must complete Part 2 of Form I–485 by checking box ''h-other'' and writing ''S'' or ''S-Qualified Family Member.'' Qualified family members must submit documentary evidence of the relationship to the principal S nonimmigrant witness or informant.

(2) Submit detailed and inclusive evidence of eligibility for the adjustment of status benefits of S classification, which shall include:

(i) A photocopy of all pages of the alien's most recent passport or an explanation of why the alien does not have a passport; or

(ii) An attachment on a plain piece of paper showing the dates of all arrivals and departures from the United States in S nonimmigrant classification and the reason for each departure; and

(iii) Primary evidence of a qualifying relationship to the principal S nonimmigrant, such as birth or marriage certificate. If any required primary evidence is unavailable, church or school records, or other secondary evidence may be submitted. If such documents are unavailable, affidavits may be submitted as provided in 8 CFR 103.2(b)(2).

(e) *Priority date.* The S nonimmigrant's priority date shall be the date his or her application for adjustment of status as an S nonimmigrant is properly filed with the Service.

(f) *Visa number limitation.* An adjustment of status application under section 101(a)(15)(S) of the Act may be filed regardless of the availability of immigrant visa numbers. The adjustment of status application may not, however, be approved and the alien's adjustment of status to that of lawful permanent resident of the United States may not be granted until a visa number becomes available for the alien under the worldwide allocation for employment-based immigrants under section 201(d) and section 203(b)(4) of the Act. The alien may request initial or continued employment authorization while the adjustment application is pending by filing Form I–765, Application for Employment Authorization. If the alien needs to travel outside the United States during this period, he or she may file a request for advance parole on Form I–131, Application for Travel Document.

(g) *Filing and decision.* An application for adjustment of status filed by an S nonimmigrant under section 101(a)(15)(S) of the Act shall be filed with the district director having jurisdiction over the alien's place of residence. Upon approval of adjustment of status under this section, the district director shall record the alien's lawful admission for permanent residence as of the date of such approval. The district director shall notify the Commissioner and the Assistant Attorney General, Criminal Division, of the adjustment.

(h) *Deportation under section 241 of the Act.* Nothing in this section shall prevent an alien adjusted pursuant to the terms of these provisions from being deported for conviction of a crime of moral turpitude committed within 10 years after being provided lawful permanent residence under this section or for any other ground under section 241 of the Act.

(i) *Denial of application.* In the event the district director decides to deny an application on Form I–485 and an

approved Form I–854 to allow an S nonimmigrant to adjust status, the Assistant Attorney General, Criminal Division, and the relevant LEA shall be notified in writing to that effect. The Assistant Attorney General, Criminal Division, shall concur in or object to that decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to deny. A denial of an adjustment application under this paragraph may not be renewed in subsequent deportation proceedings.

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

19. The authority citation for part 248 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1187, 1258; 8 CFR part 2.

§ 248.2 [Amended]

20. In § 248.2, paragraph (b) is amended by removing the term ''or (K)'' and adding in lieu thereof the term ''(K), or (S)''.

21. Section 248.3 is amended by adding a new paragraph (h) to read as follows:

§ 248.3 Application.

* * * * *

(h) *Change to S nonimmigrant classification.* An eligible state or federal law enforcement agency (''LEA''), which shall include a state or federal court or a United States Attorney's Office, may seek to change the nonimmigrant classification of a nonimmigrant lawfully admitted to the United States, except those enumerated in § 248.2 of this chapter, to that of an alien witness or informant pursuant to section 101(a)(15)(S) of the Act by filing with the Assistant Attorney General, Criminal Division, Form I–539, Application to Extend/Change Nonimmigrant Status, with the appropriate fee, and Form I–854, Inter-Agency Alien Witness and Informant Record, with attachments establishing eligibility for the change of nonimmigrant classification.

(1) If the Assistant Attorney General, Criminal Division, certifies the request for S nonimmigrant classification in accordance with the procedures set forth in 8 CFR 214.2(t), the Assistant Attorney General shall forward the LEA's request on Form I–854 with Form I–539 to the Commissioner. No request for change of nonimmigrant classification to S classification may proceed to the Commissioner unless it has first been certified by the Assistant Attorney General, Criminal Division.

(2) In the event the Commissioner decides to deny an application to change nonimmigrant classification to S nonimmigrant classification, the Assistant Attorney General, Criminal Division, and the relevant LEA shall be notified in writing to that effect. The Assistant Attorney General, Criminal Division, shall concur in or object to that decision. Unless the Assistant Attorney General, Criminal Division, objects within 7 days, he or she shall be deemed to have concurred in the decision. In the event of an objection by the Assistant Attorney General, Criminal Division, the matter will be expeditiously referred to the Deputy Attorney General for a final resolution. In no circumstances shall the alien or the relevant LEA have a right of appeal from any decision to deny.

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

22. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

23. Section 274a.12 is amended by adding a new paragraph (c)(21) to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(c) * * *

(21) A principal nonimmigrant witness or informant in S classification, and qualified dependent family members.

* * * * *

PART 299—IMMIGRATION FORMS

24. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

25. Section 299.1 is amended by adding the entry for ''Form I–854'' to the listing of forms, in proper numerical sequence, to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
*	*	*
I–854	June 20, 1995.	Inter-Agency Alien Witness and Informant Record.

* * * * *

26. Section 299.5 is amended by adding the entry for ''Form I–854'', to the listing of forms, in proper numerical sequence, to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
*	*	*
I–854	Inter-Agency Alien Witness and Informant Record.	1115–0196
*	*	*

Dated: August 18, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95–21113 Filed 8–24–95; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

[FHWA Docket 95–21]

RIN 2125–AD61

General Material Requirements; Warranty Clauses

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: The FHWA is revising its regulation that generally prohibits the use of guaranty and warranty clauses on Federal-aid highway construction contracts. This action will permit greater use of warranties in Federal-aid highway construction contracts within prescribed limits.

DATES: This interim final rule is effective August 25, 1995. Written comments must be received on or before October 24, 1995.

ADDRESSES: Submit signed, written comments to FHWA Docket No. 95–21, Federal Highway Administration, Room 4232, HCC–10, 400 Seventh Street, SW., Washington, DC 20590. All comments

received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James Daves, Office of Engineering, (202) 366–0355 or Mr. Wilbert Baccus, Office of the Chief Counsel, (202) 366–0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

The current regulation pertaining to warranty clauses, found at 23 CFR 635.413, generally prohibits their use on Federal-aid highway construction contracts, with limited exceptions. There is no statutory mandate requiring this prohibition. This regulation was issued in 1976 and is a formulation of a longstanding FHWA policy against the use of warranties. The rationale for the prohibition is that warranty provisions can indirectly result in Federal-aid participation in maintenance costs. Prior to 1991, maintenance was a Federal-aid non-participating item. However, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102–240, 105 Stat. 1914, amended 23 U.S.C. 119 to include an interstate maintenance funding category. Section 1009 of the ISTEA revised 23 U.S.C. 119 to include preventive maintenance on existing interstate routes as an eligible item. Preventive maintenance activities are eligible for Federal-aid highway funds when a State highway agency (SHA) can demonstrate, through its pavement management system, that such activities are a cost-effective means of extending interstate pavement life.

In addition, over the past 5 years, the FHWA has gained experience with warranty clauses through its efforts with Special Experimental Project No. 14 (SEP 14) ''Innovative Contracting Practices.'' The June 1995 FHWA publication entitled ''Rebuilding America: Partnership for Investment, Innovative Contracting Practices,'' gives an overview of and discusses SEP 14. It identifies applications where warranties may enhance the quality of a Federal-aid construction project. That publication has been placed on the docket and is available for inspection at the above address.

For the above reasons, the FHWA is revising the current warranty clause regulation to permit SHAs to include warranty provisions covering specific construction products or features in National Highway System (NHS) Federal-aid contracts, but maintenance items not eligible for Federal-aid funds cannot be included. As already permitted, pursuant to section 1016 of the ISTEA, the SHAs may continue to follow their own procedures regarding the inclusion of warranties in non-NHS Federal-aid contracts.

In 1981, a notice of proposed rulemaking (NPRM) (46 FR 9642) was issued by the FHWA which would have revised the warranty regulations to provide that States may specify warranty requirements where the FHWA agrees that such provisions are consistent with the State's responsibility to maintain the completed project in accordance with 23 U.S.C. 116. Four comments were received; one supported, two opposed, and one asked for clarification of the proposed regulation. Due to a lack of consensus, this action was not finalized.

In 1985, the FHWA issued an advance notice of proposed rulemaking (50 FR 4234) to request information on how warranty clauses might affect the quality of construction and competition on Federal-aid construction projects. While a number of specialty contractors (e.g., signing and joint sealant) favored the expanded use of warranty provisions, comments received from the trade associations and general contractors generally opposed any change in policy. Due to a lack of favorable documentation and strong support for a change, no revision was made to the regulations.

In 1990, the FHWA initiated SEP 14 to evaluate innovative contracting practices. The intent of SEP 14 is to develop a data base for use in making future decisions regarding the applicability of nontraditional contracting practices to Federal-aid highway construction projects. The use of warranty provisions is an innovative practice which has been evaluated by eight SHAs. Under SEP 14, the FHWA has approved warranty concepts with the objective of improving quality and increasing contractor accountability without shifting the maintenance burden to the contractor. Ordinary wear and tear damage caused by normal usage and routine service maintenance have remained the responsibility of the SHAs.

The 1990 European Asphalt Study Tour and the 1992 European Concrete Study Tour, both jointly sponsored by the FHWA and AASHTO (American Association of State Highway and Transportation Officials) and participated in by Federal, State, and private industry representatives, reported that many European countries provide contractors great latitude in the selection of materials and designs. Warranties, varying from 1 to 5 years, are used to hold contractors accountable for their decisions. The 1993 FHWA Contract Administration Techniques for Quality Enhancement Study Tour (CATQEST), also participated in by representatives from all segments of the United States highway community, visited four European countries and examined their use of warranties. The CATQEST team concluded that ''a wide divergence of opinion appears to exist across country boundaries and within individual countries regarding the value of warranty requirements. Some believe they have a positive, decisive influence on sustained high quality. Others seem convinced that quality would not be diminished if warranty requirements were eliminated.''

In 1991, the Congress directed the General Accounting Office (GAO) to conduct a study on means to improve the quality of Federal-aid highways. The GAO report, ''Highway Infrastructure: Quality Improvements Would Safeguard Billions of Dollars Already Invested'' was published in September 1994. The report concluded that, while the SHAs that have utilized warranty clauses have generally been satisfied with the results, the SHAs' limited experiences with warranties make it difficult to assess their costs and benefits.

The SEP 14 has provided valuable information to the FHWA regarding the use of warranties. The SEP 14 currently includes 23 projects with warranty provisions in eight States. Warranties for asphaltic concrete pavement, bridge painting, bridge expansion joints and pavement markings have been included. Durations have varied from 1 to 5 years. The GAO in its 1994 report stated:

> With few exceptions, state officials told us (GAO) that they have generally been satisfied with their experiences, on the basis of preliminary observations or final results from 23 of the 33 warranted projects undertaken to date. These officials' satisfaction resulted from both the initial quality of the workmanship and the opportunity to obtain remedial action when necessary.

One SHA official commenting on two bridge painting projects with warranties stated ''These warranted projects are of the highest quality ever obtained in this State for bridge painting.'' Another SHA engineer commented about an asphaltic concrete pavement project with a warranty. On this project the pavement developed distress only 3 months after construction, and the contractor was ordered to repair it under warranty. The engineer felt that notifying the contractor to do the repairs, without

using SHA funding for the repairs, was an effective use of public funds. The evaluation, reporting, and feedback procedures included in SEP 14 have provided the FHWA with an impetus to revise the existing warranty regulation, and give SHAs more flexibility to use warranties in Federal-aid contracts.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at anytime after the close of the comment period. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

The FHWA has determined that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B) because this interim final rule, in amending the FHWA's regulation on guaranty and warranty clauses in Federal-aid highway construction contracts to permit States to include such clauses, does not impose any new obligation or requirement on the States or highway contractors. Instead, it simply enables any State to include warranty clauses in Federal-aid highway construction contracts if the State determines that such clauses would be beneficial. In addition, to the extent that warranty clauses have been found to enhance the quality of highway construction projects, prior notice and opportunity for comment are contrary to the public interest under 5 U.S.C. 553(b)(3)(B) because this action of lifting the general prohibition against their use gives States the flexibility to include these potentially beneficial clauses in their construction contracts. For these same reasons, the FHWA has determined that prior notice and opportunity for comment are not required under the Department of Transportation's regulatory policies and procedures, as it is not anticipated that such action would result in the receipt of useful information.

This interim final rule is effective upon its date of publication. Because this action removes the prohibition against the use of guaranty and warranty clauses on Federal-aid highway construction contracts, it ''relieves a restriction'' in accordance with 5 U.S.C. 553(d)(1) and, therefore, is exempt from the 30-day delayed effective date requirement of that section. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures.

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. The FHWA, at 23 CFR part 635, currently has regulations regarding guaranty and warranty clauses. The interim revisions would merely accommodate expanded use of warranty clauses on Federal-aid construction contracts. Therefore, it is anticipated that the economic impact of this rulemaking will be minimal and a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this interim final rule on small entities. The FHWA concluded that this action would have no effect on small entities. The FHWA concludes that warranties will have little or no effect on the bonding capacity of small contractors, and that any additional cost associated with warranties will be minimal. Therefore, the FHWA hereby certifies that this rulemaking would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that this interim final rule does not have sufficient federalism implications to warrant the preparation of a separate Federalism assessment. Nothing in this document preempts any State law or regulation, and no new requirements or obligations are imposed on States or local governments by this action. Instead, this interim final rule provides States with additional discretion to determine for themselves whether to include warranty clauses in Federal-aid highway construction contracts for projects on the National Highway System.

Executive Order 12372 (Intergovernmental Review)

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

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520.

National Environmental Policy Act

This rulemaking does not have any effect on the environment. It does not constitute a major action having a significant effect on the environment, and therefore does not require the preparation of an environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Regulation Identification Number

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

List of Subjects in 23 CFR Part 635

Government contracts, Grant programs—transportation, Highways and roads.

Issued on: August 18, 1995.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA amends Title 23, Code of Federal Regulations, part 635 by revising § 635.413 as set forth below:

PART 635—CONSTRUCTION AND MAINTENANCE [AMENDED]

Subpart D—General Material Requirements

1. The authority citation for part 635 is revised to read as follows and all other authority citations which appear throughout part 635 are removed:

Authority: 23 U.S.C. 109, 112, 113, 114, 116, 117, 119, 128, and 315; 31 U.S.C. 6505; 42 U.S.C. 3334, 4601 *et seq.*; 49 CFR 1.48(b); §§ 635.410 and 635.417 are also issued under secs. 1019, 1041(a) and 1048, Pub. L. 102–240, 105 Stat. 1914; sec. 10, Pub. L. 98–229, 98 Stat. 55; sec. 165, Pub. L. 97–424, 96 Stat. 2136; sec. 112, Pub. L. 100–17, 101 Stat. 132.

2. Section 635.413 is revised to read as follows:

§ 635.413 Warranty clauses.

The SHA may include warranty provisions in National Highway System (NHS) construction contracts in accordance with the following:

(a) Warranty provisions shall be for a specific construction product or feature. Items of maintenance not eligible for Federal participation shall not be covered.

(b) All warranty requirements and subsequent revisions shall be submitted to the Division Administrator for advance approval.

(c) No warranty requirement shall be approved which, in the judgment of the Division Administrator, may place an undue obligation on the contractor for items over which the contractor has no control.

(d) A SHA may follow its own procedures regarding the inclusion of warranty provisions in non-NHS Federal-aid contracts.

[FR Doc. 95–21115 Filed 8–24–95; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8615]

RIN 1545–AQ81

Special Rules for Determining Sources of Scholarships and Fellowship Grants

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains a final Income Tax Regulation that provides guidance for determining the source of scholarships, fellowship grants, grants, prizes and awards. The final regulation will affect both individuals and withholding agents. It will provide guidance concerning whether scholarships, fellowships, other grants, prizes and awards are U.S. source income subject to tax and withholding.

DATES: This regulation is effective August 25, 1995.

For dates of applicability of these regulations, see *Effective dates* in § 1.863–1(d)(4).

FOR FURTHER INFORMATION CONTACT: David Bergkuist (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains a final Income Tax Regulation (26 CFR part 1) under section 863 of the Internal Revenue Code. On June 15, 1993, a notice of proposed rulemaking (INTL 0041–92) was published in the **Federal Register** (58 FR 33060) (1993–2 C.B. 634). No public hearing was requested or held.

Written comments responding to the notice were received. After consideration of all of the comments, the regulation proposed under INTL–0041–92 is adopted as revised by this Treasury decision.

Explanation of Revisions and Summary of Comments

Section 863(a) authorizes the Secretary to provide regulations regarding the source of items of gross income other than those items specified in sections 861(a) and 862(a). Rules for determining the source of scholarships, fellowship grants, grants, prizes and awards are not provided by sections 861(a) and 862(a).

The notice of proposed rulemaking proposed in § 1.863–1(d)(1) that scholarships and fellowship grants be sourced by reference to the status of the grantor. However, it also provided a special rule in § 1.863–1(d)(2) for nonresident aliens who receive scholarships or fellowship grants, as defined in the regulations under section 117, from U.S. grantors with respect to study or research activities to be conducted outside the United States. Under these circumstances, the scholarship or fellowship grant would be treated as income from sources outside the United States.

The final regulation adopts the proposed regulation with certain changes. Paragraph (d)(1) clarifies that these rules do not apply to salaries or other compensation for services.

The final regulation provides rules for sourcing scholarships and fellowship grants in paragraphs (d)(2) (i) and (ii) by reference to the status of the grantor. The special rule of paragraph (d)(2)(iii) provides that scholarships or fellowship grants received by a person other than a U.S. person for activities conducted outside the United States are treated as income from sources without the United States.

Commentators asked that the regulation be expanded to encompass grants that fall outside the scope of section 117. In addition, commentators also suggested that the special rule be expanded to include prizes and awards given to nonresident aliens for their past artistic, scientific, or charitable achievements. These suggestions are included in this final regulation.

The source of grants, prizes and awards is determined by reference to the status of the grantor under the general rules set forth in paragraph (d)(2) (i) and (ii). The term *grants* is defined in paragraph (d)(3)(iv) as amounts described in subparagraph (3) of section 4945(g) of the Code and the regulations thereunder and that are not otherwise scholarships, fellowship grants, prizes or awards as defined in § 1.863–1(d)(3). For purposes of paragraph (d)(3)(iv), the reference to section 4945(g)(3) is applied without regard to the identity of the payor or recipient and without the application of the objective and nondiscriminatory basis test and the requirement of a procedure approved in advance.

The term *prizes and awards* is defined in paragraph (d)(3)(iii) of this final regulation as having the same meaning as that set forth in section 74 and the regulations thereunder.

Under paragraph (d)(2)(iii), certain *targeted grants* and *achievement awards* received by a person other than a U.S. person for activities conducted outside the United States are treated as foreign source income. The term *targeted grants* does not appear elsewhere in the Code or the regulations. Targeted grants are a subset of the more inclusive term *grants*. Targeted grants may be received only from an organization described in section 501(c)(3), the United States, the States, or the District of Columbia and must be undertaken in the public interest without private financial benefit. The term *achievement award* does not appear elsewhere in the Code or regulations. An achievement award is an award issued by an organization described in section 501(c)(3), the United States, a State, or the District of Columbia for a past activity undertaken in the public interest and not primarily for the private financial benefit of a specific person or persons or organization.

Commentators requested that the final regulation provide express guidance for the issuance of scholarships or fellowship grants by agents on behalf of foreign grantors. No change is made in the final regulation because an actual payment made by a genuine agent of the payor does not alter the source. The final regulation looks to the status (i.e., whether the person is a U.S. person or a foreign person) of the payor rather than the agent.

The term *international agency* in paragraph (d)(1) of the proposed regulation has been replaced in the final regulation with the term *international organization* as defined in section 7701(a)(18). This clarification uses the Code definition for such organizations.

Comments were received regarding the proposed regulation suggesting that

the scope of the regulation be expanded to cover scholarships and fellowship grants awarded by charitable trusts. The final regulation changes the proposed language of ''U.S. citizen or resident, a domestic corporation, * * *'' in paragraph (d)(2)(i) to include a domestic partnership, or an estate or trust (other than a foreign estate or trust within the meaning of section 7701(a)(31)). The special rule of paragraph (d)(2)(iii) has been clarified to apply to scholarships, fellowship grants, targeted grants, and achievement awards received by a person other than a U.S. person as defined in section 7701(a)(30).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to this regulation, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding this regulation was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of this regulation are George A. Hani, formerly of the Office of Associate Chief Counsel (International), IRS and David Bergkuist of the Office of the Associate Chief Counsel (International), IRS. However, other personnel from the IRS and Treasury Department participated in its development.

List of Subjects in 26 CFR Part 1

Income taxes, Reports and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.863–1 also issued under 26 U.S.C. 863(a). * * *

Par. 2. In § 1.863–1, paragraph (d) is added to read as follows:

§ 1.863–1 Allocation of gross income under section 863(a).

* * * * *

(d) *Scholarships, fellowship grants, grants, prizes and awards*—(1) *In general.* This paragraph (d) applies to scholarships, fellowship grants, grants, prizes and awards. The provisions of this paragraph (d) do not apply to amounts paid as salary or other compensation for services.

(2) *Source of income.* The source of income from scholarships, fellowship grants, grants, prizes and awards is determined as follows:

(i) *United States source income.* Except as provided in paragraph (d)(2)(iii) of this section, scholarships, fellowship grants, grants, prizes and awards made by a U.S. citizen or resident, a domestic partnership, a domestic corporation, an estate or trust (other than a foreign estate or trust within the meaning of section 7701(a)(31)), the United States (or an instrumentality or agency thereof), a State (or any political subdivision thereof), or the District of Columbia shall be treated as income from sources within the United States.

(ii) *Foreign source income.* Scholarships, fellowship grants, grants, prizes and awards made by a foreign government (or an instrumentality, agency, or any political subdivision thereof), an international organization (as defined in section 7701(a)(18)), or a person other than a U.S. person (as defined in section 7701(a)(30)) shall be treated as income from sources without the United States.

(iii) *Certain activities conducted outside the United States.* Scholarships, fellowship grants, targeted grants, and achievement awards received by a person other than a U.S. person (as defined in section 7701(a)(30)) with respect to activities previously conducted (in the case of achievement awards) or to be conducted (in the case of scholarships, fellowships grants, and targeted grants) outside the United States shall be treated as income from sources without the United States.

(3) *Definitions.* The following definitions apply for purposes of this paragraph (d):

(i) *Scholarships* are defined in section 117 and the regulations thereunder.

(ii) *Fellowship grants* are defined in section 117 and the regulations thereunder.

(iii) *Prizes and awards* are defined in section 74 and the regulations thereunder.

(iv) *Grants* are amounts described in subparagraph (3) of section 4945(g) and the regulations thereunder, and are not amounts otherwise described in paragraphs (d)(3) (i), (ii), or (iii) of this section. For purposes of this paragraph (d), the reference to section 4945(g)(3) is applied without regard to the identity of the payor or recipient and without the application of the objective and nondiscriminatory basis test and the requirement of a procedure approved in advance.

(v) *Targeted grants* are grants—

(A) Issued by an organization described in section 501(c)(3), the United States (or an instrumentality or agency thereof), a State (or any political subdivision thereof), or the District of Columbia; and

(B) For an activity undertaken in the public interest and not primarily for the private financial benefit of a specific person or persons or organization.

(vi) *Achievement awards* are awards—

(A) Issued by an organization described in section 501(c)(3), the United States (or an instrumentality or agency thereof), a State (or political subdivision thereof), or the District of Columbia; and

(B) For a past activity undertaken in the public interest and not primarily for the private financial benefit of a specific person or persons or organization.

(4) *Effective dates.* The following are the effective dates concerning this paragraph (d):

(i) *Scholarships and fellowship grants.* This paragraph (d) is effective for scholarship and fellowship grant payments made after December 31, 1986. However, for scholarship and fellowship grant payments made after May 14, 1989, and before June 16, 1993, the residence of the payor rule of paragraph (d)(2) (i) and (ii) of this section may be applied without applying paragraph (d)(2)(iii) of this section.

(ii) *Grants, prizes and awards.* This paragraph (d) is effective for payments made for grants, prizes and awards, targeted grants, and achievement awards after September 25, 1995. However, the taxpayer may elect to apply the provisions of this paragraph (d) to payments made for grants, prizes and awards, targeted grants, and achievement awards after December 31, 1986, and before September 26, 1995.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: August 3, 1995.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 95–21089 Filed 8–24–95; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF JUSTICE

28 CFR Part 49

[AG Order No. 1985–95]

RIN 1105–AA37

Use and Examination of Materials Submitted Pursuant to the Antitrust Civil Process Act

AGENCY: Department of Justice.

ACTION: Interim rule.

SUMMARY: This rule revises the existing Department of Justice regulation concerning the use and examination of materials submitted pursuant to the Antitrust Civil Process Act (''ACPA'' or ''Act'') to add references to ''answers to interrogatories'' and ''transcripts of oral testimony'' as types of material subject to the provisions of the ACPA, and to add references to ''agents'' of the Department of Justice having the authority to use and copy such materials. These changes are necessary to conform the language of the regulation to the current provisions of the Act. The rule also makes minor changes to the spelling and capitalization of certain words used in the regulation for purposes of conformity with the Act and internal consistency.

DATES: This Interim Rule is effective August 25, 1995. Written comments must be submitted on or before October 24, 1995.

ADDRESSES: Please submit written comments to the Director, Office of Operations, Antitrust Division, Room 3214 Main Building, U.S. Department of Justice, 10th & Pennsylvania Avenue NW, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Howard Blumenthal, Assistant Chief, Legal Policy Section, Antitrust Division, Room 3121 Main Justice Building, 10th & Pennsylvania Avenue NW, Washington, DC 20530; telephone (202) 514–2513.

SUPPLEMENTARY INFORMATION: Congress enacted the ACPA, Pub. L. 87–664 (codified at 15 U.S.C. 1311–14, as amended), in 1962 to provide the Antitrust Division (''Division'') of the Department of Justice with the authority to issue civil investigative demands (''CIDs''), a type of pre-complaint compulsory process. CIDs enable the Division to gather information concerning possible civil violations of the antitrust laws before filing lawsuits, which often permits the Department of Justice to determine that no antitrust violation has occurred without resort to litigation. Thus, the use of CIDs will frequently save the Department of Justice, the parties being investigated, and the federal court system time and money through the avoidance of unnecessary litigation or the streamlining of any litigation that does result from an investigation.

The CID authority provided to the Division in 1962 was relatively narrow. The only type of information that the Division could acquire by CID was documentary material. Without the consent of the person who produced such material, access to CID information in the possession of the Division was generally limited to officers, members, or employees of the Department of Justice.

The Division's CID authority was expanded by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (''HSR Act''), Pub. L. 94–435. In addition to producing documentary material, CID recipients could now be required to answer in writing written interrogatories and to give oral testimony. In the Antitrust Procedural Improvements Act of 1980 (''APIA''), Pub. L. 96–349, Congress clarified that CID information in the possession of the Division could be disclosed to and used by agents of the Department of Justice (for example, expert witnesses or independent contractors) as well as by officers and employees.

The ACPA requires the Attorney General to promulgate regulations setting forth the manner in which CID materials in the possession of the Division will be made available for official use by the Department of Justice, and to prescribe the terms and conditions under which such materials may be examined by the persons who produced them to the Division. The Attorney General promulgated 28 CFR Part 49 in 1963 to comply with this requirement. However, this regulation was not amended to reflect the changes to the Act made by the HSR Act in 1976 or the APIA in 1980. The purpose of this order is to amend the existing regulation to conform with the current provisions of the ACPA.

The Interim Rule differs from the existing regulation in two main respects. First, references in the existing regulation to the use and examination of documentary material in the possession of the Division are expanded, where and as appropriate, to also refer to answers to interrogatories and transcripts of oral testimony to take into account the additional types of information that can be acquired under the ACPA as amended by the HSR Act. Second, references to the use and copying of CID information by officers and employees of the Department of Justice are expanded to also include agents of the Department of Justice to reflect the change to the Act made by the APIA. The Interim Rule also differs from the existing regulation in several technical respects. Essentially, the capitalization of certain words (Act, custodian, civil investigative demand) is made consistent throughout the regulation, and the term ''civil investigation demand'' is changed to ''civil investigative demand,'' which is the term used in the statute.

Administrative Procedure Act, 5 U.S.C. 553

Because these regulations are conforming and editorial in nature and impose no new requirements or restrictions, the Department of Justice finds good cause for exempting them from the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612

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

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

List of Subjects in 28 CFR Part 49

Antitrust, Confidential business information, Government employees.

Accordingly, part 49 of chapter I of Title 28 of the Code of Federal Regulations is revised to read as follows:

PART 49—ANTITRUST CIVIL PROCESS ACT

Sec.
49.1 Purpose.
49.2 Duties of custodian.
49.3 Examination of material.
49.4 Deputy custodians.

Authority: 15 U.S.C. 1313.

§ 49.1 Purpose.

The regulations in this part are issued in compliance with the requirements imposed by the provisions of section 4(c) of the Antitrust Civil Process Act, as amended (15 U.S.C. 1313(c)). The terms used in this part shall be deemed to have the same meaning as similar terms used in that Act.

§ 49.2 Duties of custodian.

(a) Upon taking physical possession of documentary material, answers to interrogatories, or transcripts of oral testimony delivered pursuant to a civil investigative demand issued under section 3(a) of the Act, the antitrust document custodian designated pursuant to section 4(a) of the Act (subject to the general supervision of the Assistant Attorney General in charge of the Antitrust division), shall unless otherwise directed by a court of competent jurisdiction, select, from time to time, from among such documentary material, answers to interrogatories or transcripts of oral testimony, the documentary material, answers to interrogatories or transcripts of oral testimony the copying of which the custodian deems necessary or appropriate for the official use of the Department of Justice, and shall determine, from time to time, the number of copies of any such documentary material, answers to interrogatories or transcripts of oral testimony that are to be reproduced pursuant to the Act.

(b) Copies of documentary material, answers to interrogatories, or transcripts of oral testimony in the physical possession of the custodian pursuant to a civil investigative demand may be reproduced by or under the authority of any officer, employee, or agent of the Department of Justice designated by the custodian. Documentary material for which a civil investigative demand has been issued but which is still in the physical possession of the person upon whom the demand has been served may, by agreement between such person and the custodian, be reproduced by such person, in which case the custodian may require that the copies so produced be duly certified as true copies of the original of the material involved.

§ 49.3 Examination of the material.

Documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to the Act, while in the custody of the custodian, shall be for the official use of officers, employees, and agent of the Department of Justice in accordance with the Act. Upon reasonable notice to the custodian—

(a) Such documentary material or answers to interrogatories shall be made available for examination by the person who produced such documentary material or answers to interrogatories, or by any duly authorized representative of such person; and

(b) Such transcripts of oral testimony shall be made available for examination by the person who produced such testimony, or by such person's counsel, during regular office hours established for the Department of Justice. Examination of such documentary material, answers to interrogatories, or transcripts of oral testimony at other times may be authorized by the Assistant Attorney General or the custodian.

§ 49.4 Deputy custodians.

Deputy custodians may perform such of the duties assigned to the custodian as may be authorized or required by the Assistant Attorney General.

Dated: August 18, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95–20984 Filed 8–24–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 356, 358, 372, and 393

Organizational Charter; Removal of Parts

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document removes Department of Defense's organizational charters on the Advanced Research Projects Agency (ARPA), Assistant Secretary of Defense for Policy and Plans (ASD(P&P)), Assistant Secretary of Defense for Democracy and Peacekeeping, and the American Forces Information Service (AFIS) codified in the CFR. The parts have served the purpose for which they were intended in the CFR and are no longer necessary.

EFFECTIVE DATE: August 25, 1995.

FOR FURTHER INFORMATION CONTACT: L. Bynum or P. Toppings, 703–697–4111.

SUPPLEMENTARY INFORMATION: DoD Directive 5105.41 (32 CFR part 393) was canceled by DoD Directive 5134.10. DoD Directive 5111.6 (32 CFR part 358) was canceled by DoD Directive 5111.5. DoD Directive 5111.4 (32 CFR part 356) was canceled by DoD Directive 5111.10. DoD Directive 5122.10 (32 CFR part 372) exists in the DoD Directive system, however, the most recent version is dated March 22, 1995. All of the current documents may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

List of Subjects in 32 CFR Parts 356, 358, 372, and 393

Organization and functions.

PARTS 356, 358, 372, and 393—[REMOVED]

Accordingly, by the authority of 10 U.S.C. 301, 32 CFR parts 356, 358, 372, and 393 are removed.

Dated: August 22, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–21191 Filed 8–24–95; 8:45 am]

BILLING CODE 5000–04–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH87–1–7075a; FRL–5285–6]

Determination of Attainment of the Ozone Standard by the Cleveland, Toledo, Dayton and Cincinnati-Hamilton Interstate Ozone Nonattainment Areas and Determination Regarding Applicability of Certain Reasonable Further Progress and Attainment Demonstration Requirements; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule; removal.

SUMMARY: On June 29, 1995, the USEPA published a final rule, through the ''direct final'' procedure, determining that the Cleveland (which includes the Counties of Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage and Summit); Toledo (which includes the Counties of Lucas and Wood); Dayton (which includes the Counties of Clark, Greene, Miami and Montgomery); and the Ohio portion of the Cincinnati-Hamilton Interstate (which includes the Counties of Butler, Clermont, Hamilton

and Warren) ozone nonattainment areas have attained the National Ambient Air Quality Standard (NAAQS) for ozone. See 60 FR 33742. The USEPA is removing this final rule due to adverse comments received on this action. In a subsequent final rule, USEPA will summarize and respond to the comments received on this determination.

EFFECTIVE DATE: August 25, 1995.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location:

United States Environmental Protection Agency, Region 5, Air and Radiation Division, Regulation Development Branch, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: William Jones, Environmental Scientist, Regulation Development Section, Regulation Development Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, (312) 353–5089.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen oxides, Ozone, and Volatile organic compounds.

Dated: August 11, 1995.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter 1, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q

Subpart KK–Ohio

2. Section 52.1885 is amended by removing paragraph (w).

[FR Doc. 95–21189 Filed 8–24–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 272

[FRL–5224–4]

Hazardous Waste Management Program: Incorporation by Reference of Approved State Hazardous Waste Program for Arizona

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Under the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the U.S. Environmental Protection Agency (EPA) may grant final authorization to States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses part 272 of Title 40 of the Code of Federal Regulations (CFR) to provide notice of the authorization status of State programs, and to incorporate by reference those provisions of the State statutes and regulations that EPA will enforce under RCRA section 3008. EPA intends to incorporate by reference the Arizona authorized State program in 40 CFR part 272. The purpose of this action is to incorporate by reference EPA's approval of recent revisions to Arizona's program.

DATES: This document is effective October 24, 1995 unless EPA publishes a prior **Federal Register** (FR) action withdrawing this immediate final rule. All comments on this action must be received by close of business September 25, 1995. The incorporation by reference of certain Arizona statutes and regulations was approved by the Director of the Federal Register as of October 24, 1995 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Written comments should be sent to April Katsura, U.S. EPA Region IX (H–4), 75 Hawthorne Street, San Francisco, California 94105, (415) 744–2030.

FOR FURTHER INFORMATION CONTACT: April Katsura, U.S. EPA Region IX (H–4), 75 Hawthorne Street, San Francisco, California 94105, (415) 744–2030.

SUPPLEMENTARY INFORMATION:

Background

Section 3006 of RCRA, 42 U.S.C. 6926, allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. The purpose of today's **Federal Register** notice is to incorporate by reference EPA's approval of Arizona's base hazardous waste management program and its revisions to that program.

Effective December 19, 1994 (see 59 FR 52918), EPA incorporated by reference Arizona's then authorized hazardous waste program. Effective June 12, 1995 (see 60 FR 18356), EPA granted authorization to Arizona for additional program revisions. In this document, EPA is incorporating the currently authorized Arizona hazardous waste program in subpart D of part 272.

EPA provides notice of its approval of State programs in 40 CFR part 272, and incorporates by reference therein the State statutes and regulations that EPA will enforce under section 3008 of RCRA. This effort will provide clearer notice to the public of the authorized program in Arizona. Such notice is particularly important in light of the Hazardous and Solid Waste Act Amendments of 1984 (HSWA), Pub. L. 98–616. Revisions to State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. Because HSWA extensively amended RCRA, State programs must be modified to reflect those amendments. By incorporating by reference the authorized Arizona program and by amending the Code of Federal Regulations whenever a new or different set of requirements is authorized in Arizona, the status of Federally approved requirements of the Arizona program will be readily discernible.

The Agency will only enforce those provisions of the Arizona hazardous waste management program for which authorization approval has been granted by EPA. This document incorporates by reference provisions of State hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program. Concerning HSWA, some State requirements may be similar to HSWA requirements that are in effect under Federal statutory authority in that State. However, a State's HSWA-type requirements are not authorized and will not be codified into the CFR until the Regional Administrator publishes her final decision to authorize the State for specific HSWA requirements. Until such time, EPA will enforce the HSWA requirements and not the State analogs.

Arizona Authorized Hazardous Waste Program

EPA is incorporating by reference the Arizona authorized hazardous waste program in subpart D to 40 CFR part 272. The State statutes and regulations are incorporated by reference at 40 CFR 272.151(b)(1); and the Memorandum of Agreement, the Attorney General's Statement and the Program Description are referenced at 40 CFR 272.151(b)(4), (5), and (6), respectively.

The Agency retains the authority under sections 3007, 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized States. With respect to such enforcement actions, the Agency will rely on Federal sanctions, Federal inspection authorities, and the Federal Administrative Procedure Act rather than the State authorized analogs to these requirements. Therefore, the Agency does not intend to incorporate by reference for purposes of

enforcement such particular, authorized Arizona enforcement authorities. Section 272.151(b)(2) of 40 CFR lists those authorized Arizona authorities that are part of the authorized program but are not incorporated by reference.

Some provisions of the State's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions are not part of the RCRA Subtitle C program because they are ''broader in scope'' than RCRA Subtitle C (see 40 CFR 271.1(i)). As a result, State provisions which are ''broader in scope'' than the Federal program are not incorporated by reference for purposes of enforcement in 40 CFR part 272. Section 272.151(b)(3) of 40 CFR lists for reference and clarity the Arizona statutory and regulatory provisions which are ''broader in scope'' than the Federal program and which are not, therefore, part of the authorized program being incorporated by reference today. ''Broader in scope'' provisions will not be enforced by EPA; the State, however, will continue to enforce such provisions.

HSWA Provisions

As noted above, the Agency is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are immediately effective in Arizona and other States. Section 3006(g) of RCRA provides that any requirement or prohibition of HSWA (including implementing regulations) takes effect in authorized States at the same time that it takes effect in non-authorized States. Thus, EPA has immediate authority to implement a HSWA requirement or prohibition once it is effective. A HSWA requirement or prohibition supercedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (see 50 FR 28702, July 15, 1985).

Because of the vast number of HSWA statutory and regulatory requirements taking effect over the next few years, EPA expects that many previously authorized and incorporated by reference State provisions will be affected. The States are required to revise their programs to adopt the HSWA requirements and prohibitions by the deadlines set forth in 40 CFR 271.21, and then to seek authorization for those revisions pursuant to 40 CFR part 271. EPA expects that the States will modify their programs substantially and repeatedly. Instead of amending 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA 3006(g), EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the section of 40 CFR part 272 applicable to the State. In the interim, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. This will be particularly true as more State program revisions adopting HSWA provisions are authorized.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. This action is intended to incorporate by reference the decisions already made to authorize Arizona's program and has no separate effect on handlers of hazardous waste in the State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance with Executive Order 12866

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

Paperwork Reduction Act

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

List of Subjects in 40 CFR Part 272

Environmental Protection, Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: June 8, 1995.

John Wise,

Acting Regional Administrator.

For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAM

1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Subpart D is amended by revising § 272.151 to read as follows:

§ 272.151 Arizona State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Arizona has final authorization for the following elements as submitted to EPA in Arizona's base program application for final authorization which was approved by EPA effective on December 4, 1985. Subsequent program revision applications were approved effective on October 7, 1991, September 11, 1992, January 22, 1993, December 27, 1993, and June 12, 1995.

(b) *State Statutes and Regulations.*

(1) The Arizona statutes and regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 et seq.

(i) EPA Approved Arizona Statutory Requirements Applicable to the Hazardous Waste Management Program, June 1995.

(ii) EPA Approved Arizona Regulatory Requirements Applicable to the Hazardous Waste Management Program, June 1995.

(2) The following statutes and regulations concerning State enforcement, although not incorporated by reference, are part of the authorized State program:

(i) *Arizona Laws Relating to Environmental Quality,* 1993 edition, reprinted from *Arizona Revised Statutes,* Title 49, Sections 49–141 through 49–144; 49–261 through 49–265; 49–287; 49–923 through 49–926; 49–928; and 49–943.

(ii) *Arizona Administrative Code,* Title 18, Chapter 8, December 31, 1994, Sections R18–8–260.D; R18–8–271.F through R18–8–271.Q; and R–18–8–280.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not

part of the authorized program, and are not incorporated by reference:

(i) *Arizona Laws Relating to Environmental Quality,* 1993 edition, reprinted from *Arizona Revised Statutes,* Title 49, Sections 49–901 through 49–905; 49–922.01; 49–927; 49–929 through 49–942; and 49–944.

(ii) *Arizona Administrative Code,* Title 18, Chapter 8, December 31, 1994, Sections R18–8–261.J; R18–8–261.L; R18–8–269; and R18–8–270.G.

(4) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region IX and the Arizona Department of Environmental Quality, signed by the EPA Regional Administrator on June 20, 1991, is referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(5) *Statement of Legal Authority.* ''Attorney General's Statement for Final Authorization'', signed by the Attorney General of Arizona on September 13, 1984, and revisions, supplements and addenda to that Statement dated November 22, 1989, October 31, 1990, August 23, 1993 (two documents), and February 3, 1995, are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

3. Appendix A to Part 272 is amended by revising the listing for ''Arizona'' to read as follows:

Appendix A to part 272—State Requirements

* * * * *

Arizona

The statutory provisions include:

Arizona Laws Relating to Environmental Quality, 1993 edition, reprinted from *Arizona Revised Statutes,* Title 49, Sections 49–921 and 49–922. Copies of the Arizona statutes can be obtained from the State Bar of Arizona, 111 West Munroe, Suite 1800, Phoenix, Arizona 85003–1742.

The regulatory provisions include:

Arizona Administrative Code, Title 18, Chapter 8, December 31, 1994, Sections R18–8–260.A through R18–8–260.C, R18–8–260.E through R18–8–260.H; R18–8–261.A through R18–8–261.I; R18–8–261.K; R18–8–262; R18–8–263; R18–8–264; R18–8–265; R18–8–266; R18–8–268; R18–8–270.A through R18–8–270.F; R18–8–270.H through R18–8–270.Q; and R18–8–271.A through R18–8–271.E. Copies of the Arizona regulations can be obtained from the Arizona Secretary of State, Publications, Notary, Charitable Solicitation & Telemarketing Division, 1700 West Washington, 7th Floor, Phoenix, Arizona 85007–2808.

* * * * *

[FR Doc. 95–21200 Filed 8–24–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[CC Docket No. 87–266, FCC 95–357]

Streamlined Section 214 Authorization for Stand-alone Cable Systems

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule.

SUMMARY: Section 214 of the Communications Act requires local exchange telephone companies (LECs) to obtain authorization from the Federal Communications Commission before constructing or acquiring a cable system in their service territories. Although section 613(b) of the Act generally prohibits LECs from providing video programming directly to subscribers in their service areas, various court decisions have enjoined the Commission from enforcing this telco-cable cross-ownership ban against virtually all LECs. This order concludes that it is in the public interest to streamline the section 214 process with respect to those LECs against whom the Commission is not enforcing the cross-ownership ban that seek authorization to construct facilities to provide cable service in their service areas on a stand-alone basis.

EFFECTIVE DATE: August 25, 1995.

FOR FURTHER INFORMATION CONTACT: Mark S. Nadel, Policy and Program Planning Division, Common Carrier Bureau, (202) 418–1594.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Public reporting burden for the collections of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of the collections of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Branch, Room 234, Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Background

In 1970, the Commission concluded that section 214 of the Act requires that a LEC obtain Commission authorization before constructing or operating a cable system in its service territory. However, under Commission rules enacted in 1970 and later under section 613(b) of the Cable Communications Policy Act of 1984, LECs were generally prohibited from providing video programming directly to subscribers in their telephone service areas.

After this cross-ownership ban was found to violate the First Amendment and the Commission was enjoined from enforcing it against virtually all LECs, the Commission issued Telephone Company-Cable Television Cross-Ownership Rules, sections 63.54–63.58, Fourth Further Notice of Proposed Rulemaking, CC Docket No. 87–266, 10 FCC Rcd 4617, 60 FR 8996 (Feb. 16, 1995), to consider how current statutory provisions, including section 214, should apply to a LEC's provision of video programming to subscribers in its service area. Subsequently, to supplement the record on certain particular issues, Commission staff sought additional comment, *inter alia,* on whether the Commission should grant blanket section 214 authorization to such LECs for construction or acquisition of cable facilities in their service areas. Public Notice, DA 95–665, 60 FR 17763 (Apr. 7, 1995). Comment was also sought on whether such blanket section 214 authorization should apply both when the cable television facility is used also to provide telephone service and when the facility is used to provide only cable television services. Finally, comment was sought on what, if any, other circumstances warrant granting consideration of such blanket section 214 authorization when a telephone company provides video programming in its service area, on any methods for streamlining the section 214 application process, and on how the relevant rules should be amended.

Summary of Fourth Report and Order

This is a summary of the Commission's Fourth Report and Order in Telephone Company-Cable Television Cross-Ownership Rules §§ 63.54–63.58, CC Docket No. 87–266; FCC 95–357, Adopted: August 11, 1995 and Released: August 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M

Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, (202)–857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

This order streamlines the authorization process for telephone companies who seek to construct stand-alone cable television facilities in their service areas. These streamlined procedures apply to those telephone companies who have obtained injunctions that bar the FCC from enforcing the telco-cable cross-ownership ban.

The Cable Act of 1984 generally prohibits LECs from providing video programming directly to subscribers in their telephone service areas. A series of court decisions, however, have found that this cross-ownership ban violates the First Amendment and have enjoined the Commission from enforcing it. In response, in January, the Commission adopted a Notice of Proposed Rulemaking seeking comment on the rules that should apply to a LEC's provision of video programming to subscribers in its service area. In April, Commission staff sought additional comment on whether it should grant blanket section 214 authorization to such LECs for construction or acquisition of cable facilities in their service areas.

Under section 214 of the Communications Act, LECs are required to obtain Commission authorization before acquiring, constructing, or operating a cable television system. In 1984, the Commission found that it was in the public interest to grant a blanket section 214 authorization to LECs seeking to operate cable systems outside of their telephone service areas.

Because judicial injunctions prevent the Commission from enforcing the cross-ownership ban, it finds, in this Order, that the public interest will be served by adopting a streamlined authorization process for those LECs against whom it is not enforcing the cross-ownership ban who seek to construct stand-alone cable facilities in their service areas.

Under these streamlined procedures, a LEC will be required to certify that the system it proposes to construct is not a common carrier system, that it will comply with the rules the Commission has promulgated to protect telephone ratepayers, and that it has secured a franchise to provide cable service pursuant to Title VI of the Communications Act. Unless the Common Carrier Bureau notifies the applicant within 14 days of the issuance of the public notice listing the application as accepted for filing, the authorization will be deemed granted. Where the Bureau notifies the applicant, action by the full Commission will be taken within 180 days of that notification.

List of Subjects in 47 CFR Part 63

Cable television, Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Amendments to the Code of Federal Regulations

Title 47 of the CFR, Part 63 is amended as follows:

PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

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

Authority: Sections 1, 4(i), 4(j), 201–205, 218, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. secs. 151, 154(i), 154(j), 201–205, 218, and 403, unless otherwise noted.

2. New § 63.16 is added under the heading ''Extensions and Supplements'' to read as follows:

§ 63.16 Construction of stand-alone cable system by a carrier in its exchange telephone service area.

(a) Applications of telephone common carriers proposing to construct and operate stand-alone cable systems within their telephone service areas, either directly or indirectly through affiliates, need include only the following information in lieu of that required by § 63.01:

(1) Applicant's name, address and telephone number. This information shall also be submitted for Applicant's affiliate, if applicable;

(2) Location of the proposed system (city, town or village, county, and state);

(3) Certification that the lines constructed by the Applicant constitute a stand-alone cable system that will not be used to provide common carrier service unless and until it has secured any prior approvals necessary under Part 64 of this chapter and any other requirements designed to ensure that the local exchange carriers' telephone ratepayers do not subsidize the provision of cable service;

(4) Certification that the Applicant will comply with 47 CFR 32.23, 32.27, 64.901–64.904;

(5) Certification that the Applicant is franchised to provide cable service pursuant to Title VI of the Communications Act, and date of franchise; and

(b) As used in this section, a stand-alone cable system is one that does not share central office assets (USOA Accounts 2210 through 2232, 47 CFR 32.2210–32.2232) or cable and wire facilities (USOA Accounts 2410 through 2441, 47 CFR 32.2410–32.2441) with the carrier's regulated telephone telephone business.

(c) An original and two copies of the application shall be furnished to the Secretary, Federal Communications Commission, Washington, DC 20554. Applicant shall furnish a copy of the Governor of the state in which the line is to be constructed, and also to the Secretary of Defense, Attn. Special Assistant for Telecommunications, Pentagon, Washington, DC 20301.

(d) Unless the Bureau notifies the applicant otherwise within 14 days of the issuance of the public notice listing the application as accepted for filing, the 47 U.S.C. 214 authorization will be deemed granted, and the LEC may begin construction on the 15th day. The Bureau will confirm such authorizations in public notices issued monthly. Where the Bureau has notified the applicant, action by the full Commission on the 47 U.S.C. 214 application will be taken within 180 days from the date of the Bureau notification.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–21244 Filed 8–24–95; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 60, No. 165
Friday, August 25, 1995

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV95–920–3PR]

Kiwifruit Grown in California; Proposed Revision of Inspection Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would extend the period of validation for initial inspection certificates issued for California kiwifruit. The proposed revision would extend the validation period for initial inspection certificates from December 15 to December 31 or 21 days from the date of inspection, whichever is later. The current period does not allow sufficient time between the initial inspection, which may occur between October and December, and reinspection which must occur after December 15. This rule would reduce costs to the industry because of the increase in time between the initial inspection and reinspection.

DATES: Comments must be received by September 25, 1995.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be submitted in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456, or by facsimile at (202) 720–5698. Comments should reference this docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles L. Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456, telephone (202) 690–3670; or Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (209) 487–5901.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 920 (7 CFR part 920), as amended, regulating the handling of kiwifruit grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principle place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of California kiwifruit subject to regulation under the order and approximately 600 kiwifruit producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. A majority of handlers and producers of California kiwifruit may be classified as small entities.

This proposal is in accordance with § 920.55(b)of the order. This section authorizes the committee to establish a period prior to shipment, when inspections must be performed.

Currently, pursuant to § 920.155 of the marketing order, certification of any kiwifruit which is inspected and certified as meeting grade, size, quality, or maturity requirements in effect pursuant to § 920.52 or § 920.53 during each fiscal year shall be valid until December 15 of each year or 21 days from the date of inspection, whichever is later.

The Kiwifruit Administrative Committee (KAC), the agency responsible for local administration of the marketing order, met on June 14, 1995, and unanimously recommended revising the current inspection requirements. The revision would extend the validation period for the initial inspection certificate, from the current December 15 expiration date to December 31 of each year.

Kiwifruit grown in California is typically harvested in mid-October. The fruit is packed shortly after harvest and placed into storage until shipment. The shipping season generally extends throughout the year.

About 55 percent of the harvested fruit is inspected as it is being packed, prior to storage. While the majority of fruit is inspected prior to storage, some handlers have their fruit inspected after storage just prior to shipment.

When kiwifruit is stored, a black sooty mold sometimes appears on the

fruit's surface. This mold, caused by fruit juice on the surface of the fruit, usually begins to show after the kiwifruit has been in storage for over a month. In order to control this problem, a time limit on the validity of inspection certificates was established. The time limit initially established in 1985 was valid until January 15 or 21 days from the date of inspection, whichever was later.

In 1985, it appeared that kiwifruit harvested in October maintained its quality through the following mid January. However, during the 1988/89 season, problems with black sooty mold once again resulted in the KAC reevaluating this position, and as a result the date was changed to December 1, to reduce the likelihood of moldy fruit entering commercial channels.

Again in 1991, the KAC changed the expiration date for initial inspection certificates from December 1 to the current expiration date of December 15. The KAC believed that the December 1 expiration date required shippers to have their fruit reinspected too soon after the initial inspection. Shippers who had their fruit inspected closer to the certificate expiration date of December 1, did not receive the benefit of 21 days between the initial inspection and reinspection. For many shippers this was a financial burden.

The current period does not allow sufficient time to determine if damage from mold may develop. Sufficient time would need to elapse between the initial inspection, which may occur between October and December, and reinspection, which occurs after December 15. This revision would change the current December 15 inspection certificate expiration date. It would provide that a certificate remains valid until December 31 or 21 days from the date of inspection, whichever is later. Thus, the 21-day limitation would be in effect for all inspected kiwifruit regardless of the date on which it was inspected. This would mean that kiwifruit inspected and packed less than 21 days prior to December 31 would not have to be reinspected until 21 days later.

The KAC estimates that, annually, approximately 25 percent of the crop is reinspected. The reinspection rate is expected to be reduced slightly by making inspection certificates valid until December 31 or 21 days from the date of inspection. Extending the inspection certificate validation from December 15 to December 31 is not expected to have adverse affects on fruit quality.

Over the last five years, the harvest of California kiwifruit has begun later and later. In years past, the kiwifruit harvest began near the beginning of October, with a few starting dates recorded in late September. In recent years, kiwifruit harvests have begun in mid-October due to natural conditions as well as increased grower consciousness about fruit maturity. Fruit that is mature tends to have higher sugar content and is of higher quality. Because of the later harvest dates, the time lapse from harvest to reinspection has decreased over the years.

This two-week change to the reinspection date is not expected to harm the industry's reputation for shipping quality California kiwifruit. Because of research done in the past five years, California growers understand the benefits of harvesting kiwifruit with a higher soluble solids content, which means harvesting at a later date. This, coupled with natural conditions that have also contributed to a delay in harvest, have reduced the number of days from harvest until reinspection.

The KAC also discussed the elimination of reinspection requirements as an alternative. There is however, strong support throughout the industry for maintaining reinspection as a means of assuring fruit quality. The KAC also discussed the use of a sliding reinspection date. This would allow fruit harvested later to be reinspected at a later date. However, it was determined that this would present enforcement problems as it would be difficult to track the harvest date of the entire California crop. The recommendataion to establish the reinspection date at December 31 was a compromise agreed to unanimously by the KAC.

This proposal would adjust the time between harvest and reinspection. There would be a slight reduction in cost to the industry due to the additional amount of fruit that would not have to be reinspected.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons an opportunity to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 920 be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 920.155 is revised to read as follows:

§ 920.155 Inspection requirement.

Certification of any kiwifruit which is inspected and certified as meeting grade, size, quality, or maturity requirements in effect pursuant to § 920.52 or § 920.53 during each fiscal year shall be valid until December 31 of such year or 21 days from the date of inspection, whichever is later.

Dated: August 21, 1995.

Terry C. Long,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–21179 Filed 8–24–95; 8:45 am]

BILLING CODE 3410–02–P

Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, Consolidated Farm Service Agency

7 CFR Parts 1924, 1942, 1948, and 1980

RIN 0575–AB59

Planning and Performing Construction and Other Development

AGENCIES: Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency; United States Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: The Rural Housing and Community Development Service (RHCDS), Rural Business and Cooperative Development Service (RBCDS), Rural Utilities Service (RUS) and Consolidated Farm Service Agency (CFSA) propose to amend their regulations regarding construction and other development for farm, housing, community and business programs. This action provides RHCDS, RBCDS, RUS and CFSA borrowers, grant recipients and the public with rules for compliance with seismic safety requirements for new building construction using RHCDS, RBCDS, RUS and CFSA loan, grant and guaranteed funds. This action is necessary to set forth the Agencies'

policies and requirements to meet the implementation requirements of Executive Order 12699 of January 5, 1990, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction. This Executive Order addresses compliance with the building safety provisions of the Earthquake Hazards Reduction Act of 1977, as amended.

DATES: Comments must be submitted October 24, 1995.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Regulations Analysis and Control Branch, Rural Economic and Community Development, U.S. Department of Agriculture, AG Box 0743, Washington, DC 20250–0743. All written comments will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Samuel J. Hodges III, Architect, Program Support Staff, Rural Housing and Community Development Service, U.S. Department of Agriculture, AG Box 0761, Washington, DC 20250–0761, Telephone: (202) 720–9653.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not-significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act

The information collected and recordkeeping requirements contained in these regulations have been approved by OMB under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control numbers 0575–0042, 0575–0015, 0575–0130, and 0575–0024, in accordance with the Paperwork Reduction Act of 1980. This proposed rule does not impose any new information collection or recordkeeping requirement from those approved by OMB.

Environmental Impact Statement

This action has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' RHCDS has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–190), an environmental impact statement is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–602) the undersigned have determined and certified by signatures of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program. Therefore, a regulatory flexibility analysis was not prepared.

Civil Justice Reform

The proposed action has been reviewed under Executive Order 12778 and meets the applicable standards provided in section 2(a) and (2)(b)(2) of that Executive Order. Provisions within this part that are inconsistent with State law are controlling. All administrative remedies must be exhausted prior to filing suit.

Intergovernmental Review

This action affects the following RHCDS, RBCDS, RUS and CFSA programs as listed in the Catalog of Federal Domestic Assistance:

10.405 Farm Labor Housing Loans and Grants
10.410 Low Income Housing Loans
10.415 Rural Rental Housing Loans
10.420 Rural Self-Help Housing Technical Assistance
10.433 Housing Preservation Grants
10.766 Community Facilities Loans
10.767 Intermediary Relending Program
10.768 Business and Industrial Loans
10.770 Water and Waste Disposal Loans and Grants

All of the above programs, except 10.410 Low Income Housing Loans, are subject to the provisions of Executive Order 12372 that requires zintergovernmental consultation with State and local officials.

Background

General: The RHCDS, RBCDS, RUS, and CFSA make grants, loans, and loan guarantees for the planning and performing of construction and other development work in rural areas. The RHCDS, RBCDS, RUS, and CFSA require borrowers and grant recipients to meet applicable requirements mandated by Federal statutes, regulations, and executive orders to obtain Agency financing. One such requirement is compliance with Executive Order 12699, ''Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction'', which implements the building safety provisions of the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. 7701 et seq.

Therefore, the RHCDS, RBCDS, RUS, and CFSA propose to amend their regulations regarding construction and other development for farmer, housing, community facilities and business programs to address the requirements of Executive Order 12699. This action clarifies the seismic requirements applicable to RHCDS, RBCDS, RUS, and CFSA borrowers and grant recipients; informs architects, engineers and contractors retained by such borrowers and grant recipients of the seismic safety requirements applicable to new building construction projects; and facilitates understanding of and compliance with the requirements.

Seismic Introduction: The Earthquake Hazards Reduction Act of 1977 (the Act) as amended was enacted to reduce risks to life and property from future earthquakes in the United States through establishment and maintenance of an effective earthquake hazards reduction program. This Act also directs the President ''to establish and maintain an effective earthquake hazards reduction program'' (the National Earthquake Hazards Reduction Program or NEHRP). The Federal Emergency Management Agency (FEMA) is the designated agency with primary responsibilities to plan and coordinate the NEHRP. The objectives of the NEHRP include the development of technologically and economically feasible design and construction methods to make structures earthquake resistant; the development and promotion of improved understanding and capability with respect to seismic risk; the education of the public as to earthquake phenomena; and other areas of seismic research.

Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction, requires that measures to assure seismic safety be imposed on federally assisted new building construction. The Executive Order requires each federal agency assisting in the financing through Federal grants or loans, or guaranteeing the financing through loan or mortgage insurance programs of newly constructed buildings to initiate a plan to assure appropriate consideration of seismic safety.

To support the implementation of Executive Order 12699, the Interagency Committee on Seismic Safety in Construction (ICSSC), composed of members representing Federal agencies involved with construction or responsible for governmental assistance for construction, recommends the use of seismic codes and standards which are substantially equivalent to the ''NEHRP

Recommended Provisions for the Development of Seismic Regulations for New Buildings.'' This guideline that represents the state-of-the-art in seismic design, has been widely reviewed, and is currently incorporated into national standards and codes which can be adopted by state and local building codes.

Seismic Design: Unlike hurricanes, earthquakes cannot be predicted; they strike without warning with great destructive forces. Most casualties occur when ground shaking causes buildings and other structures to collapse and objects to fall upon people. For these reasons, buildings and other structures need to be designed to resist earthquake forces.

Structural performance in earthquakes indicates that severe damage to and collapse of buildings almost always are the consequence of inadequate design or construction. The successful performance of buildings designed and constructed in accordance with seismic standards shows that effects of severe earthquakes can be resisted economically.

In order to reduce hazards from earthquakes, buildings should be designed according to appropriate seismic standards and codes. Executive Order 12699 requires the use of and conformance to seismic standards and codes for all new Federally assisted buildings. The Federal government has established the NEHRP to reduce the hazard due to earthquakes and the ICSSC to assist Federal agencies with earthquake hazard reduction implementation measures. The ICSSC has identified standards and model building codes that meet the requirements of the Executive Order and recommends their use. Therefore, the RHCDS, RBCDS, RUS and CFSA propose to require construction financed by their programs to comply with these model building codes.

Copies of any unpublished exhibits are available by request to the Agency at the address set forth above.'

List of Subjects

7 CFR Part 1924

Agriculture, Construction and repair, Construction management, Energy conservation, Housing, Loan program—Agriculture, Low and moderate income housing.

7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

7 CFR Part 1948

Business and industry, Rural areas, Credit, Economic development.

7 CFR Part 1980

Loan programs—Agriculture, Loan programs—Business and industry—Rural development assistance, Loan programs—Housing and Community development, Loan programs—Community programs—Rural development assistance.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is proposed to be amended as follows:

PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for part 1924 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C 1989; 42 U.S.C 1480.

Subpart A—Planning and Performing Construction and Other Development

2. Section 1924.5 is amended by adding paragraph (d)(4) to read as follows:

§ 1924.5 Planning development work.

* * * * *

(d) * * *

(4) New building construction and additions shall be designed and constructed in accordance with the earthquake (seismic) requirements of the applicable RHCDS development standard (building code). The analysis and design of structural systems and components shall be in accordance with applicable requirements of an acceptable model building code.

(i) Agricultural buildings that are not intended for human habitation are exempt from these earthquake (seismic) requirements.

(ii) Single family detached one and two family dwellings shall be constructed in accordance with the requirements of Exhibit N of FmHA Instruction 1924–A (available in any Rural Economic and Community Development office).

(iii) Single family housing new construction located in seismic map areas, as determined by the 1991 edition of the National Earthquake Hazard Reduction Program (NEHRP) Maps, having an effective peak velocity-related acceleration (Av) value equal to or greater than 0.15 (see Exhibit N of Instruction 1924–A) shall be designed and constructed in accordance with the seismic requirements of one of the model building codes listed below.

(A) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(B) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code;

(C) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(iv) Acknowledgment of compliance with the applicable seismic safety requirements for new construction will be contained in the certification of final plans and specification on the appropriate RHCDS Form.

PART 1942—ASSOCIATIONS

3. The authority citation for part 1942 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

Subpart A—Community Facility Loans

4. Section 1942.18 is amended by adding paragraph (d)(17) to read as follows:

§ 1942.18 Community facilities—planning, bidding, contracting, constructing.

* * * * *

(d) * * *

(17) *Seismic safety.*

(i) All new building construction shall be designed and constructed in accordance with the seismic provisions of one of the following model building codes.

(A) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(B) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code; or

(C) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(ii) The date, signature, and seal of a registered architect or engineer and the identification and date of the model building code on the plans and specifications shall be evidence of compliance with the seismic requirements of the appropriate building code.

PART 1948—RURAL DEVELOPMENT

5. The authority citation for part 1948 is revised to read as follows:

Authority: 7 U.S.C. 1989.

Subpart C—Intermediary Relending Program (IRP)

6. Section 1948.117 is amended by adding paragraph (d) to read as follows:

§ 1948.117 Other regulatory requirements.

* * * * *

(d) *Seismic safety of new building construction.*

(1) The Intermediary Relending Program is subject to the provisions of

Executive Order 12699 that requires each Federal agency assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance programs, of newly constructed buildings to assure appropriate consideration of seismic safety.

(2) All new buildings shall be designed and constructed in accordance with the seismic provisions of one of the following model building codes.

(i) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(ii) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code; or

(iii) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(3) The date, signature, and seal of a registered architect or engineer and the identification and date of the model building code on the plans and specifications shall be evidence of compliance with the seismic requirements of the appropriate building code.

PART 1980—GENERAL

7. The authority citation for part 1980 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989, 4201 note; 42 U.S.C. 1480.

Subpart A—General

8. Section 1980.48 is added to read as follows:

§ 1980.48 Seismic safety of new building construction.

(a) The guaranteed loan programs are subject to the provisions of Executive Order 12699 which requires each Federal agency assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance programs, of newly constructed buildings to assure appropriate consideration of seismic safety.

(b) All new buildings shall be designed and constructed in accordance with the seismic provisions of one of the following model building codes:

(1) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(2) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code; or

(3) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(c) The date, signature, and seal of a registered architect or engineer and the identification and date of the model building code on the plans and specifications shall be evidence of compliance with the seismic requirements of the appropriate building code.

Dated: June 28, 1995.

Michael V. Dunn,

Acting Under Secretary for Rural Economic and Community Development.

Dated: June 30, 1995.

Gene Moos,

Under Secretary for Farm and Foreign Agricultural Services.

[FR Doc. 95–20970 Filed 8–24–95; 8:45 am]

BILLING CODE 3410–07–U

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 436

[Docket No. EE–RM–95–501]

Federal Energy Management and Planning Programs; Methodology and Procedures for Life Cycle Cost Analyses

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

ACTION: Notice of proposed rulemaking and public hearing and request for public comment.

SUMMARY: The Department of Energy (DOE) proposes to amend its Federal Energy Management Program regulations to include provisions for applying the life cycle costing methodology when evaluating and comparing the cost effectiveness of water conservation measures in Federal buildings.

DATES: Written comments (six copies) must be received on or before October 24, 1995 in order to ensure their consideration. A public hearing will be held on October 12, beginning at 9:30 a.m., e.d.t. at the address indicated below. Requests to speak at the hearing must be received by 4:30 p.m., e.d.t. on or before October 10. The length of each oral presentation is limited to 10 minutes.

ADDRESSES: Written comments (six copies) and requests to speak at the public hearing, are to be submitted to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Docket No. EE–RM–95–501, EE–92, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–3012. FAX comments will not be accepted. The public hearing will be held at the U.S. Department of Energy, Forrestal Building, Room 1E–245, 1000 Independence Avenue, SW., Washington, DC 20585. Copies of the transcript of the public hearing and public comments received may be obtained from the DOE Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585,(202) 586–6020, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: K. Dean DeVine, P.E., Federal Energy Management Program, Office of Energy Efficiency and Renewable Energy, Mail Station EE–92, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6784.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Department of Energy (DOE) today proposes amendments to some of the provisions in 10 CFR part 436 which are applicable to programs for the management of energy consumption by Federal agencies. The amendments are directed principally toward updating the life cycle cost methodology and procedures in subpart A in light of changes in law requiring the use of life cycle costing methodology when installing water conservation measures.

Section 152 of the Energy Policy Act of 1992 (Pub.L. 102–486) amended the legislatively mandated policies with regard to federal energy management originally set forth in section 542 of the National Energy Conservation Policy Act (Act). 42 U.S.C. 8252. This amendment to section 542 expands the purpose of the federal energy management program to include the conservation and the efficient use of water, in addition to non-renewable energy, by the Federal Government.

Section 543 of the Act (42 U.S.C. 8253(a)) ''Energy Management Goals'' was also amended by Section 152 of the Energy Policy Act by adding an energy management requirement for Federal agencies that ''Not later than January 1, 2005, each agency shall, to the maximum extent practicable, install in Federal buildings owned by the United States all energy and water conservation measures with payback periods of less than 10 years, as determined by using the methods and procedures developed pursuant to section 544''. To implement this statutory provision, it is necessary to amend the life cycle cost regulations as set forth in part 436 of the Code of Federal Regulations, pursuant to section

544 of the Act, so that the life cycle cost methodology and procedures can be applied to the installation of water conservation measures which are implemented by Federal agencies to meet the requirements of the Act.

Interested persons are invited to participate in the making of this proposed amendment by submitting such written data, views, or arguments as they may desire. All communications received on or before the closing date for comments, specified above, will be considered before taking action on a final rule.

II. Background of the Life Cycle Cost Methodology

On January 23, 1980, DOE published a final Life Cycle Cost rule (LCC) (45 FR 5620) which established the methodology and procedures for calculating and comparing the life cycle cost of proposed investments to upgrade the economic efficiency of Federal buildings through energy conservation or substitution of renewable energy sources. The LCC rule was published pursuant to section 381(a)(2) of the Energy Policy and Conservation Act, as amended, 42 U.S.C 6361(a)(2), section 10 of Executive Order 11912, and title V, part 3, of the National Energy Conservation Policy Act (NECPA).

On November 30, 1990, DOE published final amendments to 10 CFR part 436 (55 FR 48217) to update the guidelines applicable to Federal agency in-house energy management programs. That rulemaking was directed principally toward updating the life cycle cost methodology and procedures in subpart A of 10 CFR part 436 in light of provisions in the Federal Energy Management Improvement Act of 1988 granting DOE more discretion in setting discount and energy cost escalation rates (Pub. L. 100–615).

The principal uses of the LCC rule are determining the cost effectiveness of proposed investments and assigning priorities among proposed cost-effective investments. The methodology and procedures of the LCC rule are amplified in a manual published for DOE by the National Institute of Standards and Technology (NIST) HB135, revised as necessary to reflect amendments. It is referred to as the ''Life Cycle Costing Manual for Federal Energy Management Program.'' The methodology required by the LCC rule involves a systematic analysis of all significant costs associated with proposed investments, the principal purpose of which is to increase energy efficiency on a life-cycle cost effectiveness basis. This analysis relates investment costs to future costs associated with a proposed investment. The LCC rule provides for standardized assumptions for establishing and comparing relevant cost. See 10 CFR 436.14.

The Energy Policy Act of 1992 (Pub. L. 102–486) amended NECPA by adding water and the use of renewable energy sources to the purpose of NECPA (42 U.S.C. 8252) and requiring the use of the life cycle cost methodology when installing in Federal buildings energy and water conservation measures with payback periods of less than 10 years (42 U.S.C. 8253(b)). The amendments proposed today relating to water conservation measures are pursuant to this authority.

III. General Discussion of Amendments

The proposed amendments for the most part insert the term ''water'' in the various provisions of the rule to reflect the fact that the conservation and efficient use of water are now included within the purpose and scope of the federal energy management program. The methodology and procedures for applying life cycle cost analyses to water conservation measures have been determined to be generally consistent with the treatment of energy. In those instances where the nature of water conservation measures require different treatment, a separate provision is proposed. Overall, only minor changes to the rule have been proposed to comply with the mandates imposed by the Energy Policy Act of 1992.

The basic requirements of the life cycle cost methodology and procedures are not changed by the proposed amendments. Their coverage is expanded so that they apply to water conservation measures which are the primary subject of the proposed amendments. To accommodate the differences found when examining factors which may be unique only to water or energy, the Department of Energy is proposing new and revised definitions in § 436.11 to allow for the computation of factors unique to water conservation measures for the purpose of performing the life cycle costing calculations. It is the intent of the amendatory language to make clear that the application of the life cycle cost methodology and procedures to water conservation measures are treated parallel, where practicable, to energy conservation measures when determining life cycle cost effectiveness. For example, the proposed new definition of ''building water system'' parallels that of ''building energy system.'' The difference is the type of system which is the subject of the analysis. In many instances, the Department of Energy is proposing to amend the rule with addition of the terms ''and water'' or ''or water'', as determined appropriate, to meet the requirement of the Act to apply life cycle cost methodology and procedures to water conservation measures.

There are a few minor changes which serve to clarify and facilitate agency implementation. Section 436.13 presumes that investment in a retrofit to an existing Federal building is not life cycle cost-effective if it is occupied under a lease which includes the cost of utilities in the rent and does not provide a pass through of energy or water savings to the government. Language was added to be explicit that this presumption applies only to Federal investment and should not necessarily be used to determine the cost effectiveness of building owners' investments in their Federally leased buildings. Such investments are, in fact, cost-effective and are encouraged. The assumption in § 436.14 that ''water prices will not escalate'' is based upon the fact that there are no escalation rates established for water at the national level. However, agencies are permitted to use escalation rates when they are available from suppliers. Public comment is invited as to the availability and impact of such rates. Section 436.23 was modified to allow agencies to include future price changes when they estimate simple payback time in order to be consistent with national consensus standards developed by the American Society of Testing and Materials.

IV. Review Under Executive Order 12866

The proposed rule was reviewed under the provisions of this Executive Order governing Regulatory Planning and Review. DOE has determined that the proposed rule does not constitute a ''significant regulatory action'' and is therefore not subject to the provisions of Sec. 6 of the Executive Order requiring review by the Office of Management and Budget (OMB).

V. Review Under the Regulatory Flexibility Act

The proposed rules were reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354 (5 U.S.C. 601–612). DOE has determined that this rule will not have a significant economic impact on a substantial number of small entities, therefore, no regulatory flexibility analysis has been performed.

VI. Review Under the Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) requires that

Federal agencies obtain approval from the OMB before collecting information from 10 or more persons. There are no information collection requirements in these proposed amendments.

VII. Review Under the National Environmental Policy Act

DOE has determined that promulgation of this proposed rule falls within the interpreting/amending rulemaking class, Category A5 of appendix A to subpart D, ''Categorical Exclusions Applicable to General Agency Actions,'' of the DOE National Environmental Policy Act (NEPA) regulations. 10 CFR part 1021. It is therefore categorically excluded from preparation of either an Environmental Assessment or an Environmental Impact Statement under NEPA (42 U.S.C. 4321, et. seq).

VIII. Review Under Executive Order 12612

Executive Order 12612, 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the National Government and the States, or in the distribution of power and responsibilities among various levels of Government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. The proposed rule will revise certain policy and procedural requirements applicable only to Federal energy management programs. Therefore, the Department of Energy has determined that the proposed rule will not have a substantial direct effect on the institutional interests or traditional functions of States.

IX. Opportunities for Public Comment

A. Written Comment Procedures

Interested persons are invited to participate in this rulemaking by submitting data, views, or comments with respect to the proposed rulemaking.

Six copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this notice and must be received by the date indicated in the **DATES** section of this notice. Comments should be identified on the outside of the envelope and on the documents themselves with the designation ''EE–RM–95–501''. In the event any person cannot provide 6 copies, alternative arrangements can be made in advance with DOE.

All written comments received will be available for public inspection as part of the administrative record on file for this rulemaking in the Department of Energy Freedom of Information Office Reading Room at the address provided in the beginning of this notice. If informal meetings or other contacts occur during this rulemaking, DOE may add a memorandum to the record on file summarizing what transpired.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which that person believes to be confidential and which may be exempt by law from public disclosure, should submit one complete copy of the document, as well as two copies from which the information claimed to be confidential has been deleted. DOE reserves the right to determine the confidential status of the information and to treat it according to its determination.

B. Public Hearing

1. Request to Speak Procedures

A public hearing on the proposed rule will be held at the time and place indicated in the **DATES** and **ADDRESSES** Sections of this notice. Any person who has an interest in the proposed rule or who is a representative of a group or class of persons that has an interest in the proposed rule may request an opportunity to make an oral presentation. A request to speak at the public hearing should be addressed to the address and phone number indicated at the beginning of this notice. The person making the request should briefly describe his or her interest in the proceedings and, if appropriate, state why the person is a proper representative of the group. The person should also provide a phone number where he or she may be reached during the day. Each person selected to be heard will be notified by DOE as to the approximate time they will be speaking. Six copies of the speaker's statement should be submitted at the hearing. In the event any person wishing to testify cannot meet this requirement, alternative arrangements can be made in advance with DOE.

2. Conduct of the Hearing

DOE reserves the right to select persons to be heard at the hearing, to schedule their respective presentations, and to establish procedures governing the conduct of the hearing. The length of each presentation will be limited to 10 minutes or based on the number of persons requesting an opportunity to speak.

A DOE official will preside at the hearing. This will not be a judicial or evidentiary-type hearing. It will be conducted in accordance with 5 U.S.C. 553 and section 501 of the Department of Energy Organization Act, 42 U.S.C. 7191.

Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal or clarifying statement. The statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any further procedural rules needed for proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made by DOE and made available as part of the administrative record for this rulemaking. It will be on file for inspection at the DOE Freedom of Information Reading Room at the address indicated at the beginning of this notice.

If DOE must cancel the public hearing, DOE will make every effort to publish an advance notice of such cancellation in the **Federal Register**. Actual notice of cancellation will also be given to all persons scheduled to speak. The hearing date may be canceled in the event no member of the public requests the opportunity to make an oral presentation.

List of Subjects in 10 CFR Part 436

Energy conservation, Federal buildings and facilities.

Issued in Washington, DC on August 3, 1995.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set out in the preamble, 10 CFR part 436, is proposed to be amended as follows:

PART 436—FEDERAL ENERGY MANAGEMENT AND PLANNING PROGRAMS

1. The authority citation for Part 436 continues to read as follows:

Authority: 42 U.S.C. 6361; 42 U.S.C. 8251–8261; and E.O. 11912.

2. Section 436.1 is revised as follows:

§ 436.1 Scope.

This part sets forth the rules for Federal energy management and planning programs to reduce Federal energy consumption and to promote life

cycle cost effective investments in building energy systems, building water systems and energy and water conservation measures for Federal buildings.

3. Section 436.2 is amended by revising paragraph (b) to read as follows:

§ 436.2 General objectives.

* * * * *

(b) To promote the methodology and procedures for conducting life cycle cost analyses of proposed investments in building energy systems, building water systems and energy and water conservation measures; and

* * * * *

4. Section 436.10 is revised to read as follows:

§ 436.10 Purpose.

This subpart establishes a methodology and procedures for estimating and comparing the life cycle costs of Federal buildings, for determining the life cycle cost effectiveness of energy conservation measures and water conservation measures, and for rank ordering life cycle cost effective measures in order to design a new Federal building or to retrofit an existing Federal building. It also establishes the method by which efficiency shall be considered when entering into or renewing leases of Federal building space.

5. Section 436.11 is amended by:

(a) Revising the definitions of component price, Federal building, life cycle cost, replacement cost, retrofit, and salvage value, and (b) adding definitions for building water system, non-water operation and maintenance costs, and water conservation measures.

§ 436.11 Definitions.

* * * * *

Building water system means a water conservation measure or any portion of the structure of a building or any mechanical, electrical, or other functional system supporting the building, the nature or selection of which for a new building influences significantly the cost of water consumed.

Component price means any variable sub-element of the total charge for a fuel or energy or water, including but not limited to such charges as ''demand charges,'' ''off-peak charges'' and ''seasonal charges.''

* * * * *

Federal building means an energy or water conservation measure or any building, structure, or facility, or part thereof, including the associated energy and water consuming support systems, which is constructed, renovated, leased, or purchased in whole or in part for use by the Federal Government. Such term also means a collection of such buildings, structures, or facilities and the energy and water consuming support systems for such collection.

* * * * *

Life Cycle Cost means the total cost of owning, operating and maintaining a building over its useful life (including its fuel and water, energy, labor, and replacement components), determined on the basis of a systematic evaluation and comparison of alternative building systems, except that in the case of leased buildings, the life cycle cost shall be calculated over the effective remaining term of the lease.

* * * * *

Non-water operation and maintenance costs means material and labor cost for routine upkeep, repair and operation exclusive of water cost.

* * * * *

Replacement costs means future cost to replace a building energy system or building water system, an energy or water conservation measure, or any component thereof.

Retrofit means installation of a building energy system or building water system alternative in an existing Federal building.

Salvage value means the value of any building energy system or building water system removed or replaced during the study period, or recovered through resale or remaining at the end of the study period.

* * * * *

Water conservation measures means measures that are applied to an existing Federal building that improve the efficiency of water use, reduce the amount of water for sewage disposal and are life cycle cost effective and that involve water conservation, improvements in operation and maintenance efficiencies, or retrofit activities.

6. Section 436.13 is amended by revising paragraph (a), the introductory text of paragraph (b) and paragraph (b)(2) to read as follows:

§ 436.13 Presuming cost-effectiveness results.

(a) If the investment and other costs for an energy or water conservation measure considered for retrofit to an existing Federal building or a building energy system or building water system considered for incorporation into a new building design are insignificant, a Federal agency may presume that such a system is life cycle cost-effective without further analysis.

(b) A Federal agency may presume that an investment in an energy or water conservation measure retrofit to an existing Federal building is not life cycle cost-effective for Federal investment if the Federal building is—

* * * * *

(2) Occupied under a lease which includes the cost of utilities in the rent and does not provide a pass through of energy or water savings to the government; or

* * * * *

8. Section 436.14 is amended by revising paragraphs (b)(1), (c), introductory text of (d)(2), (e) and (g) as follows:

§ 436.14 Methodological assumptions.

* * * * *

(b) * * *

(1) If the Federal agency is using component prices under § 436.14(c), that agency may use corresponding component escalation rates provided by the energy or water supplier.

* * * * *

(c) Each Federal agency shall assume that the price of energy or water in the base year is the actual price charged for energy or water delivered to the Federal building and may use actual component prices as provided by the energy or water supplier.

(d) * * *

(2) For determining the life cycle costs or net savings of mutually exclusive alternatives for a given building energy system or building water system (e.g., alternative designs for a particular system or size of a new or retrofit building energy system or building water system), a uniform study period for all alternatives shall be assumed which is equal to—

* * * * *

(e) Each Federal agency shall assume that the expected life of any building energy system or building water system is the period of service without major renewal or overhaul, as estimated by a qualified engineer or architect, as appropriate, or any other reliable source except that the period of service of a building energy or water system shall not be deemed to exceed the expected life of the owned building, or the effective remaining term of the leased building (taking into account renewal options likely to be exercised).

* * * * *

(g) Each Federal agency may assume that energy or water costs and non-fuel or non-water operation and maintenance costs begin to accrue at the beginning of the base year or when actually projected to occur.

* * * * *

8. Section 436.16 is amended by revising the section heading,

redesignating paragraphs (b) and (c) as paragraphs (c) and (d), and by adding a new paragraph (b) as follows:

§ 436.16 Establishing non-fuel and non-water cost categories.

* * * * *

(b) The relevant non-water cost categories are—

(1) Investment costs;

(2) Non-water operation and maintenance cost;

(3) Replacement cost; and

(4) Salvage value.

* * * * *

9. Section 436.17 is amended by revising the section heading and by adding paragraphs (c) and (d) to read as follows:

§ 436.17 Establishing energy or water cost data.

* * * * *

(c) Each Federal agency shall establish water costs in the base year by multiplying the total units of water used in the base year by the price per unit of water in the base year as determined in accordance with § 436.14(c).

(d) When water costs begin to accrue in the base year, the present value of water costs over the study period is the product of water costs in the base year as established under § 436.17(a), or as calculated by computer software provided or approved by DOE and used with the official discount rate and assumptions under § 436.14. When water costs begin to accrue at a later time, subtract the present value of water costs over the delay, calculated using the uniform present worth factor for the period of delay, from the present value of water costs over the study period or, if using computer software, indicate a delayed beneficial occupancy date.

10. Section 436.18 is amended by revising the introductory text to paragraph (c), paragraph (d), the first sentence of paragraph (e) and paragraph (f) to read as follows:

§ 436.18 Measuring cost-effectiveness.

* * * * *

(c) Replacement of a building energy or water system with an energy or water conservation measure by retrofit to an existing Federal building or by substitution in the design for a new Federal building shall be deemed cost-effective if—

* * * * *

(d) As a rough measure, each Federal agency may determine estimated simple payback time under § 436.23, which indicates whether a retrofit is likely to be cost effective under one of the four calculation methods referenced in § 436.18(c). An energy or water conservation measure alternative is likely to be cost-effective if estimated payback time is significantly less than the useful life of that system, and of the Federal building in which it is to be installed.

(e) Mutually exclusive alternatives for a given building energy or water system, considered in determining such matters as the optimal size of a solar energy system, the optimal thickness of insulation, or the best choice of double-glazing or triple-glazing for windows, shall be compared and evaluated on the basis of life cycle costs or net savings over equivalent study periods. * * *

(f) When available appropriations will not permit all cost-effective energy or water conservation measures to be undertaken, they shall be ranked in descending order of their savings-to-investment ratios, or their adjusted internal rate of return, to establish priority. If available appropriations cannot be fully exhausted for a fiscal year by taking all budgeted energy or water conservation measures according to their rank, the set of energy or water conservation measures that will maximize net savings for available appropriations should be selected.

* * * * *

11. Section 436.19 is amended by revising paragraph (d) to read as follows:

§ 436.19 Life cycle costs.

* * * * *

(d) Energy and/or water costs.

12. Section 436.21 is revised to read as follows:

§ 436.21 Savings-to-investment ratio.

The savings-to-investment ratio is the ratio of the present value savings to the present value costs of an energy or water conservation measure. The numerator of the ratio is the present value of net savings in energy or water and non-fuel or non-water operation and maintenance costs attributable to the proposed energy or water conservation measure. The denominator of the ratio is the present value of the net increase in investment and replacement costs less salvage value attributable to the proposed energy or water conservation measure.

13. Section 436.22 is revised to read as follows:

§ 436.22 Adjusted internal rate of return.

The adjusted internal rate of return is the overall rate of return on an energy or water conservation measure. It is calculated by subtracting 1 from the Nth root of the ratio of the terminal value of savings to the present value of costs, where N is the number of years in the study period. The numerator of the ratio is calculated by using the discount rate to compound forward to the end of the study period the yearly net savings in energy or water and non-fuel or non-water operation and maintenance costs attributable to the proposed energy or water conservation measure. The denominator of the ratio is the present value of the net increase in investment and replacement costs less salvage value attributable to the proposed energy or water conservation measure.

14. Section 436.23 is revised to read as follows:

§ 436.23 Estimated simple payback time.

The estimated simple payback time is the number of years required for the cumulative value of energy or water cost savings less future non-fuel or non-water costs to equal the investment costs of the building energy or water system, without consideration of discount rates.

15. Section 436.24 is amended by revising the last sentence in the Section as follows:

§ 436.24 Uncertainty analyses.

* * * If additional analysis casts substantial doubt on the life cycle cost analysis results, a Federal agency should consider obtaining more reliable data or eliminating the building energy or water system alternative.

[FR Doc. 95–21156 Filed 8–24–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. 1

[FRL–5285–3]

Open Market Trading Rule for Ozone Smog Precursors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed policy statement and model rule; Notice of public hearing; correction.

SUMMARY: This notice contains the text of the proposed model open market trading rule (OMTR) for ozone smog precursors which was inadvertently omitted in the original **Federal Register** publication on August 3, 1995 (60 FR 39668 (August 3, 1995)). The model OMTR is intended to serve as a template for State development of open market trading programs. States that adopt the final model OMTR, will receive automatic EPA approval of the State implementation plan (SIP) revision containing the model OMTR. SIP

revisions containing variations on the model OMTR will be expeditiously reviewed by EPA in accordance with EPA's final policy on open market trading.

FOR FURTHER INFORMATION CONTACT: Anyone with a computer and a model can download the full text of the preamble and proposed model rule from the Clean Air Act Amendments bulletin board (under ''Recently Signed Rules'') on EPA's Technology Transfer Network (TTN) by calling 919–541–5742 or Internet access via TELNET ttnbbs.rtpnc.epa.gov. For TTN assistance call 919–541–5384 between the hours of 1:00 p.m. and 5:00 p.m. EST. For further information about the proposed OMTR, contact Nancy A. Mayer, U.S. EPA, MD–15, Research Triangle Park, North Carolina 27711, telephone 919–541–5390, fax 919–541–0839; or Scott L. Mathias, U.S. EPA, MD–15, Research Triangle Park, North Carolina 27711, telephone 919–541–5310, fax 919–541–0839.

SUPPLEMENTARY INFORMATION: The contents of the proposed model open market trading rule for ozone smog precursors are listed in the following outline:

I. Purpose
II. Definitions
III. General Rules for Generation and Use
A. General Rule
B. Government Approvals
C. Market Participation
D. Time of Use
E. Limited Authorization to Emit
IV. DER Generation
A. Computation of DER's
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2. Areas with Approved Attainment Demonstrations or Maintenance Plans (Optional)
3. Sources Subject to Emissions Caps
4. Sources Subject to Multiple Emissions Limitations
5. Protocols
B. Limitations on Generation
C. Notice and Certification of Generation
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3. Certification Under Penalty of Law
V. DER Use
A. Time of Acquisition
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D. Environmental Contribution
E. Compliance Calculation
F. Notice of Intent to Use DER's
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A. General Rule
B. Geographic Scope
1. NO_X DER's
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C. Interstate Trading
VII. Recordkeeping and Public Availability
A. Recordkeeping
B. Public Availability
VIII. Protocol Development and Approval
A. General Rule
B. USEPA-Approved Protocols
C. Protocol Elements
D. Emission Quantification Methods
IX. DER Use for NSR and Conformity Purposes
A. General Rule
B. Specific Requirements for NSR
X. Program Audits
XI. Enforcement
A. Compliance Burden
B. Violation Day Definition for User Source Excess Emissions

I. Purpose

To establish a process whereby sources may generate and use discrete emission reductions for compliance with VOC and NO_X requirements in the Act while complying with all other applicable requirements of the Act.

II. Definitions

Terms not defined in this part shall have the meaning given in the Act and EPA regulations (40 CFR) [or State citations].

Act means the Clean Air Act as amended in 1990.

Activity level means the amount of activity at a source measured in terms of production, use, raw materials input, vehicle miles traveled, or other similar units that have a direct correlation with the economic output of the source and is not affected by changes in the emissions rate (i.e., mass per unit of activity).

Actual emissions rate means the actual rate of emissions of a pollutant from a source. Actual emissions as of a particular date shall equal the average rate, in mass per unit of time or mass per unit of activity, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation at a particular time. A different time period may be used if that is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, types of materials processed, stored, or combusted during the selected time period.

Allowable emission rate means any emission limit applicable to a particular source including all Federal and State requirements for the control of tropospheric ozone and the requirements of Title IV of the Act, including but not limited to, all requirements in a SIP, the inventories contained in any attainment strategy, maintenance demonstration or ROP plan for any NAAQS as well as source-specific or source-category-specific permits.

Alternative emission limitation means any emission limit that applies to a specific source that is less stringent than the limit contained in the SIP approved by the [State authority] generally for similar sources.

Applicable emissions inventory means the emission inventory that forms the basis for an attainment demonstration or strategy, a ROP plan, or maintenance plan submitted to or acted on by USEPA.

Applicable implementation plan or applicable SIP means the portion (or portions) of the SIP or most recent revision thereof, which has been approved under section 110 of the Act, or promulgated under section 110(c) of the Act (Federal implementation plan), or promulgated or approved pursuant to regulations promulgated under section 301(d) of the Act and which implements the relevant requirements of the Act.

Area source means those small or diverse stationary source that are not required to be, and are not individually included in a stationary source emissions inventory. The term area sources include emissions related to consumer and commercial products.

Attainment area means any area of the country designated or redesignated by EPA at 40 CFR part 81 in accordance with section 107(d) of the Act as unclassifiable or better than the national ambient air quality standards for ozone [or State may cite its regulations, or list its areas].

Attainment demonstration means the State rules that comply with the requirement in section 172(c)(1), 182(b)(1), or 182(c)(2) of the Act to demonstrate that the specific emission reductions included in the SIP are sufficient to attain the ozone NAAQS by the date applicable to the area [or State citation of their plan].

Baseline emission rate means a generating source's actual emissions rate or allowable emissions rate considering all applicable State and Federal regulations.

Best available control technology (BACT) is as defined in 40 CFR part 51.166(b)(12) [State may add the cite to its rules if they are USEPA-approved].

Conformity purposes means any reductions required to comply with the conformity requirements contained in 40 CFR part 51, subparts T and W, and part 93, subparts A and B.

Contingency measure means any emission control measure that is adopted into the SIP which shall be

implemented whenever there is a failure to meet the ROP requirement in section 185 of the Act or a failure to attain a NAAQS as projected in an approved attainment demonstration.

Curtailment means a temporary or partial reduction in activity level (e.g., hours of operation and process rate). For purposes of this rule, curtailment shall not include a reduction in activity levels for a mobile source that occurs as a result of an activity reduction plan that is the subject of a USEPA emissions quantification protocol.

Discrete emission reduction (DER) means an emission reduction generated over a discrete period of time, and measured in weight (e.g., tons).

Emissions cap means an emissions limit that is measured as mass emissions per unit of time.

Emissions unit means any part of a source that emits or would have the potential to emit VOC or NO_x.

Fuels and fuel delivery system, for mobile sources, means fuels intended for use in mobile sources and the distribution systems associated with those fuels including, but not limited to, pipelines, tanker trucks, storage tanks, and dispenser pumps.

Generator source means any source that generates a DER.

Generation period means the period of time over which a DER is generated.

Lowest achievable emissions rate (LAER) means the control technology defined at 40 CFR 51.165(a)(1)(xiii) [or State may insert citation to its rules].

Maintenance area means any area with a maintenance plan approved under section 175 of the Act [or State may insert the list of its areas].

Maintenance plan means a revision to the applicable SIP, meeting the requirements of section 175A of the Act.

Mobile source means any vehicle or engine used for on-highway or nonroad purposes, the mobile-source related fuels and/or fuel delivery systems used by those vehicles or engines. For the purpose of this definition, nonroad vehicles and engines include those used in marine vessels, locomotives, and airplanes, as well as those described in the definition of nonroad contained in the Act.

Modeling domain means a geographic area covered by an air quality model used to support an attainment or maintenance demonstration. Specifications for existing modeling domains are available through the USEPA's Technology Transfer Network (TTN).

National ambient air quality standards (NAAQS) means the standards set by EPA at 40 CFR part 50 under section 109 of the Act.

New Source Review (NSR) means the permitting requirements for major new and modified sources contained in Parts C and D of Title I of the Act and in 40 CFR parts 51.165, 51.166 and part 52.21. [State may add citations to SIP rules if they are USEPA-approved]

Nonattainment area means any area designated at 40 CFR part 81 in accordance with section 107(d) of the Act as nonattainment for ozone.

Normal source operation means the average actual activity rate of a source necessary for determining the actual emissions rate for the two years prior to the date necessary for determining actual emissions, unless some other time period is more representative of the operation of the source. A source may use either the simple arithmetic mean (sum of emissions for 12 months divided by 12) or the mean plus one standard deviation if sufficient data are available to determine the normal source operation for the shorter time period.

NO_x means oxides of nitrogen, including nitric oxide (NO) and nitrogen dioxide (NO_2) and not including, for purposes of this rule, nitrous oxide (N_2O).

Operator means the individual who is in control of or in charge of a source while it is in operation. For all requirements of this section, the operator is considered to be an agent of the owner.

Owner means a person who claims lawful possession of a source by virtue of legal title or equitable interest therein which entitles him to such possession.

Ozone season means the portion of year when ozone monitoring is required to occur in a specific geographic area as defined in 40 CFR part 58 appendix D.

Person means an individual, corporation, partnership, association, State, municipality, firm, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

Protocol means a replicable and workable method to estimate the mass of emissions reductions, or the amount of DER's needed for compliance, that meets USEPA's approval criteria.

Quantifiable means that the quantity of emission reductions can be measured or estimated by accurate and replicable techniques. These techniques shall be at least as accurate and replicable as the techniques accepted by the USEPA for SIP purposes, where accepted techniques exist.

Rate of progress (ROP) plan means a SIP providing for the incremental emission reductions required by section 182(b)(1) and 182(c)(2)(B) of the Act [or State may insert the cite for its plans].

Shutdown means the permanent cessation of the activity that results in emissions at all or part of a source. For purposes of this rule, scrappage of mobile sources is not considered a shutdown.

Source means any mobile, area, or stationary source.

State means State, local government, or Indian-governing body.

State implementation plan (SIP) means a plan developed by an authorized governing body, including a State, local government, and Indian-governing body, as required under Titles I and II of the Act, and approved by the USEPA.

Stationary source means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the Act. Building, structure, facility or installation includes all pollutant emitting activities that are located on one or more contiguous or adjacent properties, and are under the common control of the same person (or persons under common control).

Surplus emission reduction means, in general, any emission reduction that is not otherwise required of a source. Any emission reduction that complies with sections IV(A) and IV(B) is considered surplus for purposes of this rule.

Use period means the period of time over which the user source applies the DER's to an applicable emission reduction requirement.

USEPA means the United States Environmental Protection Agency.

User source means any source that seeks to use DER's to comply with an applicable emission reduction requirement.

Volatile organic compounds (VOC) means all emissions included at 40 CFR part 51.100(s) as measured by a USEPA test method [or State may insert citation to its definition].

III. General Rules for Generation and Use

(A) *General Rule.* Except as provided under section IV(B), any source may generate a DER by reducing emissions, in the amount determined under section IV(A). DER generators must ensure that DER's, are real, properly quantified, and surplus.

(B) *Governmental Approvals.* No prior Federal, State, or local governmental approval is necessary for the use of DER's, except for DER's that are used for NSR offsets, in which case State approval pursuant to an approved NSR rule is required.

(C) *Market Participation.* Any person may, at any time, transfer, buy, sell, trade, or otherwise convey DER's to another person in any manner in accordance with the laws of [State].

(D) *Time of Use.* DER's may be used any time after the State has received the Notice and Certification of Generation pursuant to section IV(C).

(E) *Limited Authorization To Emit.* A DER created under this rule is a limited authorization to emit NO_X and/or VOC in accordance with the provisions of this rule and the Act as well as regulations promulgated thereunder. A DER does not constitute a property right. Nothing in this rule shall be construed to limit the authority of the [State authority] or the United States to terminate or limit such authorization.

IV. DER Generation

(A) Computation of DER's

(1) *General Rule.* The amount of DER's shall be the difference between—

(a) The amount of VOC or NO_X emissions that would have been emitted during the generation period based on actual activity levels during that period and the lower of (i) the lowest applicable allowable emissions rate, or (ii) the actual emissions rate based on normal source operation, and

(b) The amount of actual emissions during the generation period based on actual activity levels during that period.

(2) [States may delete this paragraph at their discretion] *Areas with Approved Attainment Demonstrations or Maintenance Plans.* In an area with a USEPA-approved attainment demonstration or maintenance plan, the amount of DER's shall be the difference between—

(a) The amount of VOC or NO_X emissions that would have been emitted during the generation period based on actual activity levels during that period and the lowest applicable allowable emissions rate, and

(b) The amount of emissions during the generation period based on actual activity levels during that period.

(3) *Sources Subject to Emissions Caps.*

(a) For purposes of subsection[s] (1) [and (2)] of this section, the term ''allowable emissions rate'' includes a source's allowable amount of total emissions for the generation period, as may be specified in that source's Federally enforceable operating permit, in the SIP, or included with respect to that source in the attainment demonstration or maintenance plan (or the emissions inventory that forms the basis for such demonstration or plan).

(b) For sources subject to this subsection, if the generation period differs from the period of the emissions cap, the allowable emissions rate for the generation period shall be adjusted to reflect the proportion of the generation period to the period of the emissions cap.

(c) Amounts determined under subsection[s] (1) [and (2)] of this section, must be adjusted to the extent necessary to exclude emission reductions resulting from shutdowns or curtailments.

(4) *Sources Subject to Multiple Emissions Limitations.* If a source is subject to multiple emissions limitations, the amount of DER's shall be determined by reference to the emissions limitation that results in the least amount of DER's.

(5) *Protocols.* The amount of DER's must be calculated using quantification protocols that meet the requirements of section VIII.

(B) *Limitations on Generation.* A DER shall not be formed by emissions reductions of activities or source categories identified in this subsection:

(1) Shutdowns;

(2) Curtailments;

(3) Modification or discontinuation of any activity that is otherwise in violation of any Federal, State or local law;

(4) Emissions reductions required to comply with any provision under the Act for control of tropospheric ozone and Title IV of the Act, including but not limited to—

(a) Administrative orders issued pursuant to enforcement actions.

(b) Any provision of a Federal implementation plan.

(c) Requirements for ROP or attainment of the ozone NAAQS.

(5) Emission reductions of hazardous air pollutants, as defined in section 112 of the Act, from application of a standard promulgated under section 112 of the Act.

(6) Reductions credited or used under any other emissions trading program, including any mobile source averaging, banking, and trading program.

(7) Emission reductions occurring at a source which received an alternative emission limitation to meet a State RACT requirement, except to the extent that the emissions are reduced below the level that would have been required had the alternative emission limitation not been issued.

(8) Emission reductions generated prior to the start of the ozone season in 1995.

(9) Any source subject to a RACT limit pursuant to the Act, but with respect to which the State has not determined the RACT limit, until the State determines RACT through a permit or SIP approval action.

(C) *Notice and Certification of Generation.*

(1) *General Rule.* The owner or operator of a generator source shall provide a Notice and Certification of Generation to [State authority]:

(a) No later than 90 days after the DER generation activity was completed,

(b) One year after the first day of the generation period (and at least annually thereafter), or

(c) Prior to the first day of the use period, whichever is sooner.

The Notice and Certification of Generation shall be publicly available pursuant to section VII(B).

(2) *Required Information.* The Notice and Certification of Generation shall include the following information, submitted on [State form ———]:

(a) For stationary source reductions, identifying information, including—

(i) The name and address of the generator, and

(ii) The name of the owner and/or operator of the generator source.

(b) For mobile sources related reductions, identifying information as required in the applicable USEPA approved protocol or described in USEPA guidance on protocols.

(c) The generation period and the unique serial numbers assigned by the [State authority] to each ton of DER's.

(d) A brief description of the generation activity.

(e) The amount of DER's generated during the ozone season and the amount of DER's generated during other parts of the year.

(f) The protocols that were used to calculate and document the DER's.

(g) Information on all the generator source's applicable allowable emission rates.

(h) A statement that the reductions were calculated in accordance with section IV(A).

(i) A statement that the DER's were not generated in whole or in part from actions prohibited pursuant to section IV(B).

(j) For each source subject to reporting toxic chemical releases for the Community Right-to-Know provisions under 40 CFR part 372, the estimated amount of hazardous air pollutants, as defined below, emitted to the air as the result of the generation of the DER.

(i) A pollutant shall be reported under this paragraph, only if it is listed both in 40 CFR 372.65 and section 112(b) of the Act, and a chemical which the source is reporting or expects to report under 40 CFR part 372 for the calendar year in which the DER was generated.

(ii) The requirements in 40 CFR 373.30(b) shall be followed for the notice.

(iii) The exemptions listed in 40 CFR 372.38 for determining the amount of release to be reported under 40 CFR 372.30 shall also be exemptions for determining the amount emitted under this section.

(iv) The notice shall include:

((A)) The name and CAS number (if applicable) of the chemical reported;

((B)) If the chemical identity is claimed trade secret under 40 CFR 372, a generic name for the chemical as reported under 40 CFR 372.85(b)(11);

((C)) A mixture component identity if the chemical identity is not known; and

((D)) An estimate of total air emissions, in pounds, for the relevant time period of DER generation. Releases of less than 1,000 pounds may be indicated in ranges.

(3) *Certification Under Penalty of Law.* Any Notice and Certification of Generation submitted pursuant to this subsection shall contain certification under penalty of law by a responsible official of the generator source of truth, accuracy and completeness. This certification shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.

V. DER Use

(A) *Time of Acquisition.* DER's may not be used unless they are acquired by the user source before the compliance period for which the specific DER's are to be used.

(B) *Sufficiency.* The user source must hold sufficient DER's to cover its compliance obligation at all times.

(C) *Operating Permits.*

(1) For sources subject to the requirement to obtain a permit under a Federally approved operating permit program, the permit, when issued or revised, shall authorize the use of DER's for compliance purposes.

(2) The Notices of Intent to Use DER's and Notice and Certification of Use shall be stored with the user source's operating permit, if applicable.

(D) *Environmental Contribution.* At the time of use, DER users shall permanently retire ten percent of all DER's dedicated to that particular use. That is, the amount of DER's required to demonstrate compliance equals the source's calculated need divided by 0.9.

(E) *Compliance Calculation.* The amount of DER's needed to demonstrate compliance shall be the difference between—

(1) The actual emissions expressed in units of mass or the alternative limit under which the source will operate, and

(2) The allowable emissions based on actual activity levels expressed in units of mass.

(F) *Notice of Intent to Use DER's.*

(1) *General Rule.* DER's may be used only if the owner or operator of the user source submits to [State authority] a Notice of Intent to Use DER's. The Notice of Intent to Use DER's shall be submitted at least 30 days before the intended use period begins, and at least annually if the use period is greater than one year. The Notice of Intent to Use DER's shall be made publicly available pursuant to section VII(B).

(2) *Required Information.* The Notice of Intent to Use DER's shall include the following information submitted on [State form _____]:

(a) The name and location of the user.

(b) The emissions unit or application name, the permit or identification number (if applicable), and the applicable pollutant.

(c) The applicable State and Federal requirements that the DER's will be used to comply with and the intended use period.

(d) A copy of the Notice and Certification of Generation submitted by the generator source to the State.

(e) The emission quantification protocols that will be used to document the amount of DER's needed to demonstrate compliance.

(f) For each source subject to reporting toxic chemical releases for the Community Right-to-Know provisions under 40 CFR part 372, the estimated amount of hazardous air pollutants expected to be emitted to the air as the result of the use of the DER's to meet the otherwise applicable requirements. The estimated amount shall include expected emissions increases and any expected forgone emission reductions due to use of the DER's instead of non-DER compliance with otherwise applicable requirements. The same procedures shall be followed as for the similar requirements under the Notice and Certification of Generation (see section IV(C)(2)(j)).

(G) *Notice and Certification of Use.*

(1) *General Rule.* The owner or operator of a user source shall submit to [State authority] a Notice and Certification of Use that contains the information described in paragraph (2) of this subsection within 90 days after the end of the use period or one year after the beginning of the use period, whichever is sooner. The owner or operator of a user source shall provide the required information for each increment of DER's used over a time period not to exceed one year. The Notice and Certification of Use shall be made publicly available pursuant to section VII(B).

(2) *Required Information.* The Notice and Certification of Use shall include the following information submitted on [State form _____]:

(a) The name and location of the owner or operator of the user source.

(b) The date(s) on which the DER's were acquired.

(c) The amount of DER's used and the associated serial numbers assigned by the [State authority].

(d) The use period.

(e) The applicable State and Federal requirements that the DER's were used to comply with.

(f) The emissions quantification protocols that were used to calculate the amount of DER's required to demonstrate compliance and documentation for the compliance calculation under subsection (E) of this section.

(g) A statement that due diligence was made to verify that the DER's were not previously used, not generated as a result of actions prohibited under this regulation or other provisions of law.

(h) A statement that the DER's were not used in a manner prohibited under this regulation or other provisions of law.

(i) A copy of the relevant Notice and Certification of Generation.

(j) For each source subject to reporting toxic chemical releases for the Community Right-to-Know provisions under 40 CFR part 372, the estimated amount of hazardous air pollutants emitted to the air as the result of the use of the DER to meet otherwise applicable requirements. The estimated amount shall include emissions increases and any forgone emission reductions due to use of DER's instead of non-DER compliance with otherwise applicable requirements. The same procedures shall be followed as the similar requirement under the Notice and Certification of Generation (see section IV(C)(2)(j)).

(3) *Certification Under Penalty of Law.* Any Notice and Certification of Use submitted pursuant to this regulation shall contain certification under penalty of law by a responsible official of truth, accuracy and completeness. This certification shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document and in referenced documents attached are true, accurate and complete.

(H) *Use Limitations.* DER's may not be used—

(1) Before acquisition by the user of the DER's;

(2) For netting or other means to avoid the applicability of NSR requirements;

(3) For NSR offsets or conformity purposes unless the requirements of section IX are met;

(4) To meet Act requirements for new source performance standards (NSPS) under section 111; lowest achievable emission rate (LAER) standards under section 173(a)(2); best available control technology (BACT) standards under section 165(a)(4); hazardous air pollutant (HAP) standards under section 112; standards for solid waste combustion under section 129; requirements for a vehicle inspection and maintenance program under sections 182(b)(4) or (c)(3); requirements for an employer trip reduction program under section 182(d)(1)(B); ozone control standards set under section 183; clean fueled fleet requirements under section 246; motor vehicle emissions standards under section 202; standards for nonroad vehicles under section 213; requirements for reformulated gasoline under section 211(k); or requirements for Reid vapor pressure standards under section 211(h) and (i);

(5) State motor vehicle emission standards;

(6) To meet requirements for one class of tropospheric ozone precursor by using DER's generated in a different class of tropospheric ozone precursors (e.g., NO_X reductions may not be exchanged for VOC increases, or vice-versa);

(7) To meet requirements during an ozone season unless the DER was generated during an ozone season; or

(8) To meet requirements contained in Title IV of the Act.

VI. Geographic Scope of Trading

(A) *General Rule.* (1) In using DER's, user sources must comply with the requirements of this subsection (A) and the geographic limitations described in subsection (B).

(2) DER use must be consistent with modeling analyses contained in an approved SIP; however, each DER use is not required to be supported by a modeling analysis specific to such use.

(3) No provision of this section shall be construed to authorize use of DER's in a manner that interferes with any applicable requirement of the Act.

(B) *Geographic Scope.* (1) *NO_X DER's.* (a) NO_X DER's may be used in the same SIP modeling domain in which they were generated.

(b) NO_X DER's generated inside a nonattainment or maintenance area may be used outside a nonattainment area, maintenance area, or modeling domain.

(2) *VOC DER's.*

(a) VOC DER's may be used in a nonattainment or maintenance area only if they were generated in the same nonattainment or maintenance area.

(b) VOC DER's may be used in an attainment area that is not a maintenance area.

(c) VOC DER's generated inside a nonattainment or maintenance area may be used outside a nonattainment area, maintenance area, or modeling domain.

(C) *Interstate Trading.* DER's may be used in a State other than the State in which they were generated if authorized representatives of the two States approve a binding interstate agreement that is approved by USEPA as a SIP revision for each State, and that contains at least the following provisions that apply to each DER use:

(1) The authority of the State where the generator source is located agrees to provide the authority of the State where the user source is located with all relevant information concerning the generator source and the DER generation including, but not limited to, emission limitations and permits issued to the generator source, if any, as well as the Notice and Certification of Generation and supporting documentation, in a timely manner;

(2) The authority of the State where the user source is located agrees to provide the state where the generator source is located with all relevant information, including the Notice of Intent to Use DER's and the Notice and Certification of Use and supporting documentation, in a timely manner;

(3) The authority of the State where the generator source is located agrees to notify the authority of the State where the user source is located as to whether the DER has been used previously; and

(4) The authorities of the States where the user and generator sources are located agree to enforce their individual State emission requirements as modified by any valid emissions trades.

VII. Recordkeeping and Public Availability

(A) *Recordkeeping.* The generator source shall adequately document the protocol and specific data by which a DER is quantified. Generator sources shall transfer all such documentation to any transferee at the time that ownership of a DER is transferred. The user source shall document the protocol and specific data by which the amount of DER's needed for compliance was determined. The user source shall maintain all relevant documentation for a minimum of five years after a DER is used for compliance. Records shall be kept with at least the same frequency as required for the underlying requirement.

(B) *Public Availability.* All information submitted to the State for compliance with this rule shall be available to the public under [insert relevant State law pertaining to public availability of data]. This information shall not be considered confidential business information.

(1) The [State official] will make all notices submitted by sources pursuant to this rule available for public review. For sources with operating permits, the [State official] will attach copies of these notices to the copy of the operating permit retained in the State offices. For sources that do not have operating permits, the [State official] will make these notices available in a similar manner [Cite of State rule.]

(2) The sources shall make all documentation that supports the notices submitted to the State as part of this rule available to the public (''pursuant to [applicable State regulation'', if applicable]).

VIII. Protocol Development and Approval

(A) *General Rule.* To quantify the amount of DER's generated and the amount needed for compliance, sources shall use quantification protocols in accordance with the requirements of this section.

(B) *USEPA-Approved Protocols (Option 1).* [Option 1 or Option 2 will be selected for the final model rule.]

(1) If a USEPA-approved protocol exists for a given application, it may be used.

(2) If a credit generator wishes to deviate to some extent from an approved protocol, or develop a new protocol, the generator must do so in accordance with guidance set forth by USEPA. The USEPA approval need not be obtained in advance, however, USEPA reserves the right to reject the protocol and any resulting credits whether or not the protocol was followed.

(C) USEPA-Approved Protocols (Option 2). [Option 1 or Option 2 will be selected for the final model rule.]

(1) If an EPA-approved quantification protocol exists for a given application, it must be used.

(2) If a credit generator wishes to deviate to some extent from an approved protocol, the credit generator must obtain advance approval from USEPA.

(3) If an approved protocol does not exist, a new protocol shall be designed with the participation of affected parties according to a guidance set forth by USEPA. The USEPA approval need not be obtained in advance, however, USEPA reserves the right to reject the

protocol and any resulting credits whether or not the protocol was followed.

(C) *Protocol Elements.* Protocols must contain methods that are credible, workable, enforceable, and replicable and must include each of the following elements:

(1) A description of the calculation methods used for determining the reductions achieved by the emissions controls as implemented;

(2) Estimates of the accuracy of the appropriate USEPA test method, if available, not to exceed some given value;

(3) A description of the recordkeeping program that permits verification of production, materials used, and use of control equipment;

(4) The USEPA test methods where available; and

(5) A requirement for complete, verifiable records on production, materials used and use of control equipment.

(D) *Emission Quantification Methods.* A protocol may contain the following:

(1) Emission quantification methods contained in an applicable Federally approved operating permit; or

(2) Emission quantification methods approved in the applicable SIP.

IX. DER Use for NSR and Conformity Purposes

(A) *General Rule.* All DER's used to meet—

(1) NSR offset requirements shall comply with the requirements of section 173 of the Act and 40 CFR 51.165(a) including the requirements of subsection (B) of this section.

(2) Conformity requirements shall comply with 40 CFR part 51, subparts T and W and part 93 subparts A and B.

(B) *Specific Requirements for NSR.*

(1) The State must approve the use of specific DER's that cover at a minimum 1 year of operation of the new or modified source in the NSR permit.

(2) The NSR permit must contain an enforceable requirement that the source obtain at least one additional year of offsets before continuing operation in each subsequent year.

(3) The NSR permit must contain an enforceable commitment that before receiving any operating permit or permit renewal, the operating permit must contain an enforceable condition that the source must obtain offsets for each subsequent year before continuing to operate in each subsequent year.

X. Program Audits

(A) Beginning no later than [insert the next ROP milestone year or date 3 years after State adoption of this rule] and at least every 3 years thereafter (coinciding with the periodic inventory submittals required under section 182 of the Act), the [State authority] shall audit this program to evaluate at a minimum, the following program elements:

(1) Amount and timing of emission reductions (e.g., DER's used compared to DER's generated in a given year or ozone season);

(2) Compliance by generators and users;

(3) The effect of the program on temporal and spatial assumptions in the attainment demonstration, and ROP plans;

(4) The effects of remedial measures, if applicable, implemented as a result of previous audit findings.

(5) The effects on toxic emissions from operation of this rule.

(B) As determined by the [State authority], the [State authority] shall institute remedial measures to the extent necessary.

(C) The audit data and results shall be completed, submitted to USEPA, and available for public inspection within one year after the audit begins.

XI. Enforcement

(A) *Compliance Burden.*

(1) The DER user source is responsible for assuring that the generation and use of DER's comply with this rule.

(2) The DER user source (not the enforcing authority) bears the burden of proving that DER's used are valid and sufficient and that the DER use meets all applicable requirements of this rule. The DER user source is responsible for compliance with its underlying obligations. In the event of enforcement against the user source for non-compliance, it shall not be a defense for the purpose of determining civil liability that the user source relied in good faith upon the generator source's representations.

(B) *Violation Day Definition for User Source Excess Emissions.* Section 113(b) of the Act authorizes a maximum civil penalty of $25,000 per day for each violation. For purposes of this regulation, the number of days of violation associated with improper DER use or insufficient DER quantity shall be the number of consecutive days with insufficient DER quantity after taking into account DER's used to offset excess emissions (converted to units of mass) on a consecutive day basis. If a user is unable to document actual emissions rate on a daily basis, the number of days of violation shall include every day since the beginning of the use period during which there was insufficient DER's. Failure to keep adequate records is equivalent to a lack of creditable DER's.

Dated: August 16, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–21168 Filed 8–24–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 36 and 69

[CC Docket No. 95–115; FCC 95–281]

Common Carrier Services: Increasing Subscribership and Usage of the Public Switched Network

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On July 13, 1995, the FCC adopted a Notice of Proposed Rulemaking on increasing telephone subscribership and usage. The FCC is considering proposals to help reconnect subscribers disconnected from the network when they fail to pay interstate long-distance charges, and to help new and existing low-income subscribers to avoid disconnection due to unpaid interstate long-distance charges.

DATES: Comments must be submitted on or before September 27, 1995. Reply comments are due on or before October 27, 1995.

ADDRESSES: Federal Communications Commission, 1919 M St., N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Andrew Mulitz, Attorney/Advisor or George Johnson, Attorney/Advisor, Accounting and Audits, Common Carrier Bureau, (202) 418–0850.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted July 13, 1995, and released July 20, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M St., N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center 1990 M Street, N.W., Suite 640, Washington, D.C. 20036.

The FCC is proposing to require carriers to adjust security deposit requirements to take into account the diminished credit risk when new or reconnected subscribers agree to accept voluntary toll restriction service. The

FCC seeks comment on ways to increase the effectiveness of the Link Up assistance program. The FCC is considering whether to require LECs to provide, at reasonable cost, interstate long-distance restriction services, allowing subscribers voluntarily to block only those interstate calls for which they would be charged. The FCC is also considering prohibiting LECs from disconnecting subscribers for failure to pay outstanding interstate long-distance charges. The FCC seeks comment on ways to modify the Lifeline program to increase subscribership and whether the program should be extended to certain multi-line entities such as schools and libraries. The FCC also requests comment on ways in which the marketplace can operate to make low-cost services, such as prepaid debit cards and voice mailboxes, available to highly-mobile, low-income persons, and whether Link Up assistance should be extended to include such services to individuals that are not already telephone subscribers. Comments are sought on ways to extend telephone service to unserved areas, alternative methods to measure subscribership, and ways to increase consumer awareness of subscribership opportunities.

Regulatory Flexibility Analysis

We have determined that Section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b) does not apply to this rulemaking proceeding because if promulgated, it would not have a significant economic impact on a substantial number of small entities. The definition of a ''small entity'' in Section 3 of the Small Business Act excludes any business that is dominant in its field of operation. Although some of the local exchange carriers that will be affected are very small, local exchange companies do not qualify as small entities because they have a nationwide monopoly on ubiquitous access to the subscribers in their service area. The Commission has found all exchange carriers to be dominant in the *Competitive Carrier* proceeding. 85 FCC 2d 1, 23–24 (1980). To the extent that small telephone companies will be affected by these rules, we hereby certify that these rules will not have a significant economic effect on a substantial number of ''small entities.'' Although we do not find that the Regulatory Flexibility Act is applicable to this proceeding, this Commission has an ongoing concern with the effect of its rules and regulation on small business and the customers of the regulated carriers as is evidenced by this proceeding.

Ordering Clause

Accordingly, *It is ordered that,* pursuant to Sections 1, 2, 4(i), 201–205, 218–220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201–205, 218–220, and 403, notice is hereby given of the proposals in this Notice of Proposed Rulemaking.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–21148 Filed 8–24–95; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 60, No. 165
Friday, August 25, 1995

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

Agricultural Research Services

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of Intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Yulex Corporation of Philadelphia, Pennsylvania, an exclusive license for U.S. Patent Application Serial No. 08/145,546 filed November 4, 1993 and U.S. Patent Application Serial No. 08/423,911 filed April 13, 1995, both entitled ''Hypoallergenic Natural Rubber Products from *Parthenum argentatum* (Gray) and other Non-*Hevea brasiliensis* Species.'' Notice of Availability for U.S. Patent Application Serial No. 08/145,546 was published in the **Federal Register** on June 21, 1994. Serial No. 08/423,911 is a division of Serial No. 08/145,546.

DATES: Comments must be received on or before October 24, 1995.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC–West, Baltimore Boulevard, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Yulex Corporation has submitted a complete and sufficient application for a license. 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 sixty days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which 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.

R.M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 95–21180 Filed 8–24–95; 8:45 am]

BILLING CODE 3410–03–M

Cooperative State Research, Education, and Extension Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972, (Public Law 92–463, 86 Stat. 770–776), the Cooperative State Research, Education, and Extension Service announces the following meeting:

Name: Committee of Nine.

Date: September 13, 1995; September 14, 1995

Time: 8:00 a.m.–5:00 p.m.; 8:00 a.m.–noon.

Place: USDA, CSREES, 14th & Independence Avenue, S.W., Room 3854, South Building, Washington, D.C. 20250.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State Agricultural Experiment Stations.

Contact person for Agenda and more information: Dr. Walter R. Woods, Executive Secretary, U.S. Department of Agriculture, Cooperative State Research, Education, and Extension Service, 14th & Independence Avenue, S.W., Room 3341, South Building, Washington, D.C. 20250, Telephone: 202–720–4088.

Done at Washington, D.C., this 14th day of August, 1995.

William D. Carlson,

Acting Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 95–21181 Filed 8–24–95; 8:45 am]

BILLING CODE 3410–22–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF INTERIOR

Bureau of Land Management, States of Oregon and Washington

[OR–015–94–4410–02; G4–047]

Eastside Ecosystem Management Strategy, Pacific Northwest Region

AGENCIES: Forest Service, USDA; Bureau of Land Management, USDI.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: At the time the original **Federal Register** and local media announcements of our Notice of Intent were published (February 1, 1994, 59 FR 4680) and revised (May 23, 1994 59 FR 26624) it was expected that the draft Eastside Environmental Impact Statement would be available by November 1994. It is now expected to have a draft Environmental Impact Statement available before the end of calendar year 1995.

FOR FURTHER INFORMATION CONTACT:

George R. Pozzuto, EIS Team Leader, 122 East Poplar Street, Walla Walla, Washington 99362, phone (509) 522–4030.

Dated: August 15, 1995.

John E. Lowe,

Regional Forester.

Dated: August 17, 1995.

Elaine Y. Zielinski,

State Director.

[FR Doc. 95–21137 Filed 8–24–95; 8:45 am]

BILLING CODE 3410–11–M; 4310–84–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility to Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA).

ACTION: To Give Firms an Opportunity to Comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 07/17/95–08/15/95

Firm name	Address	Date petition accepted	Product
Aberdeen Bag Company, Inc	101 Anderson Street, Aberdeen, NC 28315.	08/03/95	Plastic bags for yarn cones.
Carver Corporation	20121 48th Avenue West, Lynnwood, WA 98046.	07/25/95	Amplifiers and receivers.
Contrologic, Inc	Box 819, School Lane, Blue Bell, PA 19422.	08/11/95	Outside diameter gauges, and flaw detectors.
Essex Manufacturing Company	P.O. Box 949, 113 Griffin Street, Fall River, MA 02722.	08/09/95	Women's tailored jackets.
Futura Circuits Corporation	11950 28th Street North, St. Petersburg, FL 33716.	08/09/95	Printed circuit boards.
Kalkstein Silk Mills, Inc	75 Wood Street, Paterson, NJ 07525	07/27/95	Silk fabric used in making ties.
Mertz, Inc	1701 N. Waverly/P.O. Box 150, Ponca City, OK 74801.	07/28/95	Mining truck dump bodies.
Products Finishing Corporation	350 Clarkson Avenue, Brooklyn, NY 11226.	08/08/95	Luggage carts.
Rapid Systems, Inc	4307 Leary Way Northwest, Seattle, WA 98107.	07/28/95	Industrial computers and test and measurement instrumentation.
Rycom Instrument, Inc	9351 E. 59th Street, Raytown, MD 64133	08/07/95	Selective level meters and underground fault locators.
Speco Corporation	2941 Baker Road, P.O. Box 1288, Springfield, OH 45501.	08/09/95	Helicopter transmission gears and housings.
Thermo Tech, Inc	287 South Santa Fe Drive, Denver, CO 80223.	08/03/95	Stainless steel connectors.
Town Food Service Equipment Co., Inc	351 Bowery, New York, NY 10003	08/02/95	Stainless steel Chinese gas ranges and stainless steel Chinese gas smokehouses.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, Room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: August 17, 1995.

Lewis R. Podolske,

Director, Trade Adjustment Assistance Division.

[FR Doc. 95–21139 Filed 8–24–95; 8:45 am]

BILLING CODE 3510–24–M

Foreign-Trade Zones Board

[Docket A(32b1)–16–95]

Foreign-Trade Zone 122—Corpus Christi, TX, Subzone 122A, Coastal Refining and Marketing, Inc. (Crude Oil Refinery); Request for Modification of Restrictions

A request has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Corpus Christi Authority, grantee of FTZ 122, pursuant to § 400.32(b)(1) of the Board's regulations, for modification of the restricted scope of authority in FTZ Board Order 310 authorizing Subzone 122A at the crude oil refinery of Coastal Refining and Marketing, Inc. (Coastal), in Corpus Christi, Texas. The request was formally filed on August 18, 1995.

The FTZ Board approved subzone status for the Coastal refinery in 1985 (Subzone 122A, Board Order 310, 50 FR 38020, 9/19/85). The approval was restricted in scope so that the refinery did not have the option to choose non-privileged foreign status (NPF) on incoming foreign merchandise.

The company is now requesting that this restriction be modified so that the refinery would have the option available under the FTZ Act to choose NPF status on foreign refinery inputs used to produce certain petrochemical feedstocks and by-products including the following: benzene, toluene, xylenes, hydrocarbon mixtures, distillates/residual fuel oils, kerosene,

naphthas, liquified natural gas, ethane, propane, butane, ethylene, propylene, butylene, butadiene, petroleum coke, asphalt, sulfur, sulfuric acid, cumene and pseudocumene.

The request cites the FTZ Board's recent decision in the Amoco, Texas City, Texas case (Board Order 731, 60 FR 13118, 3/10/95) which authorized subzone status with the NPF option noted above. In the Amoco case, the Board concluded that the restriction that precluded this NPF option was not needed under current oil refinery industry circumstances.

Public comment on the proposal is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 25, 1995.

A copy of the application and accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue NW., Washington, DC 20230.

Dated: August 18, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–21203 Filed 8–24–95; 8:45 am]

BILLING CODE 3510–25–P

International Trade Administration

Determination Not To Revoke Antidumping Duty Orders and Findings nor To Terminate Suspended Investigations

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

ACTION: Determination not to revoke antidumping duty orders and findings nor to terminate suspended investigations.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty orders and findings nor to terminate the suspended investigations listed below.

EFFECTIVE DATE: August 25, 1995.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION: The Department of Commerce (the Department) may revoke an antidumping duty order or finding or terminate a suspended investigation, pursuant to 19 CFR 353.25(d)(4)(iii), if no interested party has requested an administrative review for four consecutive annual anniversary months and no domestic interested party objects to the revocation or requests an administrative review.

We had not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months. Therefore, pursuant to § 353.25(d)(4)(i) of the Department's regulations, on July 3, 1995, we published in the **Federal Register** a notice of intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations and served written notice of the intent to each domestic interested party on the Department's service list in each case. Within the specified time frame, we received objections from domestic interested parties to our intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations. Therefore, because domestic interested parties objected to our intent to revoke or terminate, we no longer intend to revoke these antidumping duty orders and findings or to terminate the suspended investigations.

Antidumping Proceeding

A–831–801
Armenia
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–832–801
Azerbaijan
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–822–801
Belarus
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–833–801
Georgia
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–428–803
Germany
Industrial Nitrocellulose
Objection Date: July 27, 1995
Objector: Aqualon Corporation
Contact: Todd Peterson at (202) 482–4195

A–507–502
Iran
In-Shell Pistachio Nuts
Objection Date: July 27, 1995
Objector: California Pistachio Commission, Western Pistachio Association
Contact: Valerie Turoscy at (202) 482–0145

A–588–605
Japan
Cast Iron Pipe Fittings
Objection Date: July 18, 1995
Objector: Grinnell Corp., Ward manufacturing, Inc.
Contact: Sheila Forbes at (202) 482–0065

A–588–005
Japan
High Power Microwave Amplifiers and Components Thereof
Objection Date: July 31, 1995
Objector: MCL, Inc.
Contact: Michael Heaney at (202) 482–4475

A–588–812
Japan
Industrial Nitrocellulose
Objection Date: July 27, 1995
Objector: Aqualon Corporation
Contact: Michael Heaney at (202) 482–4475

A–588–041
Japan
Synthetic Methionine
Objection Date: July 31, 1995
Objector: Degussa Corp., Novus International Inc.
Contact: Michael Heaney at (202) 482–4475

A–834–801
Kazakhstan
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–835–801
Kyrgyzstan
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–449–801
Latvia
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–451–801
Lithuania
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–841–801
Moldova
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–485–601
Romania
Solid Urea

Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–821–801
Russia
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–580–805
South Korea
Industrial Nitrocellulose
Objection Date: July 27, 1995
Objector: Aqualon Corporation
Contact: Rebecca Trainor at (202) 482–0666

A–842–801
Tajikistan
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–570–802
The People's Republic of China
Industrial Nitrocellulose
Objection Date: July 27, 1995
Objector: Aqualon Corporation
Contact: Rebecca Trainor at (202) 482–0666

A–823–801
The Ukraine
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–843–801
Turkmenistan
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256

A–844–801
Uzbekistan
Solid Urea
Objection Date: July 19, 1995
Objector: Ad Hoc Committee of Domestic Nitrogen Producers
Contact: Thomas Barlow at (202) 482–5256.

Dated: August 16, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–21202 Filed 8–24–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–301–602]

Certain Fresh Cut Flowers From Colombia; Termination of Antidumping Duty Administrative Review

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

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: On May 5, 1995, the Department of Commerce (the Department) published in the **Federal Register** (60 FR 22354) the notice of initiation of administrative review of the antidumping duty order on certain fresh cut flowers from Colombia, for the period of March 1, 1994 through February 28, 1995. This review has now been terminated as a result of withdrawals by the interested parties that requested the review.

EFFECTIVE DATE: August 25, 1995.

FOR FURTHER INFORMATION CONTACT: Mark Ross, Thomas Schauer, or Richard Rimlinger, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

We received requests for review pursuant to 19 CFR 353.22(a) (1994) for the following specifically named exporters/growers:

Agricola Acevedo
Agricola Arenales Ltda.
Agricola Circasia
Agricola el Cactus S.A.
Agricola la Corsaria Ltda.
Agricola la Montana
Agricola Las Cuadras
Agrodex Group
Agroindustria del Rio Frio Ltda.
Agroindustrial Don Eusebio
Agromonte
Agropecuria Cuernavaca Ltda.
Andes Group
  Cultivos Buenavista Ltda.
  Flores de los Andes Ltda.
  Flores Horizonte Ltda.
  Inversiones Penas Blancas Ltda.
Astro Flowers
Benilda Group
  Agricola Benilda
  Agricola La Celestina
  Agricola La Maria
Caicedo Group
  Andalucia
  Aranjuez S.A.
  Exportaciones Bochica S.A.
  Floral Ltda.
  Flores del Cauca S.A.
Cantarrana Group
  Agricola los Venados
  Cantarrana Ltda.
  Deer Field Flowers
Claveles Colombianos Group
  Claveles Colombianos Ltda.
  Fantasia Flowers Ltda.
  Splendid Flowers Ltda.
  Sun Flowers Ltda.
Claveles de los Alpes Ltda.
Colibri Flowers
Cultiflores
Cultivos Miramonte
Cultivos Tahami Ltda.
Daflor
Envy Farms Group
  Envy Farms Ltda.
  Flores Marandua Ltda.
Falcon Farms de Colombia S.A. (formerly Flores de Cajibio Ltda.)
Floraterra Group
  Flores San Mateo S.A.
  Siete Flores S.A.
  Flores Casablanca S.A.
Floreales Group
  Floreales Ltda.
  Kimbaya
Flores Aurora
Flores Calima S.A.
Flores Canelon
Flores Colon
Flores de Aposentos
Flores de Bojaca
Flores de Colombia
Flores de la Sabana S.A.
Flores de la Vega Ltda. (Vegaflor)
Flores de la Vereda S.A.(Flover)
Flores del Hato
Flores del Rio Group
  Agricola Cardenal
  Flores del Rio
  Indigo S.A.
Flores del Salitre Ltda.
Flores de Oriente
Flores de Serrezuela
Flores de Suba Ltda.
Flores el Cipres
Flores el Lobo
Flores el Molino S.A.
Flores el Tandil
Flores el Zorro
Flores Jayvana
Flores Juanambu
Flores la Fragrancia
Flores la Mana
Flores la Union
Flores la Valvanera Ltda.
Flores Marvilla (of the Flores Tiba Group)
Flores Mocari S.A.
Flores Monserrate Ltda.
Flores Sagaro
Flores San Juan
Flores Silvestres
Flores Tomine
Flores Tropicales Group
  Flores Tropicales Ltda.
  Happy Candy
  Mercedes Ltda.
  Rosas Colombianas Ltda.
Florex Group
  Agricola Guacari
  Flores Altamira
  Flores de Exportacion
  Santa Helena S.A.
Floricola la Gaitana S.A.
Funza Group
  Flores Alborada
  Flores de Funza
  Flores del Bosque
Guacatay Group
  Agricola Guacatay
  Jardines Bacata
  Agricola Cunday
Hosa Ltda.
Industrial Agricola
Ingro Ltda.
Inverpalmas
Inversiones Morrosquillo
Inversiones Supala S.A.
Jardines de Chia Ltda.
Jardines Fredonia
Las Amalias/Pompones
Manjui Ltda.
Maxima Farms Group

Agricola Los Arboles
Polo Flowers
Rainbow Flowers
M.G. Consultores Ltda.
Monteverde Ltda.
Natuflora
Papagayo Group
Inversiones Calypso S.A.
Agricola Papagayo
Queens Flowers de Colombia
Rosas Sabanilla Group
Agricola la Capilla
Flores la Colmena
Inversiones la Serena
Rosas Sabanilla
San Martin Bloque B Ltda.
Santa Helena S.A.
Santana Flowers Group
Santana Flowers Ltda.
Hacienda Curubital Ltda.
Inversiones Istra Ltda.
Santa Rosa Group
Agropecuaria Sierra Loma
Flores Santa Rosa
Floricola la Ramada
Senda Brava Ltda.
Soagro Group
Agricola el Mortino
Flores Aguaclara Ltda.
Flores del Monte Ltda.
Flores la Estancia
Jaramillo y Daza
Tecnica Agricola Ganadera (TAG)
Tinzuque Group
Tinzuque Ltda.
Catu S.A.
Toto Flowers
Tuchany Group
Flores Munya
Flores Sibate
Flores Tikiya
Tuchany S.A.
Uniflor Ltda.
Velez De Monchaux e Hijos y Cia
Victoria Flowers
Vuelven Ltda.

On May 5, 1995, the Department published in the **Federal Register** (60 FR 22354) the notice of initiation of the administrative review.

Termination of Review

All the interested parties that requested the review have timely withdrawn their requests pursuant to 19 CFR 353.22(a)(5). As a result, the Department has terminated the review.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675), and 19 CFR 353.22(a)(5).

Dated: August 18, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–21201 Filed 8–24–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Preliminary Results of Antidumping Administrative Reviews

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Reviews of Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China.

SUMMARY: In response to requests by respondents and petitioner, the Department of Commerce (the Department) is conducting three administrative reviews of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished (TRBs), from the People's Republic of China (PRC). The periods covered are June 1, 1990 through May 31, 1991; June 1, 1991 through May 31, 1992; and June 1, 1992 through May 31, 1993, respectively. The reviews indicate the existence of dumping margins during each of the above periods.

We have preliminarily determined that sales have been made below foreign market value (FMV). If these preliminary results are adopted in our final results of administrative reviews, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between United States price (USP) and FMV. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 25, 1995.

FOR FURTHER INFORMATION CONTACT: Charles Riggle, Hermes Pinilla, Andrea Chu, Donald Little, Kris Campbell or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1991, the Department published in the **Federal Register** (56 FR 25663) a notice of opportunity to request an administrative review of the antidumping duty order on TRBs from the PRC. In accordance with 19 CFR 353.22(a), the petitioner, The Timken Company, and respondents Chin Jun Industrial Ltd. (Chin Jun) and Henan Machinery and Equipment Import and Export Corporation (Henan), requested that we conduct an administrative review. We published a notice of initiation of this antidumping duty administrative review on September 18, 1991 (56 FR 47185) covering the period June 1, 1990 through May 31, 1991 (the fourth review period).

On June 8, 1992, the Department published in the **Federal Register** (57 FR 24244) a notice of opportunity to request an administrative review of the antidumping duty order on TRBs from the PRC. In accordance with 19 CFR 353.22(a), the petitioner and one respondent, Chin Jun, requested that we conduct an administrative review. We published a notice of initiation of this antidumping duty administrative review on July 22, 1992 (57 FR 32521) covering the period June 1, 1991 through May 31, 1992 (the fifth review period).

On June 7, 1993, the Department published in the **Federal Register** (58 FR 31941) a notice of opportunity to request an administrative review of the antidumping duty order on TRBs from the PRC. In accordance with 19 CFR 353.22(a), the petitioner and respondent Chin Jun requested that we conduct an administrative review. We published a notice of initiation of this antidumping duty administrative review on July 21, 1993 (58 FR 39007) covering the period June 1, 1992 through May 31, 1993 (the sixth review period).

The Department is conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

On September 9, 1991, we sent questionnaires to 43 companies for which a review of the fourth review period was requested either by respondents or the petitioner. Of those companies, only seven responded to the questionnaire: Premier Bearing and Equipment, Ltd. (Premier), Guizhou Machinery Import and Export Corporation(Guizhou), Henan, Jilin Machinery Import and Export Corporation (Jilin), Luoyang Bearing Factory (Luoyang), Shanghai General Bearing Co., Ltd. (Shanghai), and Chin Jun.

On March 17, 1994, we sent questionnaires to 43 companies for which a review of the fifth and sixth review periods was requested. Of those companies, only nine responded to the questionnaire: Premier, Guizhou, Wafangdian Bearing Company (Wafangdian), Liaoning Machinery and Equipment Import and Export Corporation (Liaoning), Henan, Jilin, Luoyang, Shanghai, and Chin Jun. In addition, we received responses from two companies, Hubei Machinery and Equipment Corporation (Hubei) and Guizhou Automotive Import and Export

Corporation (Guizhou Automotive), neither of which was sent a questionnaire because they were not named in any requests for review. We have preliminarily determined that these companies are independent from government control and are therefore entitled to rates separate from the PRC rate (*see Separate Rates, below*). Given that Hubei and Guizhou Automotive are separate entities, the Department cannot review their entries unless a timely request is made. *See* 19 CFR 353.22(a) (1994). Therefore, we have not included these companies in the preliminary results of these administrative reviews.

Scope of Review

Imports covered by this review are shipments of TRBs and parts thereof, finished and unfinished, from the PRC. This merchandise is classifiable under the *Harmonized Tariff Schedule* (HTS) item numbers 8482.20.00, 8482.91.00.60, 8492.99.30, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30 and 8483.90.80. Although the HTS item numbers are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

Separate Rates

1. Background and Summary of Findings

It is the Department's standard policy to assign all exporters of the merchandise subject to review in non-market economy (NME) countries a single rate, unless an exporter can demonstrate an absence of government control, both in law and in fact, with respect to exports. To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter under the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) (*Sparklers*), as amplified in *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994) (*Silicon Carbide*). Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See Sparklers* at 20589. Evidence relevant to a *de facto* analysis of absence of government control over exports is based on four factors: (1) Whether the respondent sets its own export prices independent from the government and other exporters; (2) whether the respondent can retain the proceeds from its export sales; (3) whether the respondent has the authority to negotiate and sign contracts; and (4) whether the respondent has autonomy from the government regarding the selection of management. *See Silicon Carbide* at 22587; *See also Sparklers* at 20589.

The Department determined that Guizhou, Henan, Jilin, Luoyang, Shanghai, and Liaoning were entitled to separate rates during the administrative review of the June 1, 1989 through May 31, 1990 review period. *See Preliminary Results of Antidumping Duty Administrative Review: Tapered Roller Bearings from the People's Republic of China*, 56 FR 50309 (October 4, 1991). There have been no allegations of changes in control of the respondents in these reviews. However, the prior separate rate determinations were made pursuant to the *de jure* and *de facto* criteria developed in *Sparklers*, before the development of the amplified analysis in *Silicon Carbide*, which added *de facto* criteria (3) and (4) above. Accordingly, for the preliminary results of these reviews we have examined these two additional criteria for these six companies. Record evidence indicates that these companies maintain the authority to negotiate and sign contracts and independently select their management. Therefore, we preliminarily determine that these companies are entitled to separate rates. *See De Facto Analysis, infra.*

In addition, we preliminarily determine that Wafangdian, Hubei, and Guizhou Automotive meet both the *de jure* and *de facto* criteria and are therefore also entitled to separate rates (*see De Jure Analysis* and *De Facto Analysis, infra).* Information submitted during these reviews indicates that all three companies are owned ''by all of the people.'' In *Silicon Carbide* (at 22586), we found that the PRC central government had devolved control of state-owned enterprises, *i.e.*, enterprises owned ''by all the people.'' As a result, we determined that companies owned ''by all the people'' were eligible for individual rates, if they met the criteria developed in *Sparklers* and *Silicon Carbide.*

Finally, with respect to Premier and Chin Jun, no separate rates analysis is required because these companies are privately-owned trading companies located in Hong Kong.

2. De Jure Analysis: Wafangdian, Hubei, and Guizhou Automotive

With respect to *de jure* control, the following laws, which have been placed on the record in this case, indicate a lack of *de jure* government control over Wafangdian, Hubei, and Guizhou Automotive, and establish that the responsibility for managing companies owned by ''all the people'' has been transferred from the government to the enterprise itself. These laws include: ''Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People,'' adopted on April 13, 1988 (1988 Law); ''Regulations for Transformation of Operational Mechanism of State-Owned Industrial Enterprises,'' approved on August 23, 1992 (1992 Regulations); and the ''Temporary Provisions for Administration of Export Commodities,'' approved on December 21, 1992 (Export Provisions). The 1988 Law states that enterprises have the right to set their own prices (*see* Article 26). This principle was restated in the 1992 Regulations (*see* Article IX). Finally, the 1992 ''Temporary Provisions for Administration of Export Commodities'' list those products subject to direct government control. TRBs do not appear on this list and are not therefore subject to the constraints of these provisions.

Consistent with *Silicon Carbide*, we determined that the existence of these laws demonstrates that Wafangdian, Hubei, and Guizhou Automotive, companies owned by ''all the people,'' are not subject to *de jure* control. In light of reports [1] indicating that laws shifting control from the government to the enterprises themselves have not been implemented uniformly, an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to government control.

3. De Facto Analysis: Wafangdian, Hubei, Guizhou Automotive, and Companies Previously Determined to be Separate During the 1989–90 Review

Based on the record evidence, which is contained in the questionnaire responses and which was further examined at verification, we have found that the pricing and export strategy

[1] *See* ''PRC Government Findings on Enterprise Autonomy,'' in Foreign Broadcast Information Service–China–93–133 (July 14, 1993) and 1992 Central Intelligence Agency Report to the Joint Economic Committee, Hearings on Global Economic and Technological Change: Former Soviet Union and Eastern Europe and China, Pt.2 (102 Cong., 2d Sess.).

decisions of Wafangdian, Hubei, and Guizhou Automotive are not subject to any entity's review or approval, and that there are no government policy directives that affect these decisions. There are no restrictions on the use of respondents' revenues or profits, including export earnings. Decisions made by respondents concerning purchases of subject merchandise from other suppliers are not subject to government approval. Further, respondents' sources of funds are their own savings or bank loans, and they have sole control and access to their bank accounts, which are held in each company's name.

We have analyzed the additional criteria developed in *Silicon Carbide* (the authority to negotiate and sign contracts and the degree of autonomy in the selection of management) with respect to the companies previously found to be separate during the 1989–90 administrative review (Guizhou, Henan, Jilin, Luoyang, Shanghai, and Liaoning) as well as Wafangdian, whose independence we have not previously analyzed. We have also solicited information relevant to these additional *silicon Carbide* criteria from the voluntary respondents Hubei and Guizhou Automotive and will analyze this data between the preliminary and final results. As noted above, the evidence currently in the record suggests that Hubei and Guizhou Automotive are independent entities.

Each of the seven companies general managers has the right to negotiate and enter into contracts, and may delegate this authority to other employees within the company. There is no evidence that this authority is subject to any level of governmental approval.

For each of the companies named above, except Shanghai, the general manager is elected by an employees' assembly. The election results are then recorded with the relevant provincial bureau (*e.g.*, the Guizhou Provincial Foreign Trade and Economic Commission in the case of Guizhou). There is no evidence that these bureaus control the selection process or that they have rejected a general manager selected through the employee election process. The employee assemblies can remove the general manager, typically under the authority of the company's Articles of Association, in the case of mismanagement or violation of Chinese law.

For Shanghai, the highest authority within the company is the board of directors, of which six members, including the chairman, are appointed by the Chinese partner. Three members, including the vice chairman, are appointed by the American partner. The Chinese joint venture partner nominates a manager and a deputy manager, and the American partner nominates a second deputy manager; all are subject to approval by the board of directors. There is no evidence that the selection of management is subject to any level of governmental approval.

Based on the foregoing analysis of the evidence of record, we preliminarily determine that there is an absence of both *de jure* and *de facto* government control with respect to the companies that are participating in this review. Accordingly, we determine that each of these exporters should receive a separate rate.

Because we have preliminarily determined that the voluntary respondents Hubei and Guizhou Automotive are entitled to separate rates and no review was requested for these companies, we have not reviewed their entries during the 91/92 and 92/93 review periods (*see Background* section above). Therefore, the rates established for these companies in the 89/90 review of this case (*i.e.*, the 89/90 PRC rate) will continue to apply for future cash deposits.

For those companies for which we initiated a review and which did not respond to the questionnaires, as best information available (BIA), we have determined that these companies do not merit separate rates. *See* ''Best Information Available'' section below.

United States Price

For fourth review sales made by Jilin and Guizhou, and the fifth and sixth review sales made by Wafangdian, Liaoning, Jilin, and Guizhou, we based the USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States, and because exporter's sales price (ESP) methodology was not indicated by other circumstances. For fourth, fifth, and sixth review sales made by Chin Jun, Shanghai, and Henan, we based USP on ESP, in accordance with section 772(c) of the Act, because sales to the first unrelated purchaser took place after importation into the United States. The only company with a combination of purchase price and ESP sales subject to review is Luoyang. All of Luoyang's fourth and fifth review sales were purchase price. During the sixth review, it made purchase price as well as ESP sales (through its related U.S. affiliate, Central Bearing, Inc.).

We calculated purchase price based on, as appropriate, the FOB, CIF, or C&F port price to unrelated purchasers. We made deductions for brokerage and handling, foreign inland freight, ocean freight, and marine insurance. When marine insurance and ocean freight were provided by PRC-owned companies, we based the deduction on surrogate values. *See Final Determination of Sales at Less Than Fair Value: Saccharin from the People's Republic of China*, 59 FR 58818, 58825 (November 15, 1994). We valued foreign inland freight deductions using surrogate data based on Indian freight costs. We selected India as the surrogate country for the reasons explained in the ''Foreign Market Value'' section of this notice. We calculated ESP based on the packed, ex-warehouse price from the U.S. subsidiary to unrelated customers. We made deductions from ESP for U.S. packing in the United States, ocean freight, foreign brokerage & handling, foreign inland freight, marine insurance, customs duty, U.S. brokerage, U.S. inland freight insurance and U.S. inland freight.

Foreign Market Value

Section 773(c)(1) of the Act provides that the Department shall determine the FMV using a factors of production methodology if (1) the merchandise is exported from an NME country, and (2) the information does not permit the calculation of FMV using home market prices, third-country prices, or constructed value (CV) under section 773(a).

In the most recent review of this order, the Department treated the PRC as an NME country. In its submissions of November 21, 1991 and June 6, 1994, Shanghai requested that the Department accept Shanghai's actual costs, claiming that its costs were market-driven. However, in order to accept the costs of a company in an NME country, the Department must determine that the *industry* in which that company operates, not just a particular company, is market oriented. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Pure and Alloy Magnesium from the Russian Federation*, 59 FR 55427, 55430 (November 7, 1994) (''an NME-country respondent may argue that market-driven prices characterize its particular *industry* and, therefore, despite NME status, that foreign market value should be calculated by using actual home market prices or costs'' (emphasis added)).

Because neither Shanghai, nor any other company in these reviews, has argued that the TRB industry in the PRC is market-oriented, we continue to

consider that industry to be non-market-oriented and, therefore, we have applied our standard NME methodology and surrogate values to Shanghai's factors of production to determine FMV and movement costs.

Except as noted below, we calculated FMV based on factors of production in accordance with section 773(c) of the Act and section 353.52 of our regulations. We chose India as the most comparable surrogate on the basis of the criteria set out in section 353.52(b). *See* Memorandum from Director, Office of Policy to Program Manager, Office of Antidumping Compliance, dated November 23, 1994. Further, information on the record indicates that India is a significant producer of TRBs. *See* Memorandum from the analyst to the file, dated July 20, 1995. We used publicly available information relating to India to value the various factors of production.

We valued the factors of production as follows:

- For hot-rolled alloy steel bars and rods, and irregular coils, used in the production of rollers; hot-rolled alloy steel bars and rods, used in the production of cups and cones; cold-rolled strip and sheet, used in the production of cages; and bearing quality and non-bearing quality steel scrap, we used import prices obtained from the *Monthly Statistics of the Foreign Trade of India, Volume II—Imports,* December 1991. We adjusted the factor values to the period of review (POR) using wholesale price indices (WPI) of India as published in the *International Financial Statistics* by the International Monetary Fund (IMF). We made further adjustments to include freight costs incurred between the steel supplier and the TRB factory.

Luoyang and Henan reported that hot-rolled alloy steel bar used by Luoyang to produce cups and cones was imported from Japan during the fourth review period and Spain during the fifth and sixth review periods. Accordingly, we used actual costs for those purchases because they were from a market-economy country. *See Final Determination of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans from the PRC,* 56 FR 55271, 55275 (October 25, 1991). Luoyang also claimed that cold-rolled sheet used for cages was imported from Spain during the fifth and sixth review periods. However, it did not provide prices with respect to purchases made during the POR; accordingly, we used surrogate values for this material input.

- For direct labor, we used 1990 data from the *Yearbook of Labour Statistics,* published in 1993 by the International Labour Office. We then adjusted the 1990 labor value to each POR to reflect inflation using WPI published by the IMF. We calculated the labor cost for each component by multiplying the labor time requirement by the surrogate labor rate. Indirect labor is reflected in the selling, general and administrative (SG&A) and overhead rates.
- For factory overhead, we used information obtained from a financial report of a producer of similar merchandise in India. From this source, we were able to calculate factory overhead as a percentage of total cost of manufacture.
- For SG&A expenses, we used information obtained from the same financial report used to obtain factory overhead. This information showed SG&A expenses as a percentage of the cost of manufacture. SG&A expenses were less than 10 percent of the cost of manufacture. Therefore, we used the statutory minimum of 10 percent of the cost of manufacture for SG&A, in accordance with sections 773(c)(1) and 773(e) of the Act.
- For profit, we used the profit rate of the same Indian producer of similar merchandise from which we derived a rate for factory overhead.
- For export packing, we applied BIA (section 776(c) of the Act) because the respondents did not supply sufficient factor information by which to calculate packing costs. We used, as BIA, one percent of the total ex-factory cost and SG&A expenses combined. This percentage, obtained from publicly available data, was used in the *Final Determination of Sales at Less Than Fair Value: Tapered Roller Bearings from Italy,* 52 FR 24198 (June 29, 1987). This methodology is consistent with the Department's valuation of packing in the *Final Results of Antidumping Duty Administrative Review: Tapered Roller Bearings from the People's Republic of China,* 56 FR 67590 (December 31, 1991). We used this percentage because there was no publicly available information from a comparable surrogate country.
- For foreign inland freight, we used the price reported in a December 1989 cable from the U.S. Embassy in India submitted for the *Final Results of Antidumping Duty Administrative Review: Shop Towels of Cotton from the People's Republic of China,* 56 FR 4040 (February 1, 1991). We adjusted the value of freight to the POR using a WPI published by the IMF.

Currency Conversion

We made currency conversions in accordance with 19 C.F.R. 353.60(a). Currency conversions were made at the rates certified by the Federal Reserve Bank.

Best Information Available

Section 776(c) of the Act provides that whenever a party refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation, the Department shall use BIA. In deciding what to use as BIA, 19 C.F.R. 353.37(b) provides that the Department may take into account whether a party refused to provide requested information. Thus, the Department determines on a case-by-case basis what is BIA. Whenever a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's review, the Department will normally assign to that company the higher of (1) the highest rate for any firm in the less-than-fair-value (LTFV) investigation or prior administrative reviews of sales of subject merchandise from that same country; or (2) the highest rate found in that review for any firm. When a company has cooperated with the Department's request for information but fails to provide the information requested in a timely manner or in the form required, the Department will normally assign to that company the higher of either: (1) the highest of the rates found for that firm in the LTFV investigation or prior administrative reviews; or (2) the highest calculated rate found in that review for any firm. (*See Antifriction Bearings from France, et al.; Final Results of Review,* 58 FR 39729 (July 26, 1993).)

Non-Responsive Companies

For each of the review periods, we have assigned non-cooperative BIA to those companies for which we initiated a review and which did not respond to the questionnaires. In accordance with the non-cooperative BIA formula stated above, this represents the highest rate for any firm from the LTFV investigation or any review of sales of subject merchandise from the PRC. As noted in the separate rates section above, we have determined that those companies do not merit separate rates. Therefore, the non-cooperative BIA for the non-responsive companies forms the basis of the PRC rate. The PRC rate is 15.61 percent for the fourth review and 23.76 percent for the fifth and sixth reviews.

Responsive Companies

1. Non-Cooperative BIA

Chin Jun

On May 23, 1994, Chin Jun, a reseller of TRBs based in Hong Kong, submitted a letter seeking to withdraw its request for the fourth review. Because the petitioner had also requested a review, we did not terminate the review. In its response to the Department's questionnaires of November 12, 1991, for Section A and December 24, 1991, for Sections B and C, Chin Jun provided incomplete information. Also, Chin Jun failed to respond to the Department's May 6, 1994 supplemental questionnaire. In addition, Chin Jun refused to permit the verification of its sales information. Therefore, we have applied non-cooperative BIA to sales from Chin Jun for the fourth review.

Cooperative BIA

Premier

Premier, a reseller of TRBs from the PRC based in Hong Kong, stated it could not respond to the Department's supplemental questionnaire, which requested factors of production data. We asked Premier for factors of production data with the intent of using this information to: (1) perform a cost of production test on third-country sales; and (2) calculate CV when necessary. Premier stated that it was not in a position to request factors of production information from its suppliers. The Department then sent factors of production questionnaires to Premier's suppliers in an effort to obtain the information. We did not receive any responses from Premier's suppliers. In addition, the Department found significant errors in reported sales data at verification of Premier. Therefore, for these preliminary results we have applied in each review, as cooperative BIA, the higher of the highest rate ever applicable to Premier or the highest calculated rate in the same review.

2. Partial BIA

We are applying partial BIA to certain sales made by Jilin, Liaoning, Chin Jun, Guizhou and Henan. All of these companies were cooperative in these reviews, and we do not find these deficiencies sufficient to call into question the reliability of the data provided by these companies. However, we are lacking the necessary data for FMV calculations with respect to certain models sold in the United States by these companies. We do not have complete data for one model sold by Jilin in the fifth review, one model sold by Liaoning in the sixth review, and several models sold by Chin Jun in both reviews. We are also applying partial BIA to most of Guizhou's U.S. sales in the fifth review. Guizhou provided complete U.S. sales information, but we were unable to verify the factors of production for the merchandise that it purchased from one factory. We were, however, able to verify the factors for merchandise sold by Guizhou that was supplied by a second factory. As partial BIA, we applied to the relevant U.S. sales by Jilin, Liaoning, Chin Jun, and Guizhou the higher of the highest rate ever applicable to that company, or the highest rate calculated in the same review.

For the fourth review, Henan provided incomplete information with regard to one of the products it sold. For that product, reported factors of production information regarding gross weight, scrap weight, and direct labor were combined for cups and cones. Since cups and cones were sold separately, it was necessary to segregate these amounts. As BIA for that product, we allocated input weights of steel between the cup and cone on the basis of the relative weights of the finished cup and cone, which were reported separately. To allocate total direct labor hours to the cup, as BIA, we calculated the ratio of the average labor hours for cups for all other products sold by Henan to the average total labor hours for all other products, and applied this ratio to total direct labor hours for this particular product. We allocated the remainder of the total direct labor hours for this product to the cone.

For the cup and cone components of this same product, Henan failed to indicate the specific types of steel used and the distance from the steel mill to the TRB factory. As BIA for determining the steel types used in the production of this product, we have assumed that the same materials used for other products sold by Henan were also used for this product. As BIA for calculating freight costs, we have assumed the longest distance between the steel mills and TRB factories for steel used in the production of Henan's other TRBs (as reflected in Henan's response).

For all three reviews, although Henan supplied factors data for all models, it did not identify which of two producers supplied certain models that were sold by Henan to the United States during each POR. Accordingly, for sales of these models by Henan, we used as BIA the higher of the two possible FMVs for each product for the review period, based on the factors of production from the two suppliers, because the products may have been sourced from either of the two suppliers.

Preliminary Results of the Review

As a result of our comparison of the USP to FMV, we preliminarily determine that the following dumping margins exist:

Manufacturer/exporter	Margin (percent)		
	6/1/90 to 5/31/91	6/1/91 to 5/31/92	6/1/92 to 5/31/93
Premier Bearing and Equipment, Limited	[2] 15.61	[2] 23.76	23.76
Guizhou Machinery Import and Export Corporation	7.21	[2] 23.76	0.00
Henan Machinery and Equipment Import and Export Corporation	0.87	6.79	4.06
Luoyang Bearing Factory	0.78	0.61	0.00
Shanghai General Bearing Company, Ltd	0.51	0.00	0.00
Jilin Machinery Import and Export Corporation	15.61	4.89	0.00
Chin Jun Industrial Ltd	[1] 15.61	0.51	1.16
Wafangdian Bearing Factory	15.61	23.76	No sales
Liaoning Co., Ltd.	[1] 15.61	7.73	0.42

[1] This party did not respond to the questionnaire or did not respond to the supplemental questionnaire; therefore, as uncooperative BIA, we assigned the highest rate calculated in the investigation or in this or any other review of sales of subject merchandise from the PRC. This does not constitute a separate rate finding for this firm.

[2] As cooperative BIA, we assigned in each review the higher of (1) the highest rate ever applicable to that company in the investigation or any previous review; or (2) the highest calculated margin for any respondent that supplied an adequate response in the same review.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held approximately 44 days after the publication of this notice. Interested parties may submit written comments (case briefs) within 30 days of the date of publication of this notice. Rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, including the results of its analysis of issues raised in any such written comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) For the companies named above that have separate rates and were reviewed (Premier, Guizhou, Henan, Jilin, Luoyang, Shanghai, Liaoning, Chin Jun, and Wafangdian), the cash deposit rates will be the rates for these firms established in the final results of the sixth administrative review; (2) for Hubei and Guizhou Automotive, both of which we preliminarily determine to be entitled to separate rates, the rates will continue to be those that currently apply to these companies (8.83 percent for both); (3) for all remaining PRC exporters, all of which were found to not be entitled to separate rates, the cash deposit will be 23.76 percent; and (4) for other non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 C.F.R. 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 C.F.R. 353.22.

Dated: August 8, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–21199 Filed 8–24–95; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Notice of Area To Be Temporarily Avoided by the Public During Coral Rubble and Ship Debris Removal Activities in the Looe Key National Marine Sanctuary, Now Part of the Florida Keys National Marine Sanctuary

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), the U.S. Army Corps of Engineers (COE), and authorized contractors will be conducting coral rubble and ship debris removal activities to prevent and minimize the destruction, or loss of, or injury to Sanctuary resources. The coral rubble and ship debris were generated as a result of the August 10 to 12, 1994, R/V Columbus Iselin grounding incident within the Looe Key National Marine Sanctuary (Looe Key NMS), now part of the Florida Keys National Marine Sanctuary (Florida Keys NMS).

To ensure the protection of life and property during these complex activities the public is advised to avoid the area due to the presence of heavy equipment (i.e., barge and crane) and increased localized boat traffic. NOAA requests that Sanctuary users temporarily avoid an area approximately 900 square feet marked by visible construction buoys from on or about August 23 and August 31, 1995. The area is in the vicinity of 24°37′30″ N, 81°24′23″ W, a bank reef located 7 nautical miles (12.9 km) off the southwest tip of Big Pine Key, Florida.

FOR FURTHER INFORMATION CONTACT: Any comments on the establishment of the area to be temporarily avoided may be sent at any time during or after the effective dates specified below, to Dr. Charles M. Wahle, Chief, Technical Projects Branch, Sanctuaries and Reserves Division, National Oceanic and Atmospheric Administration, 1305 East West Highway, SSMC4, 12th Floor, Silver Spring, Maryland, 20910. Telephone number: 301–713–3145 ext. 156.

SUPPLEMENTARY INFORMATION: In accordance with the National Marine Sanctuaries Act (NMSA), Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA), and the Looe Key NMS regulations at 15 CFR Part 937, NOAA will be conducting restoration activities within a specified area within the Looe Key NMS on or about August 23 to August 31, 1995.

Background

On August 10 to 12, 1994, the R/V Columbus Iselin, a 155-foot oceanographic research vessel, ran aground on the western portion of Looe Key reef within the Looe Key NMS, now part of the FKNMS. The grounding site is a bank reef located 7 nautical miles (12.9 km) off the southwest tip of Big Pine Key, Florida (24°37′ N, 81°24′ W). The impact of the grounding and the shifting of the vessel over the two day period created larger scars on four of the Looe Key coral spurs. Significant injuries were inflicted to the coral reef colonies, substrate, and other resident marine organisms such as sponges and sea fans. Considerable amounts of unconsolidated coral rubble were generated by the impact and now rest in the channels (grooves) between and on top of the coral spurs. In addition to the debris, large sections of metal instrumentation shielding from the ship's hull (ship debris) was left behind on the seabed. The rubble and ship debris continue to threaten living resources in the vicinity of the grounding site, and pose safety risks to Sanctuary users.

Section 312(b)(1) of the NMSA authorizes NOAA to undertake all necessary actions to prevent or minimize the destruction or loss of, or injury to, Sanctuary resources. NOAA has determined that coral reef rubble and ship debris generated by this grounding continues to threaten living corals in the area and must be extracted safely from the site this summer. NOAA, COE and authorized contractors will implement rubble and ship debris removal work at the grounding site within the Looe Key NMS.

During the conduct of such activities, NOAA has deemed it necessary to request the public to temporarily avoid the 900 square foot area around the grounding site (24°37′ N, 81°24′ W) for the following reasons, to: protect the life and property of construction crew and Sanctuary users while heavy construction materials and equipment (e.g., barges and cranes) are in the area; protect moorings which will be used at the site to stabilize the barge; and protect the surface air supply hoses of the divers and SCUBA crew who will be conducting the rubble and ship debris removal activities; and to ensure timely and successful completion of rubble and ship debris removal.

This area to be temporarily avoided will be in effect no longer than necessary to complete the rubble and ship debris removal activities. It is the minimum area necessary to moor the barge and includes buffer zones to moor support vessels and provide an extra margin for public safety while completing these rubble and ship debris removal activities.

Locations and Boundaries of Temporary Avoidance Area

The temporary avoidance area is located approximately 7 nautical miles (12.9 kilometers) offshore the southwest tip of Big Pine Key, Florida (24°37′ N, 81°24′ W). The total area to be temporarily avoided is approximately 900 square feet, and is less than one percent of the total area of the Looe Key NMS. The boundary of this area will be marked by visible construction buoys.

The area to be temporarily avoided is bounded by the following coordinates:

Latitude	*Longitude*
A. 24°32′49.5″ N	81°24′25.6″ W
B. 24°32′49.5″ N	81°24′22.4″ W
C. 24°32′25.3″ N	81°24′22.4″ W
D. 24°32′25.3″ N	81°24′25.6″ W

Dates

The area to be temporarily avoided will be in effect from on or about August 23 to August 31, 1995, or until the construction marker buoys are removed at NOAA's direction if the work is completed prior to August 31, 1995. Public notice of the area to be temporarily avoided will be provided through the **Federal Register**, local news media, and posting of placards on bulletin boards in public areas in Big Pine Key and at Bahia Honda State Park. Notice of the removal of the area to be temporarily avoided will be issued by NOAA once the rubble and ship debris removal activities are completed.

Dated: August 21, 1995.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 95–21144 Filed 8–24–95; 8:45 am]

BILLING CODE 3510–08–M

[I.D. 072894C]

Marine Mammals

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

ACTION: Notice of completion of final marine mammal stock assessment reports and guidelines.

SUMMARY: The Marine Mammal Protection Act (MMPA) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessment reports for all marine mammal stocks that occur in waters under the jurisdiction of the United States. NMFS made draft stock assessment reports and preliminary guidelines available for public review and comment on August 9, 1994. Comments received from the public and from scientific review groups, also established under the MMPA, were reviewed and incorporated into the reports and guidelines as appropriate. Final reports and guidelines have now been completed. Electronic copies are currently available. Printed copies will be available when duplication has been completed.

ADDRESSES: Printed copies may be obtained by writing to: Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910–3226, Attn: Stock Assessments. Copies may also be obtained from one of the contacts below.

The reports and guidelines are stored as Wordperfect® 6.0/6.1 files and may be downloaded from the World Wide Web at the following address until September 30, 1995: http://kingfish.ssp.nmfs.gov:80/home-page.html.

FOR FURTHER INFORMATION CONTACT: Thomas C. Eagle, Office of Protected Resources, NMFS, at (301) 713–2322. Or, contact James A. Balsiger at (206) 526–4000, Alaska Fisheries Science Center (F/AKC), NMFS, 7600 Sand Point Way, NE BIN 15700, Seattle, WA 98115–0070 regarding Alaska regional stock assessments; James Lecky at (310) 980–4020, Southwest Regional Office (F/SWO3), NMFS, 501 West Ocean Boulevard, Long Beach, CA 90802–4213, regarding Pacific regional stock assessments; or Robert A. Blaylock at (305) 361–5761, Southeast Fisheries Science Center (F/SEC4), NMFS, 75 Virginia Beach Drive, Miami, FL 33149–1003, or Gordon Waring at (508) 548–5123, Northeast Fisheries Science Center, NMFS, 166 Water Street, Woods Hole, MA 02543–1097 for Atlantic regional stock assessments.

SUPPLEMENTARY INFORMATION:

Stock Assessment Reports

Section 117 of the MMPA (16 U.S.C. 1361 *et seq.*) requires NMFS and FWS to prepare stock assessments for each stock of marine mammals that occurs in waters under the jurisdiction of the United States. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock.

Although many of the items included in the reports were described explicitly in the MMPA, many elements, including a quantitative definition of the parameters used in calculating Potential Biological Removal levels (PBR), were defined only in general terms. To promote consistent interpretation of the provision of the law, NMFS and FWS convened a workshop in June, 1994, to develop preliminary guidelines to be used in preparing the draft stock assessments.

NMFS completed the guidelines and draft stock assessment reports, including preliminary consultation with the three regional Scientific Review Groups, and made them available for public review and comment on August 9, 1994 (59 FR 40527). During and subsequent to the public comment period, NMFS consulted extensively with Scientific Review Groups to discuss their comments, as well as the public's comments on the guidelines and individual reports. Reports were typically revised, as necessary, according to the results of these consultations. Final stock assessment reports have been completed and are available to the public. Electronic copies are currently available, and printed copies may be obtained when duplication has been completed.

Comments

NMFS received comments from a variety of sources, including state and Federal agencies, private citizens, and representatives of interest groups, on the draft stock assessment reports and preliminary guidelines for preparing reports. The primary sources of

comment and guidance were the three regional scientific review groups established under section 117 of the MMPA. NMFS and the review groups held a series of meetings to discuss the guidelines, general issues, and individual assessment reports.

The comments discussed below are limited to those that address the guidelines and general issues. Many of the recommendations duplicated others; therefore, individual comments were combined and addressed together below. Report-specific comments were considered by the authors of the reports and were incorporated, as appropriate.

Comments generally fell into one of the following categories: (1) Interpreting uncertainty in the reports; (2) completeness of the reports; (3) the apparent conservative nature of the elements in the PBR calculation; and (4) miscellaneous issues.

1. Interpreting Uncertainty in Reports

Comment: Uncertainty of biological information alone should not be the sole basis for a ''strategic'' determination; unknown values should not be interpreted as zero.

Response: NMFS proposed in the preliminary guidelines that an unknown abundance estimate (no recent, reliable data on population size exist) be interpreted as zero in calculating PBR. Such an approach was based upon the logic that no level of human-caused mortality could be determined as not causing a population to be depressed below its optimum sustainable population levels, if there was no documented information on population size or status. After detailed discussion with the Scientific Review Groups on this topic, NMFS accepted that in the event no data exist, the ''best available scientific information'' could be interpreted as consensus judgement of an independent review panel with expertise in marine mammal biology and populations, commercial fishing technology and practices, and marine mammals taken for subsistence uses (e.g., the Scientific Review Group). For this reason, in those cases where NMFS had no data regarding population size, the best estimate of minimum abundance, and resulting PBR, these items were listed as ''unknown.'' In general, status determination was based upon the judgement of NMFS scientists and the appropriate Scientific Review Group.

In some cases (e.g., California/Oregon/Washington sperm whales) abundance estimates were based upon surveys of only a portion of the range of the stock. When this occurred, NMFS used such survey data as the basis for the PBR calculation. Use of these estimates will flag cases where there is a potential for adverse impacts, and illustrate situations where additional data are necessary to be sure that a conservation problem does not occur.

Comment: Numerous comments stated that the practice of decreasing abundance estimates by 20 per cent per year after the fifth year is scientifically unjustifiable.

Response: Older information may not accurately reflect the current status of a stock and may form a poor basis for management decisions. NMFS, therefore, proposed that the additional uncertainty related to outdated abundance estimates be incorporated into the PBR calculation by adjusting the recovery factor (rather than abundance estimates) downward over time. This proposal was endorsed by the Scientific Review Groups and incorporated into the guidelines and into the final reports.

Comments: Several comments were directed at the quality of data necessary to delineate stock identification. Commenters believe that NMFS should not split stocks unless there are sufficient genetic data to document the need for a split.

Response: NMFS scientists noted that several lines of evidence could be used for stock identification. These include, but are not limited to, genetics, population response, distribution or movements of animals, morphology, and habitat differences. The preliminary guidelines noted that NMFS plans to use a small-unit foundation for stock identification and combine these small units only when compelling information is available. Such an approach was consistent with MMPA goals, particularly the goal of maintaining marine mammals as function elements of their ecosystem. No Scientific Review Group objected to the small-unit approach as an appropriate risk-averse method to identify stocks of marine mammals, although some individual review group members did object to the small-unit approach.

2. Completeness of reports

Comment: Several commenters believed that the draft reports contained insufficient discussion of available information regarding stock structure, abundance estimates, and annual mortality estimates.

Response: The draft reports were revised to discuss available information more completely and provide a rationale for the estimates used.

Comment: One commenter suggested that stock assessment reports should contain a complete discussion of the uncertainties in the available information, to note the research necessary to resolve these uncertainties, and to describe human-caused impacts to the habitats of marine mammal stocks. These topics are among the areas in which the Scientific Review Groups should advise NMFS.

Response: Although NMFS and the Scientific Review Groups have discussed many of the uncertainties related to status of marine mammal stocks and the research necessary to resolve these uncertainties, NMFS believes that the stock assessment reports are not the best place to discuss research needs. These needs would be addressed more appropriately in a long-term research plan that identifies and establishes priorities for needed research.

Habitat issues have not yet been fully discussed with the Scientific Review Groups. Initial meetings with the Scientific Review Groups focused, instead, on the basic requirements of stock assessment reports to facilitate the completion of the reports. Habitat issues will be among the topics covered in continuing discussion between NMFS and Scientific Review Groups.

3. Conservativeness of PBR Calculations

Comment: Several commenters stated that each of the elements of the PBR calculation is conservative and this conservative nature increases as the elements are multiplied.

Response: The elements of the PBR equation are specified in the MMPA. The minimum abundance estimate is defined as the estimated number in the population that provides reasonable assurance that the stock size is equal to or greater than the estimate; therefore, this term in the PBR calculation is, by definition, conservative when the estimate is marked by uncertainty. As reliability of supporting information increases, the minimum population estimate approaches the ''best'' or ''mean'' estimate.

The measure of productivity included in the MMPA, one half the maximum theoretical or estimated net productivity rate of the stock at a small population size, is not necessarily conservative. For example, the default value for one half of the maximum theoretical net productivity rate for pinniped stocks is 6 per cent. Several stocks of pinnipeds are declining (e.g., harbor seals and Steller sea lions in the Gulf of Alaska and Hawaiian monk seals). Because the theoretical value is positive, it cannot be considered conservative in these situations. Use of these values, however, has been determined appropriate for evaluating direct, human-caused

mortality because mortality and serious injury levels that are substantially lower than the calculated PBR indicate that human-caused mortality is not likely the cause of the decline.

The recovery factor accounts for uncertainty in human-related mortality estimates and in the additional uncertainty associated with outdated abundance estimates. Its inclusion is necessary to ensure that removals up to the PBR level will not cause a population or stock to decline below its optimum sustainable population. As uncertainty in mortality and abundance estimates diminishes, the recovery factors, thus PBR, may be increased.

In some cases, these elements of the PBR calculation could be considered conservative. However, the extent of the conservatism of each element considered alone or multiplied together, cannot be evaluated with available information. Therefore, the apparent conservatism of PBR levels that are derived from information with a high degree of uncertainty is appropriate to ensure that the stock assessment reports are consistent with the goals of the MMPA regarding the conservation of marine mammals. Based on simulations incorporating realistic levels of uncertainty, this combination of values was shown to have a high probability of meeting the goals of the MMPA without being overly conservative.

Comment: The use of theoretical estimates for maximum net productivity rates may result in an overestimate of actual productivity for some stocks; in these cases, NMFS should use the best available estimates of the current net productivity rate.

Response: The MMPA specifies that NMFS use one half of the maximum theoretical or estimated net productivity rate of the stock at small population size. ''Current'' net productivity rate is not a reliable estimate of the maximum net productivity rate when the population's status relative to its optimum sustainable population is unknown. Therefore, NMFS used the theoretical values of 4 per cent for cetaceans and 12 percent for pinnipeds that were included in the draft reports in cases where reliable estimates of maximum net productivity rate were not available.

Comment: Minimum population estimates should be adjusted for animals that were not seen on the surveys; correction factors need not be determined on a stock-specific basis.

Response: The preliminary guidelines for preparing stock assessment reports state that correction factors that adjust abundance estimates for animals that were not seen during survey efforts should be used only when the precision of the correction factor is known and can be incorporated into the minimum population estimate. Several commenters and the Alaska Scientific Review Group believed that the use of direct counts as estimates of minimum abundance would underestimate population size by a wide margin, and, even in cases where precision is unknown, correction factors could be incorporated into minimum population estimates if correction factors had been determined for other stocks of the same species and a relatively conservative correction factor could be selected. NMFS agrees, and several minimum population estimates for stocks in Alaska were increased by a correction factor that received consensus support from the Alaska Scientific Review Group. Such correction factors were not used in the Atlantic or Pacific stock assessment reports.

4. Miscellaneous Issues

Comment: The stock assessment reports are based upon the best available science and should not include policy decisions. That is, elements of the PBR calculation should not incorporate the goals of the MMPA.

Response: The MMPA specifies that stock assessment reports must be based upon the best available scientific information, and NMFS intends that subsequent management decisions will not affect the information that is included in the reports. Although no quantitative definition was provided for the elements of the PBR calculation and stock identification, the reports required a quantitative approach. With no specific guidance regarding the values to be used for each stock, NMFS and FWS had to use the general guidance contained in the MMPA and develop quantitative definitions that are consistent with its goals.

Comment: The recovery factor for certain species of marine mammals used for subsistence purposes has been increased above the 0.5 level used for stocks of unknown status. Such an approach seems to give the ''benefit of the doubt'' to subsistence harvest rather than marine mammal conservation.

Response: The PBR methodology was devised primarily to govern the taking of marine mammals incidental to commercial fisheries although such taking must be evaluated in the context of total human-caused mortality and serious injury. The recovery factor in the PBR calculation adds a level of conservatism to the calculation to compensate for uncertainty. In the case of bowhead whales, the available biological information was sufficiently precise and complete to justify raising the recovery factor. In other cases (e.g., beluga stocks in the Beaufort and Eastern Chukchi Seas) NMFS and the Alaska Scientific Review Group believed there was sufficient information to indicate that populations were stable even when subjected to human-caused mortality. Therefore, NMFS, in consultation with the Alaska Scientific Review Group, agreed to increase the recovery factor for some stocks of Alaskan marine mammals, even though the status of these stocks is unknown. The stocks affected by this decision include those that are used for subsistence purposes, but are not subjected to high levels of mortality incidental to fishing operations. Furthermore, recovery factors for other stocks (e.g., Steller sea lions, eastern stock) were increased after simulations indicated that the populations were stable or increasing in the presence of human-related mortality.

Comment: The draft stock assessment reports failed to take advantage of traditional or local knowledge of Alaska Natives.

Response: NMFS believes that it is appropriate to develop management programs for the status of stocks subject to subsistence harvests, but not significant commercial fisheries takes, through the co-management process, provided that process includes a sound research and management program to identify and address uncertainties concerning marine mammal stocks subject to subsistence harvests. Therefore, estimates of PBR and ''strategic'' or ''non-strategic'' determinations have not been made at this time for certain Alaskan marine mammal stocks that (a) are not listed as endangered or threatened under the Endangered Species Act (ESA) or listed as depleted under the MMPA; (b) are subject to subsistence harvests by Alaska Natives but where mortality and serious injury incidental to commercial fishing is absent or is a relatively minor contribution to total human-related mortality and injury; and, (c) where indicated in the draft reports, are believed to have a total estimated human-related mortality that may not be sustainable over the long-term. Three stocks met these criteria: Harbor seals in the Gulf of Alaska and beluga whales in Cook Inlet and Norton Sound.

Estimates for PBR and status determinations for such stocks will be determined from the analysis of scientific and other relevant information discussed during the co-management process; these estimates will maintain the intent of best available scientific information and reflect the degree of

uncertainty associated with the information obtained for these stocks. This approach will provide a starting point to incorporate traditional knowledge into science-based management. Such an approach would take full advantage of local insights and would result in a repeatable, systematic information-collection process upon which management decisions could be based.

Dated: August 9, 1995.

William W. Fox, Jr.,

Director, Protected Resources, National Marine Fisheries Service.

TABLE 1.—SUMMARY OF MARINE MAMMAL STOCK ASSESSMENT REPORTS FOR STOCKS OF MARINE MAMMALS THAT OCCUPY WATERS UNDER U.S. JURISDICTION

Species	Stock area	Region	NMFS center	N_{min}	R_{max}	Fr	PBR	Total annual mort.	Annual fish mort.	Strategic status
Steller sea lion	Western U.S.	AKA	AKC	42,536	0.12	0.3	766	555	41	Y
Steller sea lion	Eastern	AKA	AKC	23,533	0.12	0.75	1,059	8.0	4.0	Y
Northern fur seal	North Pacific	AKA	AKC	969,595	0.086	0.5	20,846	1,783	6.4	Y
Harbor seal	Southeast Alaska	AKA	AKC	32,745	0.12	1.0	1,965	1,643	[1] N/A	N
Harbor seal	Gulf of Alaska	AKA	AKC	[2] N/D	0.12	N/D	N/D	868	35	N/D
Harbor seal	Bering Sea	AKA	AKC	17,243	0.12	1.0	1,035	334	12	N
Spotted seal	Alaska	AKA	AKC	N/A	0.12	0.5	N/A	N/A	1.0	N
Bearded seal	Alaska	AKA	AKC	N/A	0.12	0.5	N/A	N/A	6.2	N
Ringed seal	Alaska	AKA	AKC	N/A	0.12	0.5	N/A	N/A	0.8	N
Ribbon seal	Alaska	AKA	AKC	N/A	0.12	0.5	N/A	N/A	0.4	N
Beluga	Beaufort Sea	AKA	AKC	38,194	0.04	1.0	764	160	0.0	N
Beluga	Eastern Chukchi Sea	AKA	AKC	3,710	0.04	1.0	74	65	0.0	N
Beluga	Norton Sound	AKA	AKC	N/D	0.04	N/D	N/D	147	0.0	N/D
Beluga	Bristol Bay	AKA	AKC	1,526	0.04	1.0	31	22	0.3	N
Beluga	Cook Inlet	AKA	AKC	N/D	0.04	N/D	N/D	N/A	0.0	N/D
Killer whale	Alaska and Washington inland waters, resident.	AKA	AKC	759	0.04	0.5	7.6	0.8	0.8	N
Killer whale	Alaska and Washington inland waters, transient.	AKA	AKC	245	0.04	0.5	2.4	0.8	0.8	N
Pacific white-sided dolphin.	North Pacific	AKA	AKC	486,719	0.04	0.5	4,867	1.1	1.1	N
Harbor porpoise	Alaska	AKA	AKC	24,635	0.04	0.5	246	33	33	N
Dall's porpoise	Alaska	AKA	AKC	76,874	0.04	1.0	1,537	41	41	N
Sperm whale	Alaska	AKA	AKC	N/A	0.04	0.1	N/A	0.0	0.0	Y
Baird's beaked whale	Alaska	AKA	AKC	N/A	0.04	0.5	N/A	0.0	0.0	N
Cuvier's beaked whale	Alaska	AKA	AKC	N/A	0.04	0.5	N/A	0.0	0.0	N
Stejnerger's beaked whale.	Alaska	AKA	AKC	N/A	0.04	0.5	N/A	0.0	0.0	N
Gray whale	Eastern North Pacific	AKA	AKC	21,715	0.04	1.0	434	0.3	0.3	N
Humpback whale	Western North Pacific	AKA	AKC	N/A	0.04	0.1	N/A	0.0	0.0	Y
Humpback whale	Central North Pacific	AKA	AKC	1,407	0.04	0.1	2.8	0.0	0.0	Y
Fin whale	N. Pacific	AKA	AKC	N/A	0.04	0.1	N/A	0.0	0.0	Y
Minke whale	Alaska	AKA	AKC	N/A	0.04	0.5	N/A	0.0	0.0	N
Northern right whale	North Pacific	AKA	AKC	N/A	0.04	0.1	0.0	0.0	0.0	Y
Bowhead whale	Western Arctic	AKA	AKC	7,524	0.04	0.5	[3] 75	42	0.0	Y
North Atlantic right whale	Western North Atlantic	ATL	NEC	295	0.025	0.1	0.4	2.6	1.6	Y
Humpback whale	Western North Atlantic	ATL	NEC	4,848	0.04	0.1	9.7	1.0	1.0	Y
Fin whale	Western North Atlantic	ATL	NEC	1,704	0.04	0.1	3.4	N/A	0.0	Y
Sei whale	Western North Atlantic	ATL	NEC	N/A	0.04	0.1	N/A	0.0	0.0	Y
Minke whale	Canadian east coast	ATL	NEC	2,053	0.04	0.5	21	2.5	2.5	N
Blue whale	Western North Atlantic	ATL	NEC	N/A	0.04	0.1	N/A	0.0	0.0	Y
Sperm whale	Western North Atlantic	ATL	NEC	226	0.04	0.1	0.5	1.6	1.6	Y
Dwarf sperm whale	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	N/A	N/A	Y
Pygmy sperm whale	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	N/A	N/A	Y
Killer whale	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	0.0	0.0	N
Pygmy killer whale	Western North Atlantic	ATL	SEC	6	0.04	0.5	0.1	0.0	0.0	N
Northern bottlenose whale.	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	0.0	0.0	N
Cuvier's beaked whale	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	34	[4] 34	Y
True's beaked whale	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	34	34	Y
Gervais' beaked whale	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	34	34	Y
Blainville's beaked whale	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	34	34	Y
Sowerby's beaked whale	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	34	34	Y
Risso's dolphin	Western North Atlantic	ATL	NEC	11,140	0.04	0.5	111	68	68	N
Pilot whale, long-finned (*Globicephala* spp.).	Western North Atlantic	ATL	NEC	3,537	0.04	0.4	28	109	[5] 109	Y
Pilot whale, short-finned	Western North Atlantic	ATL	NEC	457	0.04	0.5	3.7	109	[5] 109	Y
Atlantic white-sided dolphin.	Western North Atlantic	ATL	NEC	12,538	0.04	0.5	125	127	127	Y
White-beaked dolphin	Western North Atlantic	ATL	NEC	N/A	0.04	N/A	N/A	0.0	0.0	N
Common dolphin	Western North Atlantic	ATL	NEC	3,233	0.04	0.5	32	449	449	Y
Atlantic spotted dolphin	Western North Atlantic	ATL	NEC	4,885	0.04	0.1	N/A	[6] 31	[6] 31	Y

TABLE 1.—SUMMARY OF MARINE MAMMAL STOCK ASSESSMENT REPORTS FOR STOCKS OF MARINE MAMMALS THAT OCCUPY WATERS UNDER U.S. JURISDICTION—Continued

Species	Stock area	Region	NMFS center	N_{min}	R_{max}	Fr	PBR	Total annual mort.	Annual fish mort.	Strategic status
Pantropical spotted dolphin.	Western North Atlantic	ATL	NEC	N/A	N/A	N/A	N/A	[6] 31	[6] 31	Y
Striped dolphin	Western North Atlantic	ATL	NEC	9,165	0.04	0.4	73	63	63	N
Spinner dolphin	Western North Atlantic	ATL	NEC	N/A	N/A	N/A	N/A	1.0	1.0	N
Bottlenose dolphin	Western North Atlantic, offshore.	ATL	NEC	9,195	0.04	0.5	92	128	128	Y
Bottlenose dolphin	Western North Atlantic, coastal.	ATL	SEC	2,482	0.04	0.5	25	29	29	Y
Harbor porpoise	Gulf of Maine/Bay of Fundy.	ATL	NEC	40,297	0.04	0.5	403	1,876	1,876	Y
Harbor seal	Western North Atlantic	ATL	NEC	28,810	0.12	1.0	1,729	476	476	N
Gray seal	Northwest North Atlantic	ATL	NEC	2,035	0.12	1.0	122	4.5	4.5	N
Harp seal	Northwest North Atlantic	ATL	NEC	N/A	N/A	N/A	N/A	0.0	0.0	N
Hooded seal	Northwest North Atlantic	ATL	NEC	N/A	N/A	N/A	N/A	0.0	0.0	N
Sperm whale	Northern Gulf of Mexico	ATL	SEC	411	0.04	0.1	0.8	0.0	0.0	Y
Bryde's whale	Northern Gulf of Mexico	ATL	SEC	17	0.04	0.5	0.2	0.0	0.0	N
Cuvier's beaked whale	Northern Gulf of Mexico	ATL	SEC	20	0.04	0.5	0.2	0.0	0.0	N
Blainville's beaked whale	Northern Gulf of Mexico	ATL	SEC	N/A	N/A	N/A	N/A	0.0	0.0	N
Gervais' beaked whale	Northern Gulf of Mexico	ATL	SEC	N/A	N/A	N/A	N/A	0.0	0.0	N
Bottlenose dolphin	Gulf of Mexico, outer continental shelf.	ATL	SEC	43,233	0.04	0.5	432	2.8	[7] 2.8	N
Bottlenose dolphin	Gulf of Mexico, continental shelf edge and slope.	ATL	SEC	4,530	0.04	0.5	45	2.8	[7] 2.8	N
Bottlenose dolphin	Western Gulf of Mexico coastal.	ATL	SEC	2,938	0.04	0.5	29	13	[8 9] 13	N
Bottlenose dolphin	Northern Gulf of Mexico coastal.	ATL	SEC	3,518	0.04	0.5	35	10	[9] 10	N
Bottlenose dolphin	Eastern Gulf of Mexico coastal.	ATL	SEC	8,963	0.04	0.5	90	8	[9] 8	N
Bottlenose dolphin	Gulf of Mexico bay, sound, and estuarine [10].	ATL	SEC	3,934	0.04	0.5	39.7	30	[9] 30	Y
Atlantic spotted dolphin	Northern Gulf of Mexico	ATL	SEC	2,255	0.04	0.5	23	[5] 1.5	[5] 1.5	N
Pantropical spotted dolphin.	Northern Gulf of Mexico	ATL	SEC	26,510	0.04	0.5	265	[5] 1.5	[5] 1.5	N
Striped dolphin	Northern Gulf of Mexico	ATL	SEC	3,409	0.04	0.5	34	0.0	0.0	N
Spinner dolphin	Northern Gulf of Mexico	ATL	SEC	4,465	0.04	0.5	45	0.0	0.0	N
Rough-toothed dolphin	Northern Gulf of Mexico	ATL	SEC	660	0.04	0.5	6.6	0.0	0.0	N
Clymene dolphin	Northern Gulf of Mexico	ATL	SEC	4,120	0.04	0.5	41	0.0	0.0	N
Fraser's dolphin	Northern Gulf of Mexico	ATL	SEC	66	0.04	0.5	0.7	0.0	0.0	N
Killer whale	Northern Gulf of Mexico	ATL	SEC	197	0.04	0.5	2.0	0.0	0.0	N
False killer whale	Northern Gulf of Mexico	ATL	SEC	236	0.04	0.5	2.4	0.0	0.0	N
Pygmy killer whale	Northern Gulf of Mexico	ATL	NEC	285	0.04	0.05	2.8	0.0	0.0	N
Dwarf sperm whale	Northern Gulf of Mexico	ATL	SEC	N/A	0.04	N/A	N/A	0.0	0.0	Y
Pygmy sperm whale	Northern Gulf of Mexico	ATL	SEC	N/A	0.04	N/A	N/A	0.0	0.0	Y
Melon-headed whale	Northern Gulf of Mexico	ATL	SEC	2,888	0.04	0.5	29	0.0	0.0	N
Risso's dolphin	Northern Gulf of Mexico	ATL	SEC	2,199	0.04	0.5	22	19	19	N
Pilot whale, short-finned	Northern Gulf of Mexico	ATL	SEC	186	0.04	0.5	1.9	0.3	0.3	N
California sea lion	U.S.	PAC	SWC	84,195	0.12	1.0	5,052	2,446	2,446	N
Harbor seal	California	PAC	SWC	32,798	0.12	1.0	1,968	729	729	N
Harbor seal	Oregon/Washington coast	PAC	AKC	28,322	0.12	1.0	1,699	233	233	N
Harbor seal	Washington inland waters	PAC	AKC	13,053	0.12	1.0	783	29	29	N
Northern elephant seal	California breeding	PAC	SWC	42,000	0.086	1.0	1,743	166	166	N
Guadalupe fur seal	Mexico to California	PAC	SWC	3,028	0.137	0.5	104	0.0	0.0	Y
Northern fur seal	San Miguel Island	PAC	AKC	10,536	0.086	0.5	227	0.0	0.0	N
Hawaiian monk seal	Hawaii	PAC	SWC	1,300	0.06	0.1	[11] 3.9	N/A	N/A	Y
Harbor porpoise	Central California	PAC	SWC	3,430	0.04	0.5	34	31	31	N
Harbor porpoise	Northern California	PAC	SWC	7,640	0.04	0.5	76	0.0	0.0	N
Harbor porpoise	Oregon/Washington coast	PAC	AKC	22,049	0.04	0.5	220	14	14	N
Harbor porpoise	Inland Washington	PAC	AKC	2,680	0.04	0.5	27	16	16	N
Dall's porpoise	California/Oregon/Washington.	PAC	SWC	58,902	0.04	0.5	589	36	36	N
Pacific white-sided dolphin.	California/Oregon/Washington.	PAC	SWC	82,939	0.04	0.5	829	28	28	N
Risso's dolphin	California/Oregon/Washington.	PAC	SWC	22,388	0.04	0.5	224	39	39	N
Bottlenose dolphin	California coastal	PAC	SWC	245	0.04	0.5	2.5	0.0	0.0	N
Bottlenose dolphin	California/Oregon/ Washington offshore.	PAC	SWC	1,775	0.04	0.5	18	7.7	7.7	N

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Species	Stock area	Region	NMFS center	N_{min}	R_{max}	Fr	PBR	Total annual mort.	Annual fish mort.	Strategic status
Striped dolphin	California/Oregon/Washington.	PAC	SWC	13,639	0.04	0.5	136	0.0	0.0	N
Common dolphin, short-beaked.	California/Oregon/Washington.	PAC	SWC	179,185	0.04	0.5	1,792	316	[12] 316	N
Common dolphin, long-beaked.	California	PAC	SWC	5,636	0.04	0.5	56	23	[12] 23	N
Northern right whale dolphin.	California/Oregon/Washington.	PAC	SWC	15,080	0.04	0.5	151	46	46	N
Killer whale	California/Oregon/Washington.	PAC	SWC	139	0.04	0.5	1.4	0.0	0.0	N
Pilot whale, short-finned	California/Oregon/Washington.	PAC	SWC	N/A	0.04	0.5	N/A	36	36	Y
Baird's beaked whale	California/Oregon/Washington.	PAC	SWC	19	0.04	0.5	0.2	0	[13] 0	Y
Mesoplodont beaked whales.	California/Oregon/Washington.	PAC	SWC	136	0.04	0.5	1.4	7.7	7.7	Y
Cuvier's beaked whale	California/Oregon/Washington.	PAC	SWC	886	0.04	0.5	8.9	24	24	Y
Pygmy sperm whale	California/Oregon/Washington.	PAC	SWC	481	0.04	0.5	4.8	5.7	5.7	Y
Dwarf sperm whale	California/Oregon/Washington.	PAC	SWC	N/A	0.04	0.5	N/A	0.0	0.0	N
Sperm whale	California to Washington	PAC	SWC	512	0.04	0.1	1.0	17	17	Y
Humpback whale	California/Mexico	PAC	SWC	563	0.04	0.1	0.5	1.16	0.5	Y
Blue whale	California/Mexico	PAC	SWC	1,709	0.04	0.1	1.7	N/A	N/A	Y
Fin whale	California to Washington	PAC	SWC	575	0.04	0.1	1.1	<1	0.0	Y
Bryde's whale	Eastern Tropical Pacific	PAC	SWC	11,163	0.04	0.5	[14] 0.5	N/A	0.0	N
Sei whale	Eastern North Pacific	PAC	SWC	N/A	0.04	0.1	N/A	N/A	0.0	Y
Minke whale	California/Oregon/Washington.	PAC	SWC	265	0.04	0.5	2.6	0.5	0.5	N
Rough-Toothed dolphin	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Risso's dolphin	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Bottlenose dolphin	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Pantropical spotted dolphin.	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Spinner dolphin	Hawaii	PAC	SWC	677	0.04	0.5	6.8	N/A	N/A	N
Striped dolphin	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Melon-headed whale	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Pygmy killer whale	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
False killer whale	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Killer whale	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Pilot whale, short-finned	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Blainville's beaked whale	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Cuvier's beaked whale	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Pygmy sperm whale	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Dwarf sperm whale	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	N/A	N/A	N
Sperm whale	Hawaii	PAC	SWC	N/A	0.04	0.1	N/A	N/A	N/A	Y
Blue whale	Hawaii	PAC	SWC	N/A	0.04	0.1	N/A	N/A	N/A	Y
Fin whale	Hawaii	PAC	SWC	N/A	0.04	0.1	N/A	N/A	N/A	Y
Bryde's whale	Hawaii	PAC	SWC	N/A	0.04	0.5	N/A	0.0	0.0	N

The following is a summary of the stock assessment reports prepared by FWS for marine mammals under FWS authority. The full reports will be made available by FWS.

Polar bear	Chukchi and Bering Seas: Alaska and Russia.	AKA	FWS Region 7	N/A	N/A	1.0	N/A	55	0.0	N
Polar bear	Beaufort Sea: Alaska and Canada.	AKA	FWS Region 7	1,579	0.06	1.0	[15] 72	63	0.0	N
Sea otter	Alaska	AKA	FWS Region 7	100,000	0.2	1.0	10,000	506	<1	N
Pacific walrus	Alaska and Russia	AKA	FWS Region 7	188,316	0.08	1.0	7,533	5,894	16	N
West Indian manatee	SE USA (Florida)	ATL	FWS Region 4	1,822	0.04	0.1	3	[16] 49	<1	Y
West Indian manatee	Antillean (Puerto Rico)	ATL	FWS Region 4	86	0.04	0.1	0	2	N/A	Y
Southern sea otter	Central Calif. and San Nicolas Island.	PAC	FWS Region 1	2,376	0.06	0.1	[17] N/AP	N/A	N/A	Y

TABLE 1.—SUMMARY OF MARINE MAMMAL STOCK ASSESSMENT REPORTS FOR STOCKS OF MARINE MAMMALS THAT OCCUPY WATERS UNDER U.S. JURISDICTION—Continued

Species	Stock area	Region	NMFS center	N_{min}	R_{max}	Fr	PBR	Total annual mort.	Annual fish mort.	Strategic status
Sea otter	Neah Bay to Destruction Island, WA.	PAC	FWS Region 1	360	0.12	0.5	11	N/A	N/A	N

[1] Logbook records indicate commercial fisheries cause a minimum annual mortality of 6 seals for this stock. N/A means that actual estimates are unknown or not available.
[2] N/D indicates an estimate was not determined. NMFS will determine these values after considering relevant information through the co-management process with affected Alaska Native organizations.
[3] The IWC subsistence quota is not affected by the calculation of PBR using the formula specified in the MMPA.
[4] This is the average mortality of beaked whales (*Mesoplodon* sp.) based on 5 years of observer data. This annual mortality rate includes an unknown number of Cuvier's beaked whales.
[5] Mortality data are not separated by species; therefore, species-specific estimates are not available. The mortality estimate represents both short- and long-finned pilot whales.
[6] This value includes either or both of *Stenella frontalis* or *Stenella attenuata.*
[7] This value may include either or both of the Gulf of Mexico, continental shelf edge and slope and the outer continental shelf stocks of bottlenose dolphins.
[8] Low levels of bottlenose dolphin mortality (0–4 per year) incidental to commercial fisheries have been reported. It is unknown to which stock this mortality can be attributed.
[9] Estimates derived from stranded animals with signs of fishery interactions, and these could be either coastal or estuary stocks.
[10] This entry encompasses 33 stocks of bottlenose dolphins. All stocks are considered strategic; see the full report for information on individual stocks. The listed estimates for abundance, PBR and mortality are sums across all bays, sounds, and estuaries.
[11] Although the calculated PBR is 3.9, the allowable take is zero due to findings under the ESA.
[12] This value includes 6 animals that could not be specified as either short- or long-beaked common dolphins.
[13] Mortality for 1991–1993 was zero; two Baird's beaked whales were observed taken in 1994. This exceeds PBR.
[14] This PBR has been adjusted because only 0.5% of this stock is estimated to be in U.S. waters.
[15] Adjusted upward to 72 animals from the calculated PBR of 48 to reflect the approximate 2 male: 1 female sex ratio of the harvest.
[16] Estimated average human-caused mortality for the West Indian manatee-Florida stock from 1984–1992. The estimated average annual human-caused mortality from 1974–1992 is 36 animals.
[17] N/AP means not applicable. Although the calculated PBR is 7, incidental take is not governed under section 118 or 101(a)(5)(E) of the MMPA.

[FR Doc. 95–21091 Filed 8–24–95; 8:45 am]
BILLING CODE 3510–22–W

National Technical Information Service

NTIS Advisory Board Meeting

AGENCY: National Technical Information Service, Technology Administration, U.S. Department of Commerce.

ACTION: Notice of Partially Closed Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Technical Information Service Advisory Board (the ''Board'') will meet on Monday, October 2, 1995, from 9:00 a.m. to 4:00 p.m. and on Tuesday, October 3, 1995, from 9:00 a.m. to 4:00 p.m. The session on Tuesday, October 3, 1995 will be closed to the Public.

The Board was established under the authority of 15 U.S.C. 3704b(c), and was Chartered on September 15, 1989. The Board is composed of five members appointed by the Secretary of Commerce who are eminent in such fields as information resources management, information technology, and library and information services. The purpose of the meeting is to review and make recommendations regarding general policies and operations of NTIS, including policies in connection with fees and charges for its services. The agenda will include a progress report on NTIS activities, an update on the progress of FedWorld, and a discussion of NTIS' long range plans. The closed session discussion is scheduled to begin at 9:00 a.m. and end at 4:00 p.m. on October 3, 1995. The session will be closed because premature disclosure of the information to be discussed would be likely to significantly frustrate implementation of NTIS' business plan.

DATES: The meeting will convene on October 2, 1995 at 9:00 a.m. and adjourn at 4:00 p.m. and convene again on October 3, 1995 at 9:00 a.m. and adjourn at 4:00 p.m.

ADDRESSES: The meeting will be held in The Franklin Room, The Latham Hotel, 3000 M Street, Washington, DC 20007.

PUBLIC PARTICIPATION: The meeting will be open to public participation on October 2, 1995 and closed on October 3, 1995. Approximately thirty minutes will be set aside on October 2, 1994 for comments or questions as indicated in the agenda. Seats will be available for the public and for the media on a first-come, first-served basis. Any member of the public may submit written comments concerning the Board's affairs at any time. Copies of the minutes, of the open session meeting, will be available within thirty days of the meeting from the address given below.

FOR FURTHER INFORMATION CONTACT: Linda Lucas, NTIS Advisory Board Secretary, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Telephone: (703) 487–4636; Fax (703) 487–4093.

Dated: August 21, 1995.

Donald R. Johnson,

Director.

[FR Doc. 95–21092 Filed 8–24–95; 8:45 am]
BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment and Establishment of Import Restraint Limits and Restraint Periods for Certain Cotton and Wool Textile Products Produced or Manufactured in Uruguay

August 22, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending and establishing limits and restraint periods.

EFFECTIVE DATE: August 30, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, 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 or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC) and the Uruguay Round Agreements Act, the current restraint period agreed upon by the Governments of the United States and Uruguay is being amended and new limits are being established for the period beginning on January 1, 1995 and extending through December 31, 1995. Since Uruguay is now a member of the World Trade Organization (WTO), the limits published in the **Federal Register** on December 20, 1994 (59 FR 65530) are being amended. Pursuant to the ATC, these new limits supersede those notified to the TMB contained in the Bilateral Cotton and Wool Textile Agreement, effected by exchange of notes dated December 30, 1983 and January 23, 1984, as amended and extended, between the Governments of the United States and Uruguay.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the current restraint period and establish new limits for the period beginning on July 1, 1994 and extending through December 31, 1994 and the period beginning on January 1, 1995 and extending through December 31, 1995.

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 59 FR 65531, published on December 20, 1994).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the ATC, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 22, 1995.

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 14, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and wool textile products, produced or manufactured in Uruguay and exported during the twelve-month period beginning on July 1, 1994 and extending through June 30, 1995.

Effective on August 30, 1995, you are directed, pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), to amend the restraint period to end on December 31, 1994 at the limits listed below. These limits supersede those contained in the Bilateral Cotton and Wool Textile Agreement, effected by exchange of notes dated December 30, 1983 and January 23, 1984, as amended and extended, between the Governments of the United States and Uruguay.

Category	Six-month restraint limit [1]
334	58,515 dozen.
335	50,372 dozen.
410	1,384,075 square meters of which not more than 790,901 square meters shall be in Category 410–A [2] and not more than 1,274,228 square meters shall be in Category 410–B [3]
433	8,265 dozen.
434	12,330 dozen.
435	24,901 dozen.
442	17,615 dozen.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1994.

[2] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[3] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.2030, 5112.11.2060, 5112.19.9010, 5112.19.9020, 5112.19.9030, 5112.19.9040, 5112.19.9050, 5112.19.9060, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 30, 1995, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in the following categories, produced or manufactured in Uruguay and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995, in excess of the following limits. These limits supersede those contained in the Bilateral Cotton and Wool Textile Agreement, effected by exchange of notes dated December 30, 1983 and January 23, 1984, as amended and extended, between the Governments of the United States and Uruguay.

Category	Twelve-month restraint limit [1]
334	122,246 dozen.
335	105,235 dozen.
410	2,788,878 square meters of which not more than 1,593,646 square meters shall be in Category 410–A [2] and not more than 2,567,538 square meters shall be in Category 410–B [3]
433	16,653 dozen.
434	24,844 dozen.
435	50,174 dozen.
442	35,493 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[3] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.2030, 5112.11.2060, 5112.19.9010, 5112.19.9020, 5112.19.9030, 5112.19.9040, 5112.19.9050, 5112.19.9060, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

Imports charged to these category limits for the period July 1, 1994 through December 31, 1994 shall be charged against those levels of restraint to the extent of any unfilled

balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive. Import charges will be provided at a later date.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the ATC and any administrative arrangements between the Governments of the United States and Uruguay.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–21204 Filed 8–24–95; 8:45 am]

BILLING CODE 3510–DR–F

Establishment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in the Philippines

August 22, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6713. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A notice published in the **Federal Register** on June 23, 1995 (60 FR 32657) announces that if no solution is agreed upon in consultations between the Governments of the United States and the Philippines on Category 444, the Committee for the Implementation of Textile Agreements may establish a limit at a level of not less than 74,874 dozen for the twelve-month period beginning on May 31, 1995 and extending through May 30, 1996.

Inasmuch as no agreement was reached during the consultation period on a mutually satisfactory solution, the United States Government has decided to control imports in Category 444 for the prorated period beginning on May 31, 1995 and extending through December 31, 1995 at a level of 43,983 numbers. Category 444 shall remain subject to the Group II limit.

This action is taken in accordance with the Uruguay Round Agreement on Textiles and Clothing and the Uruguay Round Agreements Act.

The United States remains committed to finding a solution concerning Category 444. Should such a solution be reached in consultations with the Government of the Philippines, further notice will be published in the **Federal Register**.

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 59 FR 65531, published on December 20, 1994). Also see 60 FR 17334, published on April 5, 1995.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 22, 1995.

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 March 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the period beginning on January 1, 1995 and extending through December 31, 1995.

Effective on August 28, 1995, you are directed, pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, to establish a limit at 43,983 numbers [1] for textile products in Category 444, produced or manufactured in the Philippines and exported during the period beginning on May 31, 1995 and extending through December 31, 1995.

Textile products in Category 444 shall remain subject to the Group II limit established in the directive dated March 30, 1995 for the period January 1, 1995 through December 31, 1995.

Textile products in Category 444 which have been exported to the United States prior to May 31, 1995 shall not be subject to this directive.

Import charges will be provided at a later date.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–21205 Filed 8–24–95; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after May 30, 1995.

Establishment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

August 22, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A notice published in the **Federal Register** on June 22, 1995 (60 FR 32509) announces that if no solution is agreed upon in consultations between the Governments of the United States and Guatemala on Categories 342/642, the Committee for the Implementation of Textile Agreements may establish a limit at a level of not less than 319,417 dozen for the twelve-month period beginning on May 31, 1995 and extending through May 30, 1996.

Inasmuch as no agreement was reached during the consultation period

on a mutually satisfactory solution, the United States Government has decided to control imports in Categories 342/642 for the period beginning on May 31, 1995 and extending through May 30, 1996 at a level of 319,417 dozen.

This action is taken in accordance with the Uruguay Round Agreement on Textiles and Clothing and the Uruguay Round Agreements Act.

The United States remains committed to finding a solution concerning Categories 342/642. Should such a solution be reached in consultations with the Government of Guatemala, further notice will be published in the **Federal Register**.

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 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 28, 1995, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 342/642, produced or manufactured in Guatemala and exported during the period beginning on May 31, 1995 and extending through May 30, 1996, in excess of 319,417 dozen [1].

Textile products in Categories 342/642 which have been exported to the United States prior to May 31, 1995 shall not be subject to this directive.

For the import period May 31, 1995 through June 19, 1995, you are directed to charge the following amounts to the limit established in this directive for Categories 342/642. Additional charges may be provided at a later date.

Category	Amount to charge
342	5,988 dozen.
642	7,207 dozen.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.95–21206 Filed 8–24–95; 8:45 am]

BILLING CODE 3510–DF

[1] The limit has not been adjusted to account for any imports exported after May 30, 1995.

Amendment of Export Visa Requirements for Certain Cotton and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in El Salvador

August 21, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa requirements.

EFFECTIVE DATE: September 1, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Effective on September 1, 1995, a visa shall be required for goods in Categories 351, 651, 352 and 652 which are produced or manufactured in El Salvador and exported from El Salvador on and after September 1, 1995. Shipments of goods in Categories 351, 651, 352 and 652 may be visaed as merged Categories 351/651 and 352/652 or the correct category corresponding to the actual shipment. Goods exported during the period September 1, 1995 through September 30, 1995 shall not be denied entry for lack of a visa.

See 60 FR 2740, published on January 11, 1995.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 21, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229. 1

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 6, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton and man-made fiber textile products, produced or manufactured in El Salvador which were not properly visaed by the Government of El Salvador.

Effective on September 1, 1995, you are directed to require a visa for goods in Categories 351, 651, 352 and 652 which are produced or manufactured in El Salvador and exported from El Salvador on and after September 1, 1995. Shipments of goods in Categories 351, 651, 352 and 652 may be visaed as merged Categories 351/651 and 352/652 or the correct category corresponding to the actual shipment. Goods exported during the period September 1, 1995 through September 30, 1995 shall not be denied entry for lack of a visa.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–21212 Filed 8–24–95; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

August 21, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6703. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 642 is being increased by application of swing. As a result, the limit for Category 642, which is currently filled, will re-open.

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 59 FR 65531, published on December 20, 1994). Also see 59 FR 65760, published on December 21, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 21, 1995.

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 16, 1994, 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 textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on August 28, 1995, you are directed to amend further the directive dated December 16, 1994 to increase the limit for Category 642 to 291,228 dozen [1], as provided under the terms of the bilateral agreement between the Governments of the United States and the People's Republic of China.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–21210 Filed 8–24–95; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1994.

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bahrain

August 21, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, 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 or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased for carryover.

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 59 FR 65531, published on December 20, 1994). Also see 60 FR 17317, published on April 5, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 21, 1995.

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 March 30, 1995, 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 textile products, produced or manufactured in Bahrain and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on August 28, 1995, you are directed to increase the limits for the following categories, as provided under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Group I	
237, 239, 330–336, 338, 339, 340–342, 345, 347, 348–354, 359, 431–436, 438–440, 442–448, 459, 630–636, 638, 639, 640–647, 648, 649, 650–654, 659, 831–836, 838, 839, 840, 842–847, 850–852, 858 and 859, as a group.	37,945,350 square meters equivalent.
Sublevels in Group I	
338/339	484,131 dozen.
340/640	252,969 dozen of which not more than 189,727 dozen shall be in Categories 340–Y/640–Y [2].

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–21213 Filed 8–25–95; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits and a Guaranteed Access Level for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

August 21, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting import limits and a guaranteed access level.

EFFECTIVE DATE: August 28, 1995.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the

Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for special shift and swing. Also, on the request of the Government of the Dominican Republic, the Government of the United States has agreed to increase the 1995 guaranteed access level for Category 448.

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 59 FR 65531, published on December 20, 1994). Also see 60 FR 17321, published on April 5, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 21, 1995.

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 March 30, 1995, 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 the Dominican Republic and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on August 28, 1995 , you are directed to adjust the limits for the following categories, as provided under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
338/638	754,829 dozen.
339/639	745,777 dozen.
342/642	410,852 dozen.
351/651	894,857 dozen.
448	34,741 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

The guaranteed access levels (GALs) for Categories 338/638, 339/639, 342/642 and 351/651 remain unchanged. The current GAL for Category 448 shall be increased to 80,000 dozen.

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,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–21214 Filed 8–24–95; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

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

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete services previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 25, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

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

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

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

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

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

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

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Securities & Exchange Commission Confidential Microfiche (GPO Program C557–S)
7690–00–NSH–0083
(Requirements for the Securities and Exchange Commission)
NPA: Alliance, Inc., Baltimore, Maryland

Case, Flag
8345–00–178–8492
NPA: North Bay Rehabilitation Services, Inc., San Rafael, California at its facility in Rohnert Park, California

Vest, High Visibility
8415–01–394–0216
NPA: The Lighthouse for the Blind, Inc., Seattle, Washington

Garlic Powder
8950–01–254–2691
NPA: Continuing Developmental Services, Inc., Fairport, New York

Services

Grounds Maintenance, Naval Supply Center, SW Division & various activities, Naval Station, San Diego, California

NPA: Association for Retarded Citizens—San Diego, San Diego, California
Janitorial/Custodial, Edward Hines, Jr. VA Hospital, VABDC Building #215, Hines, Illinois
NPA: Jewish Vocational Service & Employment Center, Chicago, Illinois
Janitorial/Custodial, Parkersburg U.S. Army Reserve Center, 4603 Camden Avenue, Parkersburg, West Virginia
NPA: SW Resources, Inc., Parkersburg, West Virginia
Janitorial/Custodial, Parkersburg AMSA, 4605 Camden Avenue, Parkersburg, West Virginia
NPA: SW Resources, Inc., Parkersburg, West Virginia
Janitorial/Custodial, Valley Grove AMSA, Valley Grove, West Virginia
NPA: Ohio County Council for Retarded Children, Inc., Wheeling, West Virginia
Switchboard Operation, Department of Veterans Affairs Medical Center, Decatur, Georgia
NPA: The Bobby Dodd Center, Inc., Atlanta, Georgia

Deletions

If the Committee approves the proposed deletions, all entities of the Federal Government will no longer be required to procure the services listed below from nonprofit agencies employing people who are blind or have other severe disabilities.

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

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action does not appear to have a severe economic impact on future contractors for the services.

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

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

The following services have been proposed for deletion from the Procurement List:

Janitorial/Custodial, Henry R. Koen Federal Building, W. Main and Fargo Street, Russellville, Arkansas
Janitorial/Custodial, Area C, Wright-Patterson Air Force Base, Ohio

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–21196 Filed 8–24–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Additions

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

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: September 25, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

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

SUPPLEMENTARY INFORMATION: On February 17, March 31, April 14, June 23, 30 and July 7, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (60 FR 9326, 16625, 19027, 32659, 34235 and 35380) of proposed additions to the Procurement List.

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

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

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

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

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

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Mop, Sponge and Refill
7920–01–383–7799
7920–01–383–7927

Services

Customer Service Representatives, General Services Administration, Customer Supply and Industrial Products Center, Springfield, Virginia

(Remaining 60% of the Government's requirement)

Food Service Attendant, Naval Air Station, Cecil Field, Florida

Grounds Maintenance, Basewide, Fort Huachuca, Arizona

Grounds Maintenance, Bureau of Engraving and Printing, Fort Worth, Texas

Janitorial/Custodial, Pentagon Building, Basement and Mezzanine Floors (except restrooms), Washington, DC

Janitorial/Custodial, Department of Veterans Affairs Medical Center, 7305 N. Military Trail, West Palm Beach, Florida

Janitorial/Custodial, Bureau of Engraving and Printing, Fort Worth, Texas

Janitorial/Custodial, Federal Building, 200 4th Street SW., Huron, South Dakota

Vehicle Maintenance, McClellan Air Force Base, California

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

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–21197 Filed 8–24–95; 8:45 am]

BILLING CODE 6820–33–P

"Proposed Additions and Deletion to the Procurement List" Correction

In the document appearing on page 41060, FR Doc. 95–19916, in the issue of August 11, 1995, in the third column, the phrase stating (up to 46,000 annually) should read (The nonprofit agency will provide a cumulative total of up to 46,000 of the above items annually under Special Item Number 342–312 on Federal Supply Schedule 75 IIA).

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–21195 Filed 8–24–95; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Assessment and Finding of No Significant Impact for the Transfer of Administrative Control and Relinquishment of Approximately 13,150 Acres of Fort Wingate Army Depot

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: In accordance with Public Law 100–526, the Defense Authorizations and Amendments and Base Closure and Realignment Act of 1988, the Defense Base Closure and Realignment Commission recommended the closure of Fort Wingate Army Depot (FWAD), New Mexico. This recommendation became law on January 5, 1989. The Department of Defense will transfer administrative control and relinquishment of approximately 13,150 acres of the approximately 22,000 acre Fort Wingate Army Depot. The Secretary of Defense has determined that no further military need for this portion of the property exists and the Secretary of the Interior has agreed that the lands are suitable for return to the public domain. The relinquishment of this property to the Department of the Interior is required by the Federal Land Policy and Management Act of 1976 (43 United States Code Annotated (USCA) 1701 *et seq.*).

The environmental assessment evaluates the environmental impacts associated with the transfer of administrative control and relinquishment of approximately 13,150 acres of the approximately 22,000 FWAD.

The action will not alter the baseline environmental conditions at FWAD. No construction, mission change, demolition or other such physical actions will occur. Therefore, there would be no impacts on air quality, transportation, water supply, wastewater systems, solid waste, infrastructure, energy, communications, and socioeconomic resources such as housing, schools, and health and safety services. Accordingly, a Finding of No Significant Impact has been prepared.

DATES: Inquiries will be accepted within 15 days of the publication of this Notice of Availability.

ADDRESSES: Copies of the Environmental Assessment and Finding of No Significant Impact can be obtained by writing to the U.S. Army Corps of Engineers, Mobile District, ATTN: CESAM–PD–EC (Mr. Doug Nester), Mobile, Alabama 36628–0001 or by calling Mr. Nester at 334–694–3854 within 15 days of the date of the publication of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Nester at 334–694–3854.

Dated: August 18, 1995.

Raymond J. Fatz,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 95–21198 Filed 8–24–95; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Telecommunications Service Priority System Oversight Committee

AGENCY: Department of Defense, National Communications System.

ACTION: Notice of meeting.

A meeting of the Telecommunications Service Priority (TSP) System Oversight Committee will convene Wednesday, September 13, 1995 from 9 a.m. to 4:30 p.m. The meeting will be held at Sprint International, 12524 Sunrise Valley Drive, Reston, VA.

—Opening/Administrative Remarks
—Review April 20–21, 1995 Meeting Summary
—TSP Program Office Activities
—TSP Outreach Activities
—Reconciliation/Revalidation Process
—Cellular Priority Access Service Update
—Telecommunications Legislation
—New Technology Briefing
—Old Business/New Business

Anyone interested in attending or presenting additional information to the Committee, please contact the LCDR Angela Abrahamson, Manager, TSP Program Office, (703) 607–4930, or Betty Hoskin (703) 607–4932 by August 25, 1995.

Dated: August 21, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–21100 Filed 8–24–95; 8:45 am]

BILLING CODE 5000–04–M

Privacy Act of 1974; Notice to Amend a Record System

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Notice to amend a record system.

SUMMARY: The Office of the Secretary of Defense proposes to amend one system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on September 25, 1995, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Chief, Records Management and Privacy Act Branch, Washington Headquarter Services, Correspondence and Directives, Directives and Records Division, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 695–0970 or DSN 225–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Office of the Secretary of Defense proposes to amend one system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report. The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety.

Dated: August 14, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS P27

SYSTEM NAME:

Department of Defense (DOD) Pentagon Building Pass File *(August 27, 1993, 58 FR 45325).*

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Following 'place of birth', insert 'Social Security Number, race, citizenship, and access investigation completion date,'.

* * * * *

DWHS P27

SYSTEM NAME:

Department of Defense (DOD) Pentagon Building Pass File.

SYSTEM LOCATION:

Security Services, Defense Protective Services, Washington Headquarters Services, 1155 Defense Pentagon, Washington DC 20301–1155.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any Department of Defense military or civilian employee sponsored by the Department of Defense, or other persons who have reason to enter the Pentagon for official Department of Defense business, and who therefore require an entry pass.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains name, sponsoring office of the Department of Defense and activities serviced by Washington Headquarters Services (WHS), sex, height, weight, date, place of birth, Social Security Number, race, citizenship, and access investigation completion date, access level, previous pass issuances, authenticating official, total personnel from all sites, and audit counts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; E.O. 9397 and E.O. 12958.

PURPOSE(S):

This information is used by officials of Security Services, Defense Protective Services, Directorate for Real Estate and Facilities, WHS to maintain a listing of personnel who are authorized a DOD Pentagon Building Pass.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic database.

RETRIEVABILITY:

Electronic database accessible by individual's name, Social Security Number and pass number.

SAFEGUARDS:

Secure room. Building has DoD Police Officers.

RETENTION AND DISPOSAL:

Records of pass holders are maintained as active records for as long as the individual holds a DoD pass. Inactive files consisting of individuals who have terminated affiliation with DoD and activities serviced by WHS are retained for five years.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief, Security Services, Defense Protective Services, Washington Headquarters Services, 1155 Defense Pentagon, Washington DC 20301–1155.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Security Services, Defense Protective Services, Washington Headquarters Services, 1155 Defense Pentagon, Washington DC 20301–1155.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to Security Services, Defense Protective Services, Washington Headquarters Services, 1155 Defense Pentagon, Washington DC 20301–1155.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

All data maintained in the system is received voluntarily from individual DOD Pentagon Building Pass Applicants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–21101 Filed 8–25–95; 8:45 am]

BILLING CODE 5000–04–F

Privacy Act of 1974; Notice to Alter a Record System

AGENCY: Office of the Joint Staff, Office of the Secretary of Defense, DOD.

ACTION: Notice to alter a record system.

SUMMARY: The Office of the Joint Staff proposes to alter an existing system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alteration adds an exemption to the existing system of records JS004SECDIV, entitled Joint Staff Security Clearance Files. The exemption will protect the identify of confidential sources under 5 U.S.C. 552a(k)(5), subsections (d)(1) through (d)(5).

DATES: The action will be effective on September 25, 1995, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Officer, Directives and Records Division, Washington Headquarters Services, Correspondence and Directives, 1155 Defense Pentagon, Washington, DC 20301–1155.

SUPPLEMENTARY INFORMATION: The Office of the Joint Staff, notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The Office of the Joint Staff proposes to alter an existing system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alteration adds an exemption to the existing system of records JS004SECDIV, entitled Joint Staff Security Clearance Files. The exemption will protect the identify of confidential sources under 5 U.S.C. 552a(k)(5), subsections (d)(1) through (d)(5).

The altered system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 17, 1995, to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated July 25, 1994 (59 FR 37906, July 25, 1994).

Dated: August 22, 1995.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

JS004SECDIV

SYSTEM NAME:

Personnel Security File, Security Division, DIRM *(February 22, 1993, 58 FR 10560).*

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Joint Staff Security Clearance Files'.

SYSTEM LOCATION:

Delete entry and replace with 'Joint Staff Security Office, Director for Management, 9300 Joint Staff Pentagon, Department of Defense, Washington, DC 20318–9300.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Civilian employees of the Joint Chiefs of Staff and the Joint Staff; Military personnel assigned to the Joint Chiefs of Staff and the Joint Staff; contractor personnel on contract with the Joint Staff; experts and consultants serving with or without compensation; individuals who are civilian applicants or military nominees for duty with the Joint Chiefs of Staff or the Joint Staff; all persons who have been authorized a pass for access to restricted areas of the Joint Chiefs of Staff and the Joint Staff.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Individual's Certificate of Security Clearance; security briefing and debriefing statements; materials relating to the adjudication of a security clearance; and other files pertinent to the security clearance and/or access status of an individual.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '5 U.S.C. 301 and E.O. 12356, E.O. 10450, E.O. 9397.'

PURPOSE(S):

Delete entry and replace with 'For use by officials of the Joint Staff Security Office to issue the authorization of access to various categories of classified information; to document the issuance, denial, and revocation of security clearances; to document the Joint Staff Clearance Appeal Board's records with respect to appeals of clearance denials and revocations; and, to issue access badges permitting authorized individuals access to restricted areas of the Joint Chiefs of Staff/Joint Staff.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are maintained for the duration of the individual's employment, assignment, or association with the Joint Chiefs of Staff/Joint Staff. With the exception of adjudication records, indoctrination (briefing), and debriefing records, which are placed in an inactive file and destroyed five years after departure, all other records are destroyed after the individual departs the Joint Chiefs of Staff/Joint Staff.'

SYSTEM MANAGER AND ADDRESS:

Delete entry and replace with 'Joint Staff Security Office, Director for Management, 9300 Joint Staff Pentagon, Department of Defense, Washington, DC 20318–9300.'

NOTIFICATION PROCEDURE:

Replace address starting 'Chief,' with 'Joint Staff Security Office, Director for Management, 9300 Joint Staff Pentagon, Department of Defense, Washington, DC 20318–9300.'

RECORD ACCESS PROCEDURES:

Replace entire entry after 'Chief,' with the following 'Joint Staff Security Office, Director for Management, 9300 Joint Staff, Department of Defense, Pentagon, Washington DC 20318–9300.

Requesters should provide full name and any former names used, date and place of birth, and Social Security Number.

Requests must be signed and notarized or, if the individual does not have access to notary services, preceded by a signed and dated declaration verifying the identity of the requester, in substantially the following form: *'I certify that the information provided by me is true, complete, and accurate to the best of my knowledge and belief, and this request is made in good faith. I understand that a knowing and willful false, fictitious or fraudulent statement or representation can be punished by fine or imprisonment or both. (Signature).'*

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Applications and related forms from the individual; summaries of relevant facts and final determinations by security clearance adjudicators and Joint Staff Clearance Adjudication Board, and correspondence from any source relating to the security clearance and access of any individual affiliated with the Joint Chiefs of Staff or the Joint Staff.'

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with 'Parts of this system may be exempt from certain provisions of 5 U.S.C. 552a(k)(5), as applicable.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 311. For additional information contact the system manager.'

JS004SECDIV

SYSTEM NAME:

Joint Staff Security Clearance Files.

SYSTEM LOCATION:

Joint Staff Security Office, Director for Management, 9300 Joint Staff Pentagon, Department of Defense, Washington, DC 20318–9300.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees of the Joint Chiefs of Staff and the Joint Staff; Military personnel assigned to the Joint Chiefs of Staff and the Joint Staff; contractor personnel on contract with the Joint Staff; experts and consultants serving with or without compensation; individuals who are civilian applicants or military nominees for duty with the Joint Chiefs of Staff or the Joint Staff; all persons who have been authorized a pass for access to restricted areas of the Joint Chiefs of Staff and the Joint Staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's Certificate of Security Clearance; security briefing and debriefing statements; materials relating to the adjudication of a security clearance; and other files pertinent to the security clearance and/or access status of an individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and E.O. 12356, E.O. 10450, E.O. 9397.

PURPOSE(S):

For use by officials of the Joint Staff Security Office to issue the authorization of access to various categories of classified information; to document the issuance, denial, and revocation of security clearances; to document the Joint Staff Clearance Appeal Board's records with respect to appeals of clearance denials and revocations; and, to issue access badges permitting authorized individuals access to restricted areas of the Joint Chiefs of Staff/Joint Staff.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of The Joint Staff's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; paper card files.

RETRIEVABILITY:

Filed alphabetically by individual's last name.

SAFEGUARDS:

Building employs security guards. Records are maintained in an alarmed vault and are accessible only to authorized Security Division personnel who are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are maintained for the duration of the individual's employment, assignment, or association with the Joint Chiefs of Staff/Joint Staff. With the exception of adjudication records, indoctrination (briefing), and debriefing records, which are placed in an inactive file and destroyed five years after departure, all other records are destroyed after the individual departs the Joint Chiefs of Staff/Joint Staff.

SYSTEM MANAGER(S) AND ADDRESS:

Joint Staff Security Office, Director for Management, 9300 Joint Staff Pentagon, Department of Defense, Washington, DC 20318–9300.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the 'Joint Staff Security Office, Director for Management, 9300 Joint Staff Pentagon, Department of Defense, Washington, DC 20318–9300.'

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Joint Staff Security Office, Director for Management, 9300 Joint Staff Pentagon, Department of Defense, Washington, DC 20318–9300.

Requesters should provide full name and any former names used, date and place of birth, and Social Security Number.

Requests must be signed and notarized or, if the individual does not have access to notary services, preceded by a signed and dated declaration verifying the identity of the requester, in substantially the following form: *'I certify that the information provided by me is true, complete, and accurate to the best of my knowledge and belief, and this request is made in good faith. I understand that a knowing and willful false, fictitious or fraudulent statement or representation can be punished by fine or imprisonment or both. (Signature).'*

CONTESTING RECORD PROCEDURES:

The Joint Staff's rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; Joint Administrative Instruction 2530.09; 32 CFR part 313; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Applications and related forms from the individual; summaries of relevant facts and final determinations by security clearance adjudicators and Joint Staff Clearance Adjudication Board, and correspondence from any source relating to the security clearance and access of any individual affiliated with the Joint Chiefs of Staff or the Joint Staff.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system of records may be exempt from provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5), as applicable.

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 311. For additional information contact the system manager.

[FR Doc. 95–21192 Filed 8–24–95; 8:45 am]

BILLING CODE 5000–04–F

Privacy Act of 1974; Add Systems of Records

AGENCY: Department of Defense.

ACTION: Add systems of records.

SUMMARY: The Office of the Secretary of Defense is proposing to add two systems of records notices to its inventory of Privacy Act systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The additions are effective September 25, 1995, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the OSD Privacy Act Officer, Washington Headquarter Services, Correspondence and Directives Division, Records Management Division, 1155 Defense Pentagon, Room 5C315, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 695–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on August 17, 1995, to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated July 25, 1994 (59 FR 37906, July 25, 1994).

Dated: August 22, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DGC 18

SYSTEM NAME:

DoD Roster of Mediators.

SYSTEM LOCATION:

Office of Alternative Dispute Resolution, Defense Legal Services Agency, Defense Office of Hearings and Appeals, 4015 Wilson Boulevard, Suite 300, Ballston Tower III, Arlington, VA 22203–1995.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have mediation training and/or experience who agree to act as a mediator in labor-management disputes involving the Department of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of background data regarding the experience and training of persons who are or wish to be mediators. For individuals who are used as mediators, the files contain evaluations submitted by the parties to the dispute commenting upon the effectiveness of the mediator and or the mediation process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 140, General Counsel of the Department of Defense.

PURPOSE(S):

Information is collected and maintained about individuals who have volunteered to serve as mediators for DoD employment-related disputes. Records are reviewed by all parties to the mediation in advance of the appointment of a mediator to evaluate information about a mediator's experience, training, and resolution of other cases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C.

552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To labor organizations who are parties to an employment dispute involving the Department of Defense.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy files are maintained in file cabinets and computer files on magnetic or optical media. All are stored in a secure area.

RETRIEVABILITY:

Files are retrieved by the last name of the mediator, by geographic availability of a mediator, and by type of subject matter expertise of a mediator.

SAFEGUARDS:

Files are maintained in a secure area under the direct control of Office of Alternative Dispute Resolution personnel during duty hours. Office is locked and building employs Security guards during non-duty hours. Access is restricted to those personnel maintaining the files and to potential users of the information. Access to the electronic portion of the system is controlled by user passwords that are periodically changed.

RETENTION AND DISPOSAL:

Files are maintained for as long as the individual actively provides mediation services. Upon a person's withdrawal or upon nonavailability of a mediator, files pertaining to that mediator are purged from the record system.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Alternative Dispute Resolution, Defense Legal Services Agency, Defense Office of Hearings and Appeals, Post Office Box 3656, Arlington, VA 22203–1995.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Office of Alternative Dispute Resolution, Defense Legal Services Agency, Defense Office of Hearings and Appeals, Post Office Box 3656, Arlington, VA 22203–1995.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to: Office of Alternative Dispute Resolution, Defense Legal Services Agency, Defense Office of Hearings and Appeals, Post Office Box 3656, Arlington, VA 22203–1995.

CONTESTING RECORDS AND PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Mediator qualification and experience information and evaluations by parties of a dispute of the effectiveness of the mediation efforts.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

DSMC 07

SYSTEM NAME:

DSMC Library and Learning Resource Center.

SYSTEM LOCATIONS:

Library, Defense Systems Management College (DSMC), Fort Belvoir, VA 22060–5565; and

Learning Resource Center, Defense Systems Management College (DSMC), Fort Belvoir, VA 22060–5565.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel assigned or attached to the Defense Systems Management College.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include individual's name, Social Security Number, class, service, and class section.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136 and E.O. 9397.

PURPOSE(S):

Used to collect borrower's identifying information to maintain accountability when an individual borrows materials from the Library and/or the Learning Resource Center.

ROUTINE USES OF RECORDS MAINTAINED IN THIS SYSTEM, INCLUDINGCATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING/ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained on electronic storage devices on a PC network.

RETRIEVABILITY:

Information is accessed by individual's name or Social Security Number.

SAFEGUARDS:

Building is locked during nonbusiness hours. File storage is on computer fixed disks accessible only to authorized staff using valid log-in and password controls.

RETENTION AND DISPOSAL:

Files are retained for one year after individual transfers, separates or retires; then are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources and Administration, Defense Systems Management College, Fort Belvoir, VA 22060–5565.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Commandant, Defense Systems Management College, ATTN: DCOS-HR, Fort Belvoir, VA 22060–5565.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written requests to the Commandant, Defense Systems Management College, ATTN: DCOS-HR, Fort Belvoir, VA 22060–5565.

The request should contain the individual's full name, Social Security Number and current address.

CONTESTING RECORD PROCEDURES:

The OSD's rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

All information included in the system is provided by the DSMC Registrar's Office.

EXEMPTIONS CLAIMED UNDER THIS SYSTEM:

None.

[FR Doc. 95–21193 Filed 8–24–95; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

Direct Grant Programs and Fellowship Programs

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year 1996; correction.

SUMMARY: The notice inviting applications for new awards for fiscal year 1996, in the issue of Thursday, August 10, 1995 (60 FR 40956), stated that for parties interested in programs of the Office of Educational Research and Improvement (OERI), separate addresses and facsimile (FAX) numbers would be included in the lists of OERI programs and competitions in Chart 1. Those addresses and FAX numbers were inadvertently omitted from the notice of August 10, 1995, and are specified, instead, in this notice. This notice also corrects discrepancies in the application deadline dates for certain competitions under the Office of Special Education and Rehabilitative Services.

SUPPLEMENTARY INFORMATION: As explained in the Supplementary Information section of the combined application notice (CAN) published on August 10, 1995, application notices for new awards under programs and competitions of OERI are to be published later. In the meantime, as an aid to customers, each principal component of OERI is providing an address and FAX number that interested parties may use to be put on a mailing list to receive information—such as an application package—when that information becomes available.

Note: In order to receive the information, a party must specify in its request which application it wishes to receive (see lists of OERI programs and competitions in Chart 1 of the notice of August 10, 1995 (pages 40958 and 40959)).

For five competitions of the Office of Special Education and Rehabilitative Services, there are discrepancies between the application deadline dates in Chart 1 and the application deadline dates in Chart 6. The dates in Chart 1 are corrected to correspond to the dates in Chart 6.

ADDRESSES AND FAX NUMBERS: The addresses and FAX numbers for the OERI programs and competitions are as follows:

- *National Institute on Student Achievement, Curriculum, and Assessment:* National Institute on Student Achievement, Curriculum, and Assessment/Applications, 555 New Jersey Avenue, NW., Washington, DC 20208–5573. FAX: (202) 219–2135.
- *National Institute on the Education of At-Risk Students:* National Institute on the Education of At-Risk Students/Applications, 555 New Jersey Avenue, NW., Washington, DC 20208–5521. FAX: (202) 219–2030.
- *National Institute on Early Childhood Development and Education:* National Institute on Early Childhood Development and Education/Applications, 555 New Jersey Avenue, NW., Washington, DC 20208–5524. FAX: (202) 273–4768.
- *National Institute on Educational Governance, Finance, Policymaking, and Management:* National Institute on Educational Governance, Finance, Policymaking, and Management/Applications, 555 New Jersey Avenue, NW., Washington, DC 20208–5510. FAX: (202) 219–1528.
- *National Institute on Postsecondary Education, Libraries, and Lifelong Learning:* National Institute on Postsecondary Education, Libraries, and Lifelong Learning/Applications, 555 New Jersey Avenue, NW., Washington, DC 20208–5531. FAX: (202) 219–2030.
- *Office of Reform Assistance and Dissemination (ORAD):* ORAD/Applications, 555 New Jersey Avenue, NW., Washington, DC 20208–5572. FAX: (202) 219–2053.
- *National Center for Education Statistics:* Alex Sedlacek, NCES/Applications, 555 New Jersey Avenue, NW., Washington, DC 20208–5653. FAX: (202) 219–1801. Internet: dsedlace@inet.ed.gov.
- *Library Programs:* Library Programs/Applications, 555 New Jersey Avenue, NW., Washington, DC 20208–5571. FAX: (202) 219–1725.

OTHER CORRECTIONS AND ADDITIONS: On page 40960, in the chart for Office of Special Education and Rehabilitative Services—Office of Special Education Programs, in the listing for CFDA No. 84.023F, Examining Alternatives for Results Assessment for Children with Disabilities, in the fourth column the application deadline date should read ''1/5/96''.

On page 40961, in the chart for Office of Special Education and Rehabilitative Services—Rehabilitation Services Administration, in the listing for CFDA No. 84.129T, Distance Learning through Telecommunications, in the fourth column the application deadline date should read ''10/30/95''; in the listing for CFDA No. 84.129U–1, Parent Information and Training Programs, in the fourth column the application deadline date should read ''10/30/95''; in the listing for CFDA No. 84.129U–3, Parent Information and Training Programs—Technical Assistance, in the fourth column the application deadline date should read ''10/30/95''; and in the listing for CFDA No. 84.264B, Rehabilitation Continuing Education Programs, in the fourth column the application deadline date should read ''10/30/95''.

On page 40962, in the application notice for CFDA No. 84.288S, Bilingual Education: Program Development and Implementation Grants, in the section headed ''For Applications or Information Contact:'' add—at the same address—a second name as follows: Ursula Lord. Telephone: (202) 205–5709.

Dated: August 21, 1995.

Felix V. Baxter,

Acting General Counsel.

[FR Doc. 95–21177 Filed 8–24–95; 8:45 am]

BILLING CODE 4000–01–P

President's Advisory Commission on Educational Excellence for Hispanic Americans; Hearing

AGENCY: President's Advisory Commission on Educational Excellence for Hispanic Americans, Education.

ACTION: Notice of Hearing.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming hearing of the President's Advisory Commission on Educational Excellence for Hispanic Americans. This notice also describes the functions of the Commission. Notice of this hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: September 7 and 8, 1995, 8:30 a.m.–5:30 p.m.

ADDRESSES: San Juan Marriott Resort, 1209 Ave. Ashford, San Juan, Puerto Rico 00907.

FOR FURTHER INFORMATION CONTACT: Sal Lopez, Special Assistant, White House Initiative on Educational Excellence for Hispanic Americans, Department of Education, 600 Independence Avenue, S.W., Room 2115, Washington, D.C., 20202–3601, Telephone: (202) 401–8551.

SUPPLEMENTARY INFORMATION: The President's Advisory Commission on Educational Excellence for Hispanic Americans was established under Executive Order 12900 on February 22, 1994. The Commission was established to advise on Hispanic achievements of the National Goals, as well as other educational accomplishments. This hearing of the Commission is open to the public. The public is being given less than fifteen days' notice of this hearing because of administrative

difficulties in scheduling the location. The Agenda includes:

September 7, 1995, Thursday, 8:30 a.m.–5:30 p.m.

Introductions and Commission update; local government involvement in improving education; testing and assessment; academic productivity; community based organizations; education finance and equity; creative ways of financing graduate studies; higher education in Puerto Rico; student aid; public testimony; teacher training.

September 8, 1995, Friday, 8:30 a.m.–5:30 p.m.

Private sector involvement in improving education; corporate/foundation outlooks; student mobility; school to work; educational partnerships; public testimony.

Records are kept of all Commission proceedings, and are available for public inspection at the White House Initiative On Educational Excellence For Hispanic Education at 600 Independence Avenue, S.W., Room 2115, Washington, D.C. 20202–3601 from the hours of 9 a.m. to 5 p.m.

Dated: August 22, 1995.

G. Mario Moreno,

Assistant Secretary, Office of Intergovernmental and Interagency Affairs.

[FR Doc. 95–21236 Filed 8–23–95; 10:07 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Tritium Supply and Recycling Programmatic Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of limited reopening of public comment period.

SUMMARY: The Department of Energy (DOE) is evaluating alternatives for an assured, long-term supply of tritium, a radioactive gas which is a necessary component of every nuclear weapon in the Nation's stockpile. On March 17, 1995, the DOE announced the availability of the Tritium Supply and Recycling Draft Programmatic Environmental Impact Statement (PEIS) (60 FR 14433, March 17, 1995). Public hearings to receive comments on the draft PEIS were held and the public comment period closed on May 15, 1995. The purpose of this notice is to reopen the comment period for 21 days in order to solicit comments on the Department's intention to consider utilizing a commercial reactor or reactors (either by purchasing a reactor or securing irradiation services) as a reasonable alternative in the Tritium Supply and Recycling Final PEIS.

DATES: Comments on using commercial reactors to produce tritium, including the additional comments on the analysis of potential environmental impacts described in the Tritium Supply and Recycling Draft PEIS, are invited from the public. To ensure consideration in the preparation of the final PEIS, comments must be postmarked by September 15, 1995. Late comments will be considered to the extent practicable.

ADDRESSES: General questions concerning the Tritium Supply and Recycling program and/or comments on this notice can be asked by calling the toll-free telephone number at 1–800–776–2765, or by writing to: Stephen M. Sohinki, Director, Office of Reconfiguration, U.S. Department of Energy, P.O. Box 3417, Alexandria, VA 22302.

As an alternative, comments can also be submitted electronically by using the Federal Information Exchange bulletin board and following the instructions listed below:

Modem: Dial Toll Free (800) 783–3349. Local (301) 258–0953. (Modem parameters set at: '8' data bits, '1' stop bit and 'N' parity at 1200, 2400 or 9600 baud.)

InterNet: Telenet or Gopher to: fedix.fie.com or 192.111.228.33

Hours: Available 24 hours a day. A Help Line, (301) 975–0103, is available weekdays between 8:30 a.m. and 5:00 p.m. EST, except Federal holidays.

Costs: Free, no cost to users. No telephone, registration, access, or downloading fees.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION: The Tritium Supply and Recycling Draft PEIS considered utilizing commercial reactors to supply tritium, but eliminated this alternative from detailed study because the Department thought that: (1) the production of tritium for defense purposes in nuclear reactors that generate electricity for commercial sale would be contrary to the long-standing policy of the United States that civilian nuclear facilities should not be utilized for military purposes; and (2) such utilization of commercial reactors would make the United States' nonproliferation efforts much more difficult. Despite these concerns, the Draft PEIS included an evaluation of the environmental impacts of using an existing commercial reactor to make tritium because there were two scenarios mentioned in the Draft PEIS in which the Department was prepared at that time to consider using such a reactor. Under the first scenario, the Department would purchase an existing commercial reactor and convert it to defense purposes rather than construct a new tritium supply facility. Under the second scenario, the Department would purchase irradiation services as a contingency source of tritium in the event of a national emergency. Under both of these scenarios, the reactor would continue to produce electricity for sale.

During the public comment period, several commentors asserted that both scenarios described in the Draft PEIS have the potential to be a low-cost option and should be considered reasonable. Commentors asserted that use of an existing commercial reactor to produce tritium would not violate any law nor weaken nonproliferation efforts, and that any past policy objections should be reconsidered.

After further evaluation of this issue, and in response to public comments, the Department has determined that both scenarios involving commercial reactors should be treated as reasonable alternatives in the final PEIS. The environmental impacts of using an existing commercial reactor to produce tritium, which are already described in § 4.10 of the Draft PEIS, are the same regardless of whether irradiation services are purchased (either as a contingency or as a primary option) or a commercial reactor is purchased and converted to defense purposes. The Department invites comment on the proposal to include the two scenarios for using commercial reactors to produce tritium as reasonable alternatives. In addition, the Department invites any additional comment on the analysis contained in § 4.10 of the Draft PEIS.

Issued in Washington, D.C. this 21st day of August 1995, for the United States Department of Energy.

Everet H. Beckner,

Principal Deputy Assistant Secretary for Defense Programs.

[FR Doc. 95–21155 Filed 8–24–95; 8:45 am]

BILLING CODE 6450–01–P

Advisory Committee on External Regulation of Department of Energy Nuclear Safety

AGENCY: Department of Energy.

ACTION: Notice of availability of status report.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the release of the Status Report by the co-chairs of the Advisory Committee on External Regulation of Department of Energy Nuclear Safety. The report was submitted to the Secretary of Energy on August 14, 1995, in response to her request for an interim report.

FOR FURTHER INFORMATION CONTACT: Thomas H. Isaacs, Executive Director, Advisory Committee on External Regulation of Department of Energy Nuclear Safety, 1726 M Street, NW, Suite 401, Washington, DC 20036, (202) 254–3826. Copies of the Status Report are available by calling (toll free) 1–800–736–3282, or by accessing the Internet World Wide Web at: http://www.em.doe.gov/acd/index.html. Copies are also available in all Department of Energy Freedom of Information Act Reading Rooms.

SUPPLEMENTARY INFORMATION: The Status Report presents a description of Committee findings and observations to date by the co-chairs based on Committee activities conducted through July 1995. A projection of future Committee efforts also is included. The Status Report was submitted in response to a request by the Secretary at the first meeting of the Committee (in March 1995) for an interim report. The Committee's final recommendations will be submitted by the end of 1995 to the Secretary of Energy, and to the White House Office of Management and Budget and the Council on Environmental Quality.

The purpose of the Committee is to provide the Secretary of Energy, the White House Council on Environmental Quality, and the Office of Management and Budget with advice, information, and recommendations on how new and existing Department of Energy (DOE) nuclear facilities and operations, except those operations covered under Executive Order 12344 (Naval Propulsion Program), might best be regulated with regard to safety. The Department currently self-regulates many aspects of safety at nuclear facilities, pursuant to the Atomic Energy Act of 1954, as amended. The Committee consists of 25 members drawn from Federal and State government and the private sector, and is co-chaired by John F. Ahearne, Executive Director, Sigma XI, The Scientific Research Society, and Gerard F. Scannell, President of the National Safety Council. Members were chosen with environment, safety, and health backgrounds, balanced to represent different public, Federal, State, Tribal, regulatory, and industry interests and experience.

Issued at Washington, DC on August 21, 1995.

Thomas H. Isaacs,

Executive Director, Advisory Committee on External Regulation of Department of Energy Nuclear Safety.

[FR Doc. 95–21159 Filed 8–24–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER95–1049–000]

Gateway Energy, Inc.; Notice of Issuance of Order

August 21, 1995.

On May 15, 1995, Gateway Energy, Inc. (Gateway) submitted for filing a rate schedule under which Gateway will engage in wholesale electric power and energy transactions as a marketer. Gateway also requested waiver of various Commission regulations. In particular, Gateway requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Gateway.

On August 4, 1995, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Gateway should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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, Gateway is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Gateway's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 5, 1995.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street, N.E., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–21132 Filed 8–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1018–000]

Kohler Co.; Notice of Issuance of Order

August 21, 1995.

On May 8, 1995, as amended on June 14, 1995, Kohler Co. (Kohler) submitted for filing a rate schedule under which Kohler will engage in wholesale electric power and energy transactions as a marketer. Kohler also requested waiver of various Commission regulations. In particular, Kohler requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Gateway.

On August 4, 1995, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Kohler should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol 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, Kohler is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither

public nor private interests will be adversely affected by continued approval of Kohler's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 5, 1995.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–21133 Filed 8–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT95–50–000]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

August 21, 1995.

Take notice that on August 17, 1995, Williams Natural Gas Company (WNG) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet Nos. 300–303. The proposed effective date of these tariff sheets is September 17, 1995.

WNG states that the purpose for the instant filing is to reflect WNG's third right of first refusal process held in compliance with Commission order issued May 16, 1995 in Docket No. RP95–208.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 or 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 28, 1995. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 95–21134 Filed 8–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER–95–1519–000]

Carolina Power & Light Company; Notice of Filing

August 18, 1995.

Take notice that on August 10, 1995, Carolina Power & Light Company (Carolina), tendered for filing separate Service Agreements executed between Carolina and the following Eligible Entities: Pennsylvania Power & Light Company; Virginia Electric and Power Company; Heartland Energy Services, Inc.; Union Electric Company; Louisville Gas and Electric; and Koch Power Services, Inc. Service to each Eligible Entity will be in accordance with the terms and conditions of Carolina's Tariff No. 1 for Sales of Capacity and Energy.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before September 1, 1995. 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.

Lois D. Cashell,

Secretary.

[FR Doc. 95–21150 Filed 8–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER90–168–022, et al.]

National Electric Associates Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

August 16, 1995.

Take notice that the following filings have been made with the Commission:

1. National Electric Associates Limited Partnership

[Docket No. ER90–168–022]

Take notice that on July 31, 1995, National Electric Associates Limited Partnership tendered for filing certain information as required by the Commission's March 20, 1990, order in Docket No. ER90–168–000. Copies of the informational filing are on file with the Commission and are available for public inspection.

2. Chicago Energy Exchange of Chicago, Inc.

[Docket No. ER90–225–021]

Take notice that on July 10, 1995, Chicago Energy Exchange of Chicago, Inc. (Energy Exchange) filed certain information as required by the Commission's April 19, 1990, order in Docket No. ER90–225–000. Copies of the informational filing are on file with the Commission and are available for public inspection.

3. DC Tie, Inc.

[Docket No. ER91–435–016]

Take notice that on August 4, 1995, DC Tie, Inc. (DC Tie) filed certain information as required by the Commission's July 11, 1991, in Docket No. ER91–435–000. Copies of the informational filing are on file with the Commission and are available for public inspection.

4. Heartland Energy Services, Inc.

[Docket No. ER94–108–004]

Take notice that on July 31, 1995, Heartland Energy Services, Inc. (Heartland) filed certain information as required by the Commission's August 9, 1994, order in Docket No. ER94–108–000. Copies of the informational filing are on file with the Commission and are available for public inspection.

5. Valero Power Services Company

[Docket No. ER94–1394–004]

Take notice that on July 25, 1995, Valero Power Services Company (Valero) filed certain information as required by the Commission's August 24, 1994, order in Docket No. ER94–1394–000. Copies of the informational filing are on file with the Commission and are available for public inspection.

6. Equitable Power Services Company

[Docket No. ER94–1539–006]

Take notice that on August 7, 1995, Equitable Power Services Company tendered for filing certain information as required by the Commission's letter order dated September 8, 1994. Copies of the informational filing are on file

with the Commission and are available for public inspection.

7. CNG Power Services Corporation

[Docket No. ER94–1554–005]

Take notice that on July 31, 1995, CNG Power Services Corporation tendered for filing certain information as required by the Commission's letter order dated October 25, 1994. Copies of the informational filing are on file with the Commission and are available for public inspection.

8. Power Exchange Corporation

[Docket No. ER95–72–002]

Take notice that on August 1, 1995, Power Exchange Corporation tendered for filing certain information as required by the Commission's letter order dated February 1, 1995. Copies of the informational filing are on file with the Commission and are available for public inspection.

9. Aquila Power Corporation

[Docket No. ER95–216–004]

Take notice that on July 27, 1995, Aquila Power Corporation tendered for filing certain information as required by the Commission's letter order dated January 13, 1995. Copies of the informational filing are on file with the Commission and are available for public inspection.

10. Portland General Electric Company

[Docket No. ER95–1275–000]

Take notice that on July 31, 1995, Portland General Electric Company (PGE) tendered for filing an amendment to its filing in this docket. PGE asks that, on receipt of this amended filing, the Commission accept the Scheduling Services Agreement for filing, as amended.

Comment date: August 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Kentucky Utilities Company

[Docket No. ER95–1457–000]

Take notice that on July 31, 1995, Kentucky Utilities Company tendered for filing an executed Service Agreement for Non-Firm Transmission Service with Wabash Valley Power Association.

Comment date: August 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Southwestern Electric Power Company

[Docket No. ER95–1486–000]

Take notice that on August 4, 1995, Southwestern Electric Power Company (SWEPCO), submitted for filing an executed East HVDC Interconnection Facilities Use and Maintenance Agreement (Agreement). Under the Agreement, SWEPCO will recover certain facilities charges and operation and maintenance charges from Central Power and Light Company (CPL), Texas Utilities Electric Company (TU Electric) and Houston Lighting and Power Company (HLP) associated with SWEPCO's ownership and operation of certain transmission facilities located in Titus County, Texas.

SWEPCO requests that the Agreement be accepted to become effective as of August 5, 1995 in anticipation of the underlying facilities being placed into commercial operation on August 6, 1995 and has requested that the Commission waive the notice requirement for the filing pursuant to 18 CFR 35.11.

Copies of the filing were served on CPL, TU Electric, HLP and the Public Utility Commission of Texas and the Louisiana Public Service Commission.

Comment date: August 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER95–1487–000]

Take notice that on August 4, 1995, Northern States Power Company-Minnesota (NSP–M) and Northern States Power Company-Wisconsin (NSP–W), jointly tender and request the Commission to accept a Transmission Service Agreement which provides for 100 MW of Reserved Transmission Service to Wisconsin Electric Power Company. The source party is Basin Electric Power Cooperative and the recipient party is Wisconsin Electric Power Company.

NSP requests that the Commission accept for filing the Transmission Service Agreement effective as of July 15, 1995. NSP requests a waiver of the Commission's notice requirements pursuant to 18 CFR Part 35 so that the Agreement may be accepted for filing effective on the date requested.

Comment date: August 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Wisconsin Power and Light Company

[Docket No. ER95–1488–000]

Take notice that on August 4, 1995, Wisconsin Power and Light Company (WP&L), tendered for filing a signed Service Agreement under WP&L's Bulk Power Sales Tariff between itself and Marquette, Michigan Board of Light and Power. WP&L respectfully requests a waiver of the Commission's notice requirements, and an effective date of July 4, 1995.

Comment date: August 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Southern California Edison Company

[Docket No. ER95–1489–000]

Take notice that on August 4, 1995, Southern California Edison Company (Edison), tendered for filing changes in rates for transmission service as embodied in Edison's agreements with the following entities:

Entity	FERC rate schedule No.
1. City of Anaheim	130, 246.6. 246.8, 246.13, 246.29, 246.32.1, 246.36.
2. City of Azusa	160, 247.4, 247.6, 247.8, 247.24, 247.29.
3. City of Banning	159, 248.5, 248.7, 248.9, 248.17, 248.24, 248.29.
4. City of Colton	162, 249.6, 249.8, 249.24, 249.29.
5. City of Riverside ...	129, 250.6, 250.8, 250.10, 250.15, 250.21, 250.27, 250.30, 250.35.
6. City of Vernon	149, 154.07, 172, 207, 272, 276, 338.
7. Arizona Electric Cooperative.	131, 161.
8. Arizona Public Service Company.	185.
9. California Department of Water Resources.	38, 112, 113, 181, 342.
10. City of Burbank ...	166.
11. City of Glendale ..	143.
12. City of Los Angeles Department of Water and Power.	102, 188, 140, 141, 163, 188, 219.
13. City of Pasadena	158.
14. Coastal Electric Services Company.	Currently pending, no rate schedule number.
15. Imperial Irrigation District.	259, 268.
16. Metropolitan Water District of Southern California.	292.
17. M-S-R Public Power Agency.	153, 339.
18. Northern California Power Agency.	240.
19. Pacific Gas and Electric Company.	117, 147, 256, 318.
20. PacifiCorp	275.
21. Rainbow Energy Marketing Corporation.	346.
22. San Diego Gas & Electric Company.	151, 274, 302.
23. Western Area Power Administration.	120.

Pursuant to these rate schedules, the rate changes result from a change in the rate of return from 9.17% to 9.80 authorized by the Public Utilities Commission, effective January 1, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: August 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Energy Alliance Partnership

[Docket No. ER95–1491–000]

Take notice that on August 4, 1995, Energy Alliance Partnership (Alliance), petitioned the Commission for acceptance of Alliance's Rate Schedule FERC No. 1, the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Comment date: August 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Niagara Mohawk Power Corporation

[Docket No. ER95–1492–000]

Take notice that on August 7, 1995, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement between NMPC and CMEX Energy Inc. (CMEX). This Service Agreement specifies that CMEX has signed on to and has agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC on April 15, 1994, and which has an effective date of March 13, 1993, will allow NMPC and CMEX to enter into separately scheduled transactions under which NMPC will sell to CMEX capacity and/or energy as the parties may mutually agree.

In its filing letter, NMPC also included a Certificate of Concurrence executed by the Purchaser.

NMPC requests an effective date of August 1, 1995. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and CMEX.

Comment date: August 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Niagara Mohawk Power Corporation

[Docket No. ER95–1493–000]

Take notice that on August 7, 1995, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement between NMPC and National Gas & Electric L.P. (NGE). This Service Agreement specifies that NGE has signed on to and has agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC on April 15, 1994, and which has an effective date of March 13, 1993, will allow NMPC and NGE to enter into separately scheduled transactions under which NMPC will sell to NGE capacity and/or energy as the parties may mutually agree.

In its filing letter, NMPC also included a Certificate of Concurrence executed by the Purchaser.

NMPC requests an effective date of August 1, 1995. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and NGE.

Comment date: August 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Niagara Mohawk Power Corporation

[Docket No. ER95–1494–000]

Take notice that on August 7, 1995, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement between NMPC and American Municipal Power-Ohio, Inc. (AMP–O). This Service Agreement specifies that AMP–O has signed on to and has agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC on April 15, 1994, and which has an effective date of March 13, 1993, will allow NMPC and AMP–O to enter into separately scheduled transactions under which NMPC will sell to AMP–O capacity and/or energy as the parties may mutually agree.

In its filing letter, NMPC also included a Certificate of Concurrence executed by the Purchaser.

NMPC requests an effective date of July 17, 1995. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and AMP–O.

Comment date: August 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Niagara Mohawk Power Corporation

[Docket No. ER95–1496–000]

Take notice that on August 7, 1995, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and LG&E Power (LG&E) dated August 1, 1995, providing for certain transmission services to LG&E.

Copies of this filing were served upon LG&E and the New York State Public Service Commission.

Comment date: August 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–21130 Filed 8–24–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EC95–18–000, et al.]

Wisconsin Public Service Corporation, et al.; Electric Rate and Corporate Regulation Filings

August 17, 1995.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Public Service Corporation

[Docket No. EC95–18–000]

Take notice that on August 10, 1995, Wisconsin Public Service Corporation filed an application under Section 203 of the Federal Power Act for an order authorizing it to sell a 3.4 mile, 46 kV transmission line (designated as K–122) to Consolidated Water Power Company. That line was installed in 1990 to connect Consolidated Water Power Company's Biron and Kraft Mill Substations. The parties expect this

transaction to close on or about October 1, 1995.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Portland General Electric Company

[Docket No. EC95–19–000]

Take notice that on August 14, 1995, Portland General Electric Company (PGE) filed, pursuant to Section 203 of the Federal Power Act and Part 33 of the Commission's Regulations, an application for the sale by PGE to the Eugene Water and Electric Board (EWEB) of a 6.2-mile long, 115 Kv electric transmission line located at the Stone Creek Hydroelectric Project in Clackamas County, Oregon.

Comment date: September 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. CSW Northwest GP, Inc.

[Docket No. EG95–74–000]

On August 11, 1995, CSW Northwest GP, Inc. (''Applicant''), 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant, a non-utility indirect subsidiary of Central and South West Corporation, a registered holding company, intends to own and operate all or part of eligible facilities including an 838 MW electric generating facility located in the vicinity of Creston, Washington.

Comment date: September 7, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Kva Resources, Inc.

[Docket No. EG95–75–000]

On August 11, 1995, Kva Resources, Inc. (''Applicant''), 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant is a Delaware corporation engaged in the business of independent power development, intends to operate and maintain all or part of an 838 MW electric generating facility located in the vicinity of Creston, Washington which will be owned by Applicant, CSW Northwest GP, Inc. and CSW Northwest LP, Inc.

Comment date: September 7, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. CSW Northwest LP, Inc.

[Docket No. EG95–76–000]

On August 11, 1995, CSW Northwest LP, Inc. (''Applicant''), 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant, a non-utility indirect subsidiary of Central and South West Corporation, a registered holding company, intends to own and operate all or part of eligible facilities including an 838 MW electric generating facility located in the vicinity of Creston, Washington.

Comment date: September 7, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Jersey Central Power & Light Company v. Pennsylvania Power & Light Company

[Docket No. EL95–70–000]

Take notice that on August 11, 1995, Jersey Central Power & Light Company (Jersey Central), tendered for filing a complaint against Pennsylvania Power & Light Company (PP&L). Jersey Central states that it purchases energy and capacity at wholesale from PP&L under a contract filed with the Commission, which incorporates a formula rate mechanism and that PP&L has imposed and is continuing to impose charges for such energy and capacity that are inconsistent with the contract between the parties, and are unjust, unreasonable, and unduly discriminatory in violation of section 206 of the FPA and contrary to established Commission policies. Jersey Central requests that the Commission investigate the charges imposed by PP&L, direct PP&L to cease billing Jersey Central for charges not authorized by the Sales Agreement, order refunds of amounts improperly charged, with interest, order any modifications to the Sales Agreement necessary to ensure that future charges conform with applicable requirements, and provide such other and further relief as is appropriate.

A copy of the Complaint has been served on PP&L and the Pennsylvania Public Utility Commission.

Comment date: September 18, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Wisconsin Power and Light Company

[Docket No. ER94–475–000]

Take notice that on August 8, 1995, Wisconsin Power and Light Company (WP&L), tendered for filing a Point-to-Point Transmission Service tariff and a Network Integration Service Transmission tariff. These tariffs are being filed in response to the Commission's Guidance Order issued on June 28, 1995. The transmission tariffs are modeled after the Commission's *pro forma* tariffs which were appended to the Notice of Proposed Rulemaking in Docket No. RM95–8–000.

WP&L respectfully requests waiver of filing requirements to permit an effective date of August 9, 1994 for its Point-to-Point Transmission Tariff and August 29, 1994 for its Network Integration Service transmission tariff.

Copies of the filing have been served on all parties identified to Docket No. ER94–475–000, including the Public Service Commission of Wisconsin.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Delaware Municipal Electric Cooperative

[Docket No. ER95–222–001]

Take notice that on July 10, 1995, Delaware Power & Light tendered for filing revised copies of its compliance filing in the above-referenced docket.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Gulf Power Company

[Docket No. ER95–351–000]

Take notice that on August 2, 1995, Gulf Power Company tendered for filing an amendment to the Transmission Service Agreement between Gulf Power Company (Gulf) and Bay Resource Management, Inc. (Customer). The purpose of this filing is to submit a modified background report that outlines the method by which Gulf will allow the Customer to pay for the cost of emission allowances.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Gulf Power Company

[Docket No. ER95–352–000]

Take notice that on August 2, 1995, Gulf Power Company tendered for filing an amendment to the Interconnection Agreement between Gulf Power

Company (Gulf) and the Alabama Electric Cooperative, Inc. (AEC). The purpose of this filing is to submit a modified background report that outlines the method by which Gulf will allow AEC to pay for the cost of emission allowances.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Puget Sound Power & Light Company

[Docket No. ER95–1145–000]

Take notice that on August 3, 1995, Colockum Transmission Company, Inc. tendered for filing a Certificate of Concurrence in the above-referenced docket.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. CINergy Services, Inc.

[Docket Nos. ER95–1434–000, ER95–1345–000, and ER95–1387–000]

Take notice that CINergy Services, Inc. (CIN), on August 11, 1995, tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), amended Exhibit B's in the FERC Filings in Docket Nos. ER95–1434–000, ER95–1345–000 and ER95–1387–000 to comply with a FERC Staff Request.

Copies of the filing were served on MidCon Power Services Corporation, Tennessee Power Company, Catex Vitol Electric LLC, the Department of Public Utilities, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio, the Indiana Utility Regulatory Commission, the Illinois Commerce Commission, and the Tennessee Public Service Commission.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Southern Indiana Gas and Electric Company

[Docket No. ER95–1497–000]

Take notice that on August 7, 1995, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing to a proposed Interchange Agreement with Louis Dreyfus Electric Power Inc. (LDEP).

The proposed revised Interchange Agreement will provide for the purchase, sale, and transmission of capacity and energy by either party under the following Service Schedules: (a) SIGECO Power Sales; (b) LDEP Power Sales; and (c) Transmission Service.

Waiver of the Commission's Notice Requirements is requested to allow for an effective date of August 7, 1995.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Portland General Electric Company

[Docket No. ER95–1498–000]

Take notice that on August 7, 1995, Portland General Electric Company (PGE), tendered for filing a Special Storage Agreement under the Pacific Northwest Coordination Agreement (PNCA) between PGE and Public Utility District No. 1 of Douglas County.

Pursuant to 18 CFR 35.11, PGE respectfully requests the Commission grant waiver of the notice requirements of 18 CFR 35.3 to allow the signed Service Agreement to become effective July 1, 1995.

A copy of the filing has been served on the party included in the body of the filing letter.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. PECO Energy Company

[Docket No. ER95–1499–000]

Take notice that on August 7, 1995, PECO Energy Company (PECO), filed a Service Agreement dated July 14, 1995 with Atlantic City Electric Company (AE) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds AE as a customer under the Tariff.

PECO requests an effective date of July 14, 1995 for the Service Agreement.

PECO states that copies of this filing have been supplied to AE and to the Pennsylvania Public Utility Commission.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. PECO Energy Company

[Docket No. ER95–1500–000]

Take notice that on August 7, 1995, PECO Energy Company (PECO), filed a Service Agreement dated July 17, 1995 with Pennsylvania Power & Light Company (PP&L) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds PP&L as a customer under the Tariff.

PECO requests an effective date of July 17, 1995 for the Service Agreement.

PECO states that copies of this filing have been supplied to PP&L and to the Pennsylvania Public Utility Commission.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Power & Light Company

[Docket No. ER95–1502–000]

Take notice that on August 7, 1995, Wisconsin Power & Light Company (WP&L), tendered for filing an amended Wholesale Power Agreement dated June 22, 1995, between the Central Wisconsin Electric Cooperative (CWEC) and WP&L. WP&L states that this amended Wholesale Power Agreement revises the previous agreement between the two parties dated September 27, 1988, and designated Rate Schedule Number 143 by the Commission.

The parties have amended the Wholesale Power Agreement to add an additional delivery point. Service under this amended Wholesale Power Contract will be in accordance with standard WP&L Rate Schedule W–2.

WP&L requests an effective date of October 16, 1995 which is concurrent with the expected in service date. WP&L states that copies of the amended Wholesale Power Agreement and the filing have been provided to CWEC and the Public Service Commission of Wisconsin.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Citizens Utilities Company

[Docket Nos. ES95–36–000 and ES95–36–001]

Take notice that on August 15, 1995, Citizens Utilities Company (Citizens Utilities) filed an amended application under § 204 of the Federal Power Act and in compliance with the Commission's regulations under the provisions of 18 CFR Part 34 (1995), seeking authorization for the issuance of securities in support of or to guarantee securities issued by governmental or quasi-governmental bodies for the benefit of Citizens Utilities over a two-year period. Citizens Utilities had previously filed an application on August 9, 1995, in Docket No. ES95–36–000 under the provisions of 18 CFR Part 34 (1994) which have been superseded.

Citizens Utilities specifically seeks authorization for its execution and delivery of promissory notes, loan, purchase, depositary, tender, remarketing, repurchase, sales and similar agreements, inducement letters and related assumptions of obligations and liabilities (Obligations) in respect of indebtedness in an amount up to a total aggregate principal amount of not more than $189.5 million with final maturities of not more than 50 years. The Obligations would be security for the issuance and payment of industrial development revenue bonds, special purpose revenue bonds and

environmental control revenue bonds by various governmental issuers in the same aggregate principal amounts and bearing other similar terms as the Obligations.

Citizens Utilities further requests that the issuance of securities and assumptions of obligations and liabilities be exempted from the Commission's competitive bidding requirements.

Comment date: September 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–21131 Filed 8–24–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER94–1580–003, et al.]

Energy Resource Marketing, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 18, 1995.

Take notice that the following filings have been made with the Commission:

1. Energy Resource Marketing, Inc.

[Docket No. ER94–1580–003]

Take notice that on August 14, 1995, Energy Resource Marketing, Inc. filed certain information as required by the Commission's September 30, 1994 order in Docket No. ER94–1580–000. Copies of the Energy Resource Marketing, Inc. informational filing are on file with the Commission and are available for public inspection.

2. Pacific Gas and Electric Company

[Docket No. ER95–1236–000]

Take notice that on August 4, 1995, Pacific Gas and Electric Company tendered for filing an amendment in the above-referenced docket.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. E Prime Inc.

[Docket No. ER95–1269–000]

Take notice that on August 11, 1995, E Prime Inc. (e prime) tendered for filing, at Staff's request, an amendment to its filing in this Docket.

A copy of this filing has been served on the Public Utilities Commission of the State of Colorado and the Colorado Office of Consumer Counsel.

Comment date: August 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Idaho Power Company

[Docket No. ER95–1445–000]

Take notice that on July 28, 1995, Idaho Power Company (IPC) tendered for filing with the Federal Energy Regulatory Commission a contract dated July 20, 1995 between IPC and Bonneville Power Administration with regard to water releases for the benefit of anadromous fish.

IPC has requested waiver of the notice provisions of the Commission's regulations and designation of the execution date of the contract as its effective date for rate schedule purposes.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Central Illinois Public Service Company

[Docket No. ER95–1490–000]

Take notice that on August 4, 1995 Central Illinois Public Service Company (CIPS) submitted a Service Agreement, dated March 23, 1995, establishing National Electric Associates Limited Partnership as a customer under the terms of CIPS' Coordination Sales Tariff CST–1 (''CST–1 Tariff'').

CIPS requests an effective date of August 1, 1995 for the service agreement, and, accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon National Electric Associates Limited Partnership and the Illinois Commerce Commission.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Rochester Gas and Electric Corporation

[Docket No. ER95–1503–000]

Take notice that on August 8, 1995, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and National Gas & Electric L.P. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1279. RG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Rochester Gas and Electric Corporation

[Docket No. ER95–1504–000]

Take notice that on August 8, 1995, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and Heartland Energy Services, Inc. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1279. RG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Southwestern Public Service Company

[Docket No. ER95–1505–000]

Take notice that on August 8, 1995, Southwestern Public Service Company (Southwestern), tendered for filing proposed changes in the rate schedule to New Corp. Resources, Inc. for service to Cap Rock Electric Cooperative, Inc.

The change in the rates is necessary to recover the financing charges Southwestern in turn owes the Lender.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Potomac Electric Power Company

[Docket No. ER95–1506–000]

Take notice that on August 8, 1995, Potomac Electric Power Company (Pepco), tendered for filing service agreements pursuant to Pepco FERC Electric Tariff, Original Volume No. 1,

entered into between Pepco and: Pennsylvania Power & Light Co.; Enron Power Marketing, Inc.; Virginia Electric and Power Co.; and PECO Energy Co. An effective date of August 1, 1995 for these service agreements, with waiver of notice, is requested.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Company

[Docket No. ER95–1507–000]

Take notice that on August 8, 1995, New England Power Company filed a Service Agreement and Certificate of Concurrence with Canal Electric Company under NEP's FERC Electric Tariff, Original Volume No. 6.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, West Penn Power Company (the APS Companies)

[Docket No. ER95–1508–000]

Take notice that on August 8, 1995, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (the APS Companies), filed a Standard Transmission Service Agreement to add Duquesne Light Company to the APS Companies' Standard Transmission Service Rate Schedule which has been accepted for filing by the Federal Energy Regulatory Commission. The proposed effective date under the proposed rate schedule is July 21, 1995.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. CINergy Services, Inc.

[Docket No. ER95–1509–000]

Take notice that on August 8, 1995, CINergy Services, Inc. (CIN), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated July 1, 1995, between CIN, CG&E, PSI and Citizens Lehman Power Sales (CL SALES).

The Interchange Agreement provides for the following service between CIN and CL SALES.

1. Exhibit A—Power Sales by CL SALES
2. Exhibit B—Power Sales by CIN

CIN and CL SALES have requested an effective date of September 1, 1995.

Copies of the filing were served on Citizens Lehman Power Sales, the Massachusetts Department of Public Utilities, the Kentucky Public Service Commission, Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. PennUnion Energy Services, L.L.C.

[Docket No. ER95–1511–000]

Take notice that on August 9, 1995, PennUnion Energy Services, L.L.C. (PennUnion), tendered for filing pursuant to Rule 205, 18 CFR 385.205, an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective on the earlier of October 9, 1995 or the date of the Commission's order herein.

PennUnion is a limited liability company owned equally by its members, Pennzoil Gas Marketing Company and BRING Gas Services Corp., with its principal place of business at 1330 Port Oak Blvd., 20th Floor, Houston, Texas 77056. PennUnion intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where PennUnion sells electric energy, it proposes to make such sales at rates, terms, and conditions to be mutually agreed upon with the purchasing party. PennUnion is not in the business of generating, transmitting, or distributing electric power.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Northeast Utilities Service Company

[Docket No. ER95–1512–000]

Take notice that on August 7, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement with Dayton Power & Light Company (DP&L) under the NU System Companies' System Power Sales/ Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to DP&L.

NUSCO requests that the Service Agreement become effective August 1, 1995.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Astra Power, Inc.

[Docket No. ER95–1514–000]

Take notice that on August 10, 1995, Astra Power, Inc. (Astra Power), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1. Astra Power requests an order accepting its rate schedule, effective as of the date of filing.

Astra Power intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where Astra Power sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Astra Power is not currently in the business of generating, transmitting, or distributing electric power.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Western Resources, Inc.

[Docket No. ER95–1515–000]

Take notice that on August 10, 1995, Western Resources, Inc. (Western Resources), tendered for filing a proposed flexible point-to-point transmission tariff and a proposed network integration transmission tariff. Western Resources proposes that these tariffs become effective on October 9, 1995.

Copies of this filing were served upon the Kansas Corporation Commission.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Houston Lighting & Power Company

[Docket No. ER95–1516–000]

Take notice that on August 10, 1995, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with LG&E Power Marketing Inc. (LG&E) for service under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. The TSA provides for the transmission of economy energy to be scheduled to and over the East HVDC Interconnection. HL&P has requested an effective date of August 10, 1995.

Copies of the filing were served on LG&E and the Public Utility Commission of Texas.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Wisconsin Public Service Corporation

[Docket No. ER95–1517–000]

Take notice that on August 10, 1995, Wisconsin Public Service Corporation (WPSC) filed an agreement entitled ''Amendment No. 1 to the Transmission Extension Agreement Between Consolidated Water Power Company and Wisconsin Public Service Corporation''. This agreement sets forth certain terms and conditions pertinent to a sale by WPSC to Consolidated Water Power Company (CWP) of a 3.4 mile, 46 kV transmission line (designated as the K–122 line). WPSC's sale of the K–122 line also is the subject of a concurrent filing by WPSC which seeks Commission authorization for the sale under Section 203 of the Federal Power Act.

WPSC, with CWP's support, seeks an effective date of July 24, 1995 for the agreement submitted in this docket. WPSC states that copies of its filing have been served on CWP and the Public Service Commission of Wisconsin.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Long Island Lighting Company

[Docket No. ER95–1518–000]

Take notice that on August 10, 1995, Long Island Lighting Company (LILCO), tendered for filing LILCO's Power Sales Tariff.

Copies of this filing have been served by LILCO on the New York State Public Service Commission.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Blackstone Valley Electric Company

[Docket No. ER95–1520–000]

Take notice that on August 10, 1995, Blackstone Valley Electric Company (Blackstone), filed a letter agreement between it and New England Power Company (NEP) dated May 23, 1995. The letter agreement provides for the installation at NEP's request of metering equipment at two Blackstone substations located in Rhode Island to be used in metering NEP load data. The letter agreement provides that NEP will pay Blackstone a Contribution in Aid of Construction (CIAC), estimated to be $9,200, to be determined according to a formula agreed to by Blackstone and NEP and attached as Exhibit A to the letter agreement.

Blackstone requests waiver of the 60-day notice requirement so that this filing can be made effective on August 11, 1995, the day after the filing was made. The waiver is necessary to enable Blackstone to receive prompt payment for work being done at NEP's request in accordance with the letter agreement.

Comment date: September 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–21152 Filed 8–24–95; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 1218, Georgia]

Georgia Power Company; Notice of Scoping Pursuant to the National Environmental Policy Act of 1969

August 21, 1995.

Pursuant to the Energy Policy Act of 1992, and as part of the license application, the Georgia Power Company (Georgia Power) intends to prepare an Environmental Assessment (EA) to file with the Federal Energy Regulatory Commission for the Flint River Hydroelectric Project. Two public Scoping meetings will be held, pursuant to the National Environmental Policy Act of 1969, to identify the scope of environmental issues that should be analyzed in the EA. At the scoping meetings, Georgia Power will summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially qualified data, on the resources at issue; and (3) encourage statements from experts and the public on issues that should be analyzed in the EA.

All interested individuals, organizations, and agencies are invited and encouraged to attend and assist in identifying and clarifying the scope of environmental issues that should be analyzed in the EA.

To help focus the discussions, a scoping document was sent out on August 10, 1995, as part of the Initial Stage Consultation Document (ISCD). Copies of the Scoping Document and ISCD will also be available at the meetings.

Georgia Power will conduct a site visit and scoping meetings on September 12, 1995. The site visit will begin at 10:00 a.m. at the Georgia Power—Albany Operating Headquarter in Albany, Georgia. A scoping meeting for federal, state and local resource agencies will be held at the Georgia Power—Albany Operating Headquarters at 2:00 p.m. The evening scoping meeting will be held on September 12 at 7 p.m. at the Ramada Inn, in Albany, Georgia. The site visit and scoping meetings are open to all interested parties.

Meeting Procedures

The meeting will be conducted according to the procedures used at Commission scoping meetings. Because this meeting will be a NEPA scoping meeting, the Commission will not conduct another NEPA scoping meeting when the application and EA are filed with the Commission in September 1999. Instead, Commission staff will attend the meetings held on September 12, 1995.

The meetings will be recorded by a stenographer and, thereby, will become a part of the formal record of the proceedings on the Flint River Project. Individuals presenting statements at the meetings will be asked to identify themselves for the record.

Concerned parties are encouraged to offer verbal guidance during public meetings. Speaking time allowed for individuals will be determined before each meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session, but all speakers will be provided at least five minutes to present their views.

Persons choosing not to speak but wishing to express an opinion, as well as speakers unable to summarize their positions within the allotted time, may submit written statements for inclusion in the public record.

Written scoping comments may also be mailed to Georgia Power Company, 333 Piedmont Avenue NE, Bin 10170, Atlanta, Georgia 30308–3374. All correspondence should clearly show the following caption on the first page: Scoping Comments, Flint River Project, FERC No. 1218, Georgia.

For further information, please contact Chris Hobson at (404) 526–7778 (Georgia Power Company) or Kelly Fargo at (202) 219–0231.

Lois D. Cashell,

Secretary.

[FR Doc. 95–21129 Filed 8–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 11549–000, et al.]

Hydroelectric Applications [Dunkirk Water Power Company, Inc., et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. Type of Application: Preliminary Permit.

b. Project No.: 11549–000.

c. Date filed: July 3, 1995.

d. Applicant: Dunkirk Water Power Company, Inc.

e. Name of Project: Dunkirk Water Power Project.

f. Location: On the Yahara River, near Dunkirk, in Dane County, Wisconsin.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. §§ 791 (a)–825(r).

h. Applicant Contact:

Mr. Thomas J. Reiss, Jr., President, Dunkirk Water Power Company, Inc., P.O. Box 553, 319 Hart Street, Watertown, WI 53094, (414) 261–7975.

i. FERC Contact: Mary Golato (202) 219–2804.

j. Comment Date: September 30, 1995.

l. Description of Project: The proposed project would consist of the following facilities: (1) An existing dam 800 feet long and 20 feet high; (2) an existing reservoir impounding approximately 270 acre-feet with a surface area of approximately 70 acres; (3) an existing headrace canal approximately 20 feet wide and 100 feet long; (4) an existing powerhouse containing two new turbine-generator units having a total capacity of 345 kilowatts; (5) a short overhead transmission line interconnecting the proposed project with an existing substation; and (6) appurtenant facilities. The dam is owned by the Dunkirk Dam Lake District. The average annual generation is estimated to be 1,000 megawatthours. The cost of the studies under the term of the permit will not exceed $45,000.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

In addition to filing under the above standard paragraphs, commenters *may* submit a copy of their comments on a 3½-inch diskette formatted for MS–DOS based computers. In light of our ability to translate MS-DOS based materials, the text need only be submitted in the format and version that it was generated (i.e., MS Word, WordPerfect 5.1/5.2, ASCII, etc.). It is not necessary to reformat word processor generated text to ASCII. For Macintosh users, it would be helpful to save the documents in Macintosh word processor format and then write them to files on a diskette formatted for MS-DOS machines.

2a. Type of Application: Request To Delete Requirement for a Canoe Portage Facility and to Approve a Tailrace Fishing Platform.

b. Project No: 2425–011.

c. Date Filed: June 19, 1995.

d. Applicant: Potomac Edison Company.

e. Name of Project: Luray/Newport Hydroelectric Project.

f. Location: Page Co., Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact:

Mr. Charles L. Simons, Allegheny Power System, Bulk Power Supply, 800 Cabin Hill Drive, Greensburg, PA 15601–1689, (412) 838–6397.

i. FERC Contact: Jean Potvin, (202) 219–0022.

j. Comment Date: September 25, 1995.

k. Description of Project: Licensee Requests Approval To Delete Requirement for a Canoe Portage Facility From the Luray Development of the Above Named Project and to Add a Tailrace Fishing Platform.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

3a. Type of Application: Non-Project Use of Project Lands.

b. Project No: 2426–075.

c. Date Filed: February 15, 1995.

d. Applicant: California Department of Water Resources and City of Los Angeles.

e. Name of Project: California Aqueduct Project.

f. Location: California Aqueduct, San Bernardino, County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact:

Mr. John J. Silveira, California Dept. of Water Resources, P.O. Box 942836, 1416 Ninth Street, Sacramento, CA 94236, (916) 653–5791.

i. FERC Contact: Patti Pakkala, (202) 219–0025.

j. Comment Date: September 25, 1995.

k. Description of Project: California Department of Water Resources, joint licensee for the California Aqueduct Project, requests approval of a land conveyance to Crestline-Lake Arrowhead Water Agency (CLAWA) for the expansion of their existing water treatment facility on Silverwood Lake in San Bernardino County. The conveyance is for 4.25-acres of project land. Expansion of the facilities is considered necessary for CLAWA to meet the requirements of the modified federal Safe Drinking Water Act. Proposed expansion facilities include a clarifier, packaged treatment units, clearwell tanks, electric and natural gas engine boosters, sludge beds, ammonia feed facilities, and ozone feed facilities.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

4a. Type of Application: Recreation and Land Use Management Plan.

b. Project No: 2459–012.

c. Date Filed: June 26, 1995.

d. Applicant: West Penn Power Company.

e. Name of Project: Lake Lynn Project.

f. Location: Cheat River, Monongalia County, West Virginia and Fayette County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825 (r).

h. Applicant Contact: Ms. P.M. Lantzy, Allegheny Power System, 800 Cabin Hill Drive, Greensburg, PA 15601–1689, (412) 838–6025.

i. FERC Contact: Patti Pakkala, (202) 219–0025.

j. Comment Date: September 28, 1995.

k. Description of Project: West Penn Power Company, licensee for the Lake Lynn Project, requests approval of a recreation and land use management plan. The plan proposes to develop recreational facilities in the West Penn Beach area of Cheat Lake and at the tailrace area below the dam. The plan also proposes to maintain wildlife habitat and nature viewing areas at different locations around the reservoir. Recreational facilities to be constructed consist of a tailrace fishing platform, boat launches, primitive camping areas, fishing access trails, fish cleaning stations, parking areas, restrooms, and a hiking/biking trail.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

Standard Paragraphs

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36).

Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol 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.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: August 21, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–21151 Filed 8–24–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RM93–4–008; Order No. 563–F]

Standards For Electronic Bulletin Boards Required Under Part 284 of The Commission's Regulations

August 18, 1995.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of availability of standardized data sets and communication protocols.

SUMMARY: The Federal Energy Regulatory Commission is issuing a notice that the revised ''Standardized Data Sets and Communication Protocols'' reflecting the changes accepted in Order No. 563–F are available at the Commission's Public Reference and Files Maintenance Branch. The Commission's order made changes to its capacity release data sets and Electronic Data Interchange implementation guide in response to a filing by the Electronic Bulletin Board Working Group.

EFFECTIVE DATE: Pipelines must implement these new requirements by October 25, 1995.

ADDRESSES: Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–2294

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–1283

Brooks Carter, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 501–8145

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 19200, 14400, 12000,

9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS in ASCII and WordPerfect 5.1 format. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Standards for Electronic Bulletin Boards Required Under Part 284 of The Commission's Regulations; Availability of Standardized Data Sets and Communication Protocols

[Docket No. RM93–4–008]

August 18, 1995.

Take notice that the revised ''Standardized Data Sets and Communication Protocols'' reflecting the changes accepted by the Commission in Order No. 563–F, issued on July 27, 1995 (60 FR 39252, August 2, 1995), are now available at the Commission's Public Reference and Files Maintenance Branch. The documents are available for inspection and copying in hard copy or on diskette. The complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation, located in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–21028 Filed 8–24–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Notice of Cases Filed; Week of May 15 Through May 19, 1995

During the Week of May 15 through May 19, 1995, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: August 18, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 15 through May 19, 1995]

Date	Name and Location of Applicant	Case No.	Type of Submission
5/15/95	Doug's Texaco, Oshkesh, Nebraska	RR321–181	Request for Modification/Rescission in the Texaco Refund Proceeding. IF GRANTED: The March 16, 1995 Decision and Order, Case No. RF321–21059, issued to Doug's Texaco would be modified regarding the firm's application for refund submitted in the Texaco Refund Proceeding.
5/15/95	Benton County, Washington, Benton County, Washington.	VPZ–0002	Motion to Strike. IF GRANTED: Portions of a Post-Hearing Brief submitted by DOE Richland Operations Office in Case No. LPA–0001 would be stricken from the record.
5/15/95	Swampscott, MA, Swampscott, MA	RR272–202	Request for Modification/Recission in the Crude Oil Refund Proceeding. IF GRANTED: The April 28, 1995 Dismissal Letter Case Number RF272–88967, issued to Swampscott, MA would be modified and the firm would be granted a refund in the Crude Oil refund proceeding.
5/19/95	Louisiana—Baton Rouge, Louisiana	VEG–0002	Petition for Special Redress. IF GRANTED: The Office of Hearings and Appeals would review the State's proposal to utilize Stripper Well Settlement Funds.

Date received	Name of refund proceeding/name of refund applicant	Case No.
5/1–5/19/95	Supplemental Crude Refunds	RB272–1 thru RB272–4
5/11–5/19/95	Supplemental Crude Refunds	RK272–35 thru RK272–190
5/2–5/19/95	Crude Oil Refunds	RG272–183 thru RG272–249
5/17/95	Point Gasoline Corp.	RF300–21828
8/12/94	Arrayo Service Station	RF321–21069

[FR Doc. 95–21158 Filed 8–24–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Cases Filed; Week of May 29 Through June 2, 1995

During the Week of May 29 through June 2, 1995, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 C.F.R. Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual

notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: August 18, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 29 through June 2, 1995]

Date	Name and location of applicant	Case No.	Type of submission
5/30/95	Buckley & Co., Inc., Philadelphia, Pennsylvania.	RR321–182	Request for Modification/Rescission in the Texaco Refund Proceeding. IF GRANTED: The May 18, 1995 Dismissal Case No. RF321–20321 issued to Buckley & Co., Inc. would be modified regarding the firm's application for refund submitted in the Texaco Refund Proceeding.
5/30/95	Wilbert L. Townsend, Las Vegas, Nevada	VFA–0044	Appeal of an Information Request Denial. IF GRANTED: The May 9, 1995 Freedom of Information Request Denial issued by the Department of Energy, Nevada Operations Office would be rescinded, and Wilbert L. Townsend would receive access to use certain Department of Energy information.
5/31/95	Richland Operations Office, Richland, Washington.	VSO–0037	Request for Hearing under 10 C.F.R. Part 710. IF GRANTED: An individual employed at Richland Operations Office would receive a hearing under 10 C.F.R. Part 710.
6/2/95	A. Victorian, Nottingham, England	VFA–0045	Appeal of an Information Request Denial. IF GRANTED: A. Victorian would receive a waiver of all fees incurred in the processing of his Freedom of Information Request for certain DOE information.
6/2/95	Richard W. Miller, Kansas City, Missouri	VFA–0046	Appeal of an Information Request Denial. IF GRANTED: The May 5, 1995 Freedom of Information Request Denial issued by the Strategic Petroleum Reserve Project Management Office would be rescinded, and Richard W. Miller would receive access to draft memoranda, internal memoranda, government cost estimates, price negotiation memoranda, job diaries and drafts of specifications.

Date received	Name of refund proceeding/name of refund applicant	Case No.
5/20/95 thru 6/2/95	Supplemental Crude Refunds	RF272–191 thru RF272–203
5/29/95 thru 6/2/95	Crude Oil Refund Applications	RG272–272 thru RG272–295
5/30/95	Western Slope Refining Co.	RF345–39
5/31/95	Mid States Equipment Co.	RF300–21830
5/31/95	Robert E. Boyer	RF321–21071

[FR Doc. 95–21157 Filed 8–24–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5285–7]

Agency Information Collection Activities up for Renewal

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 the Information Collection Request (ICR) listed below is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before October 24, 1995.

ADDRESSES: Office of Radiation and Indoor Air, Criteria & Standards Division, Environmental Protection Agency, 6602J, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Dale Hoffmeyer, telephone: (202)233–9228, fax: (202) 233–9629, E-mail: hoffmeyer.dale@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

Affected Entities

Entities affected by this action are those which own or operate Department of Energy facilities, elemental phosphorus plants, Non-DOE federal facilities and NRC licensed facilities, phosphogypsum stacks, underground uranium mines and uranium mill tailings piles.

Title

National Emission Standards for Hazardous Air Pollutants: Radionuclides, OMB No. 2060–0191, expires 1/31/96.

Abstract

Information is being collected pursuant to Federal regulation 40 CFR 61. The pertinent sections of the regulation for reporting and record keeping are listed below for each source category:

Department of Energy—Sections 61.93, 61.94, 61.95

Elemental Phosphorous—Section 61.123, 61.124, 61.126

Non-DOE federal facilities not licensed by NRC—Sections 61.103, 61.104, 61.105

*NRC Licensees—Section 61.103, 61.104, 61.105, 61.107
Phosphogypsum Stacks—Sections 61.203, 61.206, 61.207, 61.208, 61.209
Underground Uranium Mines—Sections 61.24, 61.25
Uranium Mill Tailings Piles—Sections 61.253, 61.254, 61.255, 61.223, 61.224

*(EPA is proposing to rescind Subpart I of the radionuclide NESHAP as it applies to NRC-licensed facilities).

Data and information collected is used by EPA to ensure that public health continues to be protected from the hazards of airborne radionuclides by compliance with the National Emission Standards for Hazardous Air Pollutants (NESHAP). If the information were not collected, it is unlikely that violation of the standards would be identified and no corrective action would be initiated to bring the facilities back into compliance. Compliance is demonstrated through emission testing and/or dose calculation. Results are submitted to EPA annually for verification of compliance and maintained for a period of 5 years.

The EPA would like to solicit 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;

(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 through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement

NRC Licensees and NON–DOE federal facilities—for facilities licensed by the NRC, emission testing is not required. Facilities may use written procedures or the COMPLY computer program for demonstrating compliance. These procedures and the COMPLY program were designed to reduce the burden on smaller facilities of determining compliance. The activities of the various respondents consist of reading and understanding the regulatory provisions and compliance procedures, identifying and listing input data, performing computer runs, preparing a report, and storing and maintaining data.

The estimated burden for each respondent is 23 hours per response. This estimate is based on experience gained in preparing radionuclide NESHAP enforcement and compliance guidance material and in demonstrating the use of EPA's COMPLY computer program to the uninitiated. Estimates of burden and cost to NRC licensed facilities accruing from reporting and recordkeeping activity are calculated based on the assumption of 6000 facilities completing computer runs, filing a report (if required) and maintaining supporting records. In the past reporting periods, only 670 of the 6,000 facilities have reported under the regulation and many of these facilities were not required to report pursuant to the regulation.

The record keeping and reporting burden hours are 23 hours×6000 respondents=138,000 hours. However, we are proposing to rescind our standard covering these NRC-licensed facilities. After the recission, Subpart I of the radionuclide NESHAP will apply only to non-DOE federal facilities not licensed by NRC.

Other 40 CFR 61 Facilities—In addition, the estimates of this ICR renewal also includes DOE facilities, elemental phosphorous plants, Non-DOE federal facilities not licensed by NRC, phosphogypsum stacks, underground uranium mines and uranium mill tailings piles. It is assumed that all facilities will perform emission testing in lieu of analytical analysis to estimate emissions. Whereas testing is more time consuming than analytic analysis, the ICR estimates represent a worst case scenario by a factor of about 20. Activities consist of reading and understanding the regulatory provisions and compliance procedures, preparing a test plan, performing testing, performing data analysis, preparing a report, and storing and maintaining data. Accordingly, it is estimated that the burden will not exceed 288 hours per response and more likely be in a 29 to 288 hour range.

Respondent	Number of facilities
Department of Energy	38
Elemental Phosphorous	5
Non-DOE not licensed by NRC	17
Phosphogypsum Stacks	41
Underground Uranium Mines	20
Uranium Mill Tailings Piles	100
Total	221

It is estimated that 221 facilities would be required to report emissions and/or effective dose equivalent annually and retain supporting records for five years. The total record keeping and reporting burden hours is 288 hours×221 respondents=63,648 hours.

The total burden to respondents will be 138,000 hours detailed above and the additional 63,648 hours, together totaling 201,648 hours.

No person is 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 displayed in 40 CFR Part 9.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: August 18, 1995.

Mary Clark,

Acting Director, Office of Radiation and Indoor Air.

[FR Doc. 95–21169 Filed 8–24–95; 8:45 am]

BILLING CODE 6560–50–P

[ER-FRL–5228–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 10, 1995 through August 11, 1995 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 1995 (60 FR 19047).

Draft EISs

ERP No. D–AFS–J65237–MT Rating EC2, Two Joe Timber Sales, Implementation, Lolo National Forest, Superior Ranger District, St. Regis River, Mineral County, MT.

Summary: EPA expressed environmental concerns regarding the potential for increased sediment transport and localized effects upon area bull trout populations. EPA suggested expanded commitment to water quality and aquatics monitoring, and the collection of additional information needed to fully assess and mitigate all potential impacts of the management actions.

ERP No. D–BLM–J02032–WY Rating EC2, Moxa Arch Area Natural Gas Development Expansion Project, Approvals, Right-of-Way Grants and COE Section 404 Permit(s) Issuance, Sweetwater, Lincoln and Unita Counties, WY.

Summary: EPA expressed environmental concerns about cumulative impacts from this and numerous other proposed oil and gas activities in Southwestern Wyoming. EPA encouraged BLM to use all available measures in the current proposals to reduce levels of ground disturbance.

ERP No. D–COE–K32048–CA Rating LO, Port of Long Beach (POLB) Main Channel Deepening and Navigation Improvements, Implementation, Queen's Gate, San Pedro Bay, Los Angeles County, CA.

Summary: EPA had no objections to the proposed action. EPA did suggest that the final document discuss the suitability of using dredged sediment for cap material in the Los Angeles River Borrow Pit.

ERP No. D–DOA–K36112–AS Rating EC2, Aua Watershed Plan, Flood Prevention and Watershed Protection, Funding, COE Section 404 Permit and Right-of-Way Grant, Tutuila Island, Ma'oputasi County, AS.

Summary: EPA expressed environmental concerns regarding potential impacts to wetlands and coral reefs. EPA requested additional information to clarify the issues.

ERP No. D–UAF–E10007–GA Rating LO, F–15 Fighter Aircraft Conversion at Dobbins Air Force Base (AFB), Marietta, GA to B–1B Bomber Aircraft at Robins AFB, Warner Robins, GA and Training Airspace Modifactions Servicing the Savannah Combat Readiness Training Center (CRTC) Area, GA.

Summary: EPA does not anticipate any significant adverse environmental effects attendant to this proposal.

ERP No. D–USA–G11029–AR Rating LO, Disposal of Chemical Agents and Munitions Stored at Pine Bluff Arsenal, Construction and Operation, Approval of Permits, Jefferson County, AR.

Summary: EPA had a lack of environmental objections with the proposed action.

Final EISs

ERP No. F–AFS–E65043–00 Red-Cockaded Woodpecker (RCW) (Picoides borealis) Repopulation, Habitat Management Areas, Implementation, National Forests in the Southern Region.

Summary: EPA expressed environmental concerns regarding the impact of timber harvest and oil and gas exploratory activities on the Red-cockaded Woodpecker habitat. The Final EIS should address additional mitigation measures.

ERP No. F–DOE–L09805–00 Business Plan to Operate Electric Utility Market, Transmission Services and Fish and Wildlife Activities, Funding and Implementation, WA, OR, ID, CA, NV, AZ, MT, WY, UT, NM and British Columbia.

Summary: EPA expressed environmental concerns that the Final EIS does not clearly document how the proposed action optimizes conservation, resource protection and restoration objectives with the business objectives.

ERP No. F–NPS–E64015–TN Obed Wild and Scenic River, General Management Plan and Development Concept Plan, Implementation, Morgan and Cumberland Counties, TN.

Summary: EPA expressed environmental concerns about upstream water withdrawals from Clear Creek, threatening water quality and the value of the Obed Wild and Scenic River. A comprehensive water resources management and/or protection plan for the upstream watershed should be prepared.

ERP No. F–NPS–L61200–WA Lake Chelan National Recreation Area General Management Plan, Implementation, Chelan County, WA.

Summary: Review of the Final EIS has been completed and the project found to be environmentally satisfactory. No formal comment letter was sent to the preparing agency.

Dated: August 22, 1995

B. Katherine Biggs,

Associate Director, NEPA Compliance Division.

[FR Doc. 95–21208 Filed 8–24–95; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–5228–1]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075.

Weekly receipt of Environmental Impact Statements Filed August 14, 1995 Through August 18, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950375, Draft EIS, AFS, ID, White Sand Planning Area Ecosystem Management Project, Implementation, Clearwater National Forest, Powell Ranger District, Idaho County, ID, Due: October 10, 1995, Contact: Jeff Pope (208) 942–3113.

EIS No. 950376, Draft EIS, AFS, CO, Rio Grande National Forest Land and Resource Management Plan, Implementation, Archuleta, Rio Grande, Custer, Hinsdale, Alamosa, San Juan, Conejos, Mineral and Saquache Counties, CO, Due: December 22, 1995, Contact: James B. Webb (719) 852–5941.

EIS No. 950377, Final EIS, AFS, CA, Running Springs Water District Wastewater Treatment Facilities Upgrading and Reclamation for Irrigation and Snow-Making at the Snow Valley Ski Resort, Approval, San Bernardino National Forest, San Bernardino County, CA, Due: September 25, 1995, Contact: Hal Seyden (909) 884–6634.

EIS No. 950378, Draft EIS, FHW, NV, Tier 1—DEIS Northern and Western Las Vegas Beltway Corridor Location Study, Site Selection for Funding and Land Transfer or Right-of-Way Grants, Clark County, NV, Due: October 10, 1995, Contact: Janice Weingart-Brown (702) 687–5320.

EIS No. 950379, Final EIS, NPS, OR, Crater Lake National Park Development Concept Plan/ Amendment to the General Management Plan, Implementation, Klamath County, OR, Due: September 25, 1995, Contact: Gary Hurelle (303) 969–2394.

EIS No. 950380, Draft EIS, FRC, WA, Priest Rapids Project (FERC No. 2114–024), Evaluation of Downstream Fish Passage Facilities, New License Issuance with Conditions to Protect the Migratory Juvenile Salmon (Smolts), Columbia River Basin, Grant County, WA, Due: October 10, 1995, Contact: Timothy L. Welch (202) 219–2666.

EIS No. 950381, Final EIS, AFS, WA, Thunder Mountain Fire Recovery and Salvage Project, Implementation, Okanogan National Forest, Tonasket and Methow Valley Ranger Districts, Okanogan County, WA, Due: September 25, 1995, Contact: Don Rose (509) 486–5109.

EIS No. 950382, Draft EIS, AFS, MT, Castle Mountains Allotment Management Plan, Implementation, Lewis and Clark National Forest, Musselshell and King Hill Ranger Districts, White Sulphur Springs, Meagher County, MT, Due: October 10, 1995, Contact: Dave Wanderaas (406) 566–2292.

EIS No. 950383, Draft EIS, MMS, AK, Beaufort Sea Planning Area Proposed 1996 Oil and Gas Lease Sale No. 144, Lease Offerings, Alaska Outer Continential Shelf (OSC), AK, Due: October 10, 1995, Contact: George Valiulis (703) 787–1662.

EIS No. 950384, Final EIS, USN, CT, GA, VA, Seawolf Class Submarine Homeporting Program on the East Coast of the United States, Site Selection, COE Section 404 Permit and implementation, CT, VA and GA, Due: September 25, 1995, Contact: Robert Ostermueller (610) 595–0759.

EIS No. 950385, Draft Supplement, NOA, MA, ME, RI, NH, CT, Northeast Multispecies Groundfish Fishery Management Plan, Amendment 7, Updated Information concerning the Rehabilation of the Depleted Cod, Haddock and Yellowtail Flounder Stocks, Implementation, Gulf of Maine, Georges Bank, ME, NH, CT, RI and MA, Due: October 10, 1995, Contact: Mark Millikin (301) 713–2344.

EIS No. 950386, Draft Supplement, COE, CA, American River Watershed Flood Plain Protection Project, Construction, Operation and Maintenance, Updated and Additional Information, Sacramento, Placer and Sutter Counties, CA, Due: October 10, 1995, Contact: Mike Welsh (916) 557–6718.

EIS No. 950387, Draft Supplement, BLM, CA, Cajon Crude Oil Pipeline Project, Construction, Operation and Transportation, New Information concerning the Construction of a Shorter Pipeline, Granting of Right-of-Way Permit, San Bernardino County, CA, Due: October 10, 1995, Contact: Stephen Johnson (909) 697–5233.

Amended Notices

EIS No. 950315, Draft EIS, EPA/COE, NJ, Hackensack Meadows District (HMD) Special Area Management Plan (SAMP), Development and Implementation, COE Section 10 and 404 Permit Issuance, NJ, Due: October 06, 1995, Contact: Roberta W. Hargrove (212) 637–3495. Published FR 07–21–95—Review period extended.

EIS No. 950372, Draft EIS, USN, WA, Disposal of Decommissioned, Defueled Cruiser, Ohio Class and Los Angeles Class Naval Reactor Plants, Site Selection, Hanford Site, Benton, Franklin, and Grant Counties, WA, Due: October 10, 1995, Contact: John Gordon (360) 476–7111. Published FR—08–18–95 Title Change.

Dated: August 22, 1995.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division.

[FR Doc. 95–21209 Filed 8–24–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5285–5]

Effluent Guidelines Task Force Open Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The Effluent Guidelines Task Force, an EPA advisory committee, will hold a meeting to discuss improvements to the Agency's Effluent Guidelines Program. The meeting is open to the public.

DATES: The meeting will be held on Tuesday, September 12, 1995, from 9:00 a.m. to 5:00 p.m., and Wednesday, September 13, 1995, from 9:00 a.m. to 3:00 p.m.

ADDRESSES: The meeting will take place at the Dupont Plaza Hotel, 1500 New Hampshire Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Debra DiCianna, Acting Effluent Guidelines Task Force Director, Office of Water (4303), 401 M Street SW., Washington, DC 20460; telephone 202–260–7141, fax 202–260–7185.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), the Environmental Protection Agency gives notice of a meeting of the Effluent Guidelines Task Force (EGTF). The EGTF is a subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory board to the Administrator of EPA.

The EGTF was established in July of 1992 to advise EPA on the Effluent Guidelines Program, which develops regulations for dischargers of industrial wastewater pursuant to Title III of the Clean Water Act (33 U.S.C. 1251 *et seq.*). The Task Force consists of members appointed by EPA from industry, citizen groups, state and local government, the academic and scientific communities, and EPA regional offices. The Task Force was created to offer advice to the Administrator on the long-term strategy for the effluent guidelines program, and particularly to provide recommendations on a process for expediting the promulgation of effluent guidelines. The Task Force generally does not discuss specific effluent guideline regulations currently under development.

The meeting agenda will include a presentation to EPA Office of Water management on work group recommendations and a discussion of remaining issues from previous work group recommendations which have not been adopted. Much of the meeting time will be set aside as working time for the three work groups: selecting industries for regulation, co-regulation (cross-media); and pretreatment (pass-through determination).

The meeting will be open to the public. Limited seating for the public is available on a first-come, first-served basis. The public may submit written comments to the Task Force regarding improvements to the Effluent Guidelines program. Comments should be sent to Debra DiCianna at the above address. Comments submitted by September 5 will be considered by the Task Force at or subsequent to the meeting.

Dated: August 16, 1995.

Eric Strassler,

Designated Federal Official.

[FR Doc. 95–21170 Filed 8–24–95; 8:45 am]

BILLING CODE 6560–50–P

[OPP–00414; FRL–4974–3]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 1–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) to review a set of scientific issues being considered by the Agency in connection with EPA's policy document on Acute Dietary Risk Assessment Pesticide Assessment and the product chemistry and residue chemistry test guidelines of the Harmonized Test Guidelines for OPPTS (derived from the FIFRA Pesticide Assessment Guidelines Subdivision D and O, and TSCA Testing Guidelines). These Test Guidelines have been updated and harmonized, to the extent possible, with the OECD Guidelines for Testing of Chemicals, and other relevant international standards.

DATES: The meeting will be held on Wednesday, September 27, 1995, from 8:30 a.m. to 5 p.m.

Written comments on the guidelines must be submitted on or before October 31, 1995.

ADDRESSES: The meeting will be held at: The Doubletree Hotel, 300 Army Navy Drive, Arlington, VA, in the Commonwealth Room. The telephone number for the hotel is (703) 416–4100.

Submit written comments (1 original and 20 copies) to: By mail: Public Response and Program Resources Branch, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. ll32, Crystal Mall #2, l92l Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: guidelines@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number ''OPP–00414.'' No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: By mail: Robert B. Jaeger, Designated Federal Official, FIFRA Scientific Advisory Panel (7509C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 40l M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 815B, CM #2, 192l Jefferson Davis Highway, Arlington, VA (703) 305–5369/7351, e-mail: jaeger.bruce@epamail.epa.gov.

Copies of EPA documents may be obtained by contacting: The Public Response and Program Resources Branch, Field Operations Division at the office location listed under the ADDRESSES unit or by telephoning (703) 305–5805.

SUPPLEMENTARY INFORMATION: Any member of the public wishing to submit written comments should contact Robert B. Jaeger at the address or the phone number given above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file written statements before the meeting. To the extent that time permits and upon advanced written request to the Designated Federal Official, interested persons may be permitted by the chairman of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. Persons wishing to make oral and/or written statements should notify the Designated Federal Official and submit 20 copies of a summary no later than September 20, 1995, in order to ensure appropriate consideration by the Panel.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. All statements will be made part of the record and will be taken into consideration by the Panel. However, the full comment period for written comments to these guidelines is until October 31, 1995. Comments received after the FIFRA SAP Meeting will be taken into full consideration by the Agency.

The following is a list of the guidelines being made available for comment at this time:

Series 830—Product Properties Test Guidelines

OPPTS Number	Name	Existing Numbers			EPA Pub. no.
		OTS	OPP	OECD	712–C–
	Group A—Product Identity, Composition, and Analysis Test Guidelines.				
830.1550	Product identity and composition	none	158.155	none	95–006
830.1600	Description of materials used to produce the product	none	158.160	none	95–007
830.1620	Description of production process	none	158.162	none	95–008
830.1650	Description of formulation process	none	158.165	none	95–009
830.1670	Discussion of formation of impurities	none	158.167	none	95–010
830.1700	Preliminary analysis	none	158.170	none	95–011
830.1750	Certified limits	none	158.175	none	95–012
830.1800	Enforcement analytical method	none	158.180	none	95–013
830.1900	Submittal of samples	none	64–1	none	95–015
	Group B—Physical/Chemical Properties Test Guidelines.				
830.6302	Color	none	63–2	none	95–019
830.6303	Physical state	none	63–3	none	95–020
830.6304	Odor	none	63–4	none	95–021
830.6313	Stability to sunlight, normal and elevated temperatures, metals, and metal ions	none	63–13	none	95–022
830.6314	Oxidizing or reducing action	none	63–14	none	95–023
830.6315	Flammability	none	63–15	none	95–024
830.6316	Explodability	none	63–16	none	95–025
830.6317	Storage stability of product	none	63–17	none	95–026
830.6319	Miscibility	none	63–19	none	95–027
830.6320	Corrosion characteristics	none	63–20	none	95–028
830.6321	Dielectric breakdown voltage	none	63–21	none	95–029
830.7000	pH of water solutions or suspensions	796.1450	63–12	none	95–030
830.7050	UV/Visible absorption	796.1050	none	101	95–031
830.7100	Viscosity	none	63–18	114	95–032
830.7200	Melting point/melting range	796.1300	63–5	102	95–033
830.7220	Boiling point/boiling range	796.1220	63–6	103	95–034
830.7300	Density/relative density	796.1150	63–7	109	95–035
830.7370	Dissociation constant in water	796.1370	63–10	112	95–036

Series 830—Product Properties Test Guidelines—Continued

OPPTS Number	Name	Existing Numbers			EPA Pub. no.
		OTS	OPP	OECD	712–C–
830.7520	Particle size, fiber length, and diameter distribution	796.1520	none	110	95–037
830.7550	Partition coefficient (*n*-octanol/H_2O), shake flask method	796.1550	63–11	107	95–038
830.7560	Partition coefficient (*n*-octanol/H_2O), generator column method	796.1720	63–11	none	95–039
830.7570	Partition coefficient (*n*-octanol/H_2O), estimation by liquid chromatography	796.1570	63–11	117	95–040
830.7840	Water solubility: Column elution method; shake flask method	796.1840	63–8	105	95–041
830.7860	Water solubility, generator column method	796.1860	63–8	none	95–042
830.7950	Vapor pressure	796.1950	63–9	104	95–043

Series 860—Residue Chemistry Test Guidelines

OPPTS Number	Name	Existing Numbers			EPA Pub. no.
		OTS	OPP	OECD	712–C–
860.1000	Background	none	170–1	none	95–169
860.1100	Chemical identity	none	171–2	none	95–170
860.1200	Directions for use	none	171–3	none	95–171
860.1300	Nature of the residue—plants, livestock	none	171–4a,b	none	95–172
860.1340	Residue analytical method	none	171–4c,d	none	95–174
860.1360	Multiresidue method	none	171–4m	none	95–176
860.1380	Storage stability data	none	171–4e	none	95–177
860.1400	Potable water, fish, irrigated crops	none	171–4f,g,h, 165–5	none	95–178
860.1460	Food handling	none	171–4i	none	95–181
860.1480	Meat/milk/poultry/eggs	none	171–4j	none	95–182
860.1500	Crop field trials	none	171–4k	none	95–183
860.1520	Processed food/feed	none	171–4l	none	95–184
860.1550	Proposed tolerances	none	171–6	none	95–186
860.1560	Reasonable grounds in support of the petition	none	171–7	none	95–187
860.1650	Submittal of analytical reference standards	none	171–13	none	95–016
860.1850	Confined accumulation in rotational crops	none	165–1	none	95–188
860.1900	Field accumulation in rotational crops	none	165–2	none	95–189

A public record has been established for this notice under docket number ''OPP–00414'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. ll32 Bay of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

guidelines@epamail.epa.gov

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

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

Copies of the Panel's report of their recommendations will be available 10 to 15 working days after the meeting and may be obtained by contacting the Public Response and Program Resources Branch, at the address or telephone number given above.

List of Subjects

Environmental protection.

Dated: August 21, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95–21167 Filed 8–24–95; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5284–7]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9622(h), Emory Plating Company Superfund Site, Des Moines, Iowa

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9622(h), Emory Plating Company Superfund Site, Des Moines, Iowa.

SUMMARY: The United States Environmental Protection Agency (EPA) is proposing to enter into an administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9622(h). This settlement is intended to resolve the liability of Kent E. Easterday, Richard Hansen, Gary Akes, and Emory Liquidation, Inc. (hereinafter ''Respondents'') for the response costs incurred at the Emory Plating Company Superfund Site, 3929 East 14th Street, Des Moines, Iowa.

DATES: Written comments must be provided on or before September 25, 1995.

ADDRESSES: Comments should be addressed to the Regional Administrator, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101 and should refer to: In the Matter of Emory Plating Company Superfund Site, Kent E. Easterday, Richard Hansen, Gary Akes, Emory Liquidation, Inc., EPA Docket No. VII–95–F–0005.

FOR FURTHER INFORMATION CONTACT: J.D. Stevens, Assistant Regional Counsel, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7322.

SUPPLEMENTARY INFORMATION: The proposed settling parties are Emory Liquidation, Inc. (formerly known as Emory Plating Company) and its owners, Kent E. Easterday, Richard Hansen, and Gary Akes. Respondent Emory Liquidation, Inc. is the owner of the Emory Plating Company Superfund Site (''Site'') property. Respondents Kent E. Easterday, Richard Hansen and Gary Akes were the owners of Emory Liquidation, Inc. prior to its dissolution. The Emory Plating Company Superfund Site was a former electroplating facility located at 3929 East 14th Street, Des Moines, Iowa.

On July 13, 1992, the Environmental Protection Agency conducted a removal assessment to sample vats, drums and soils at the Site. This investigation revealed the presence of hazardous substances including cyanides, lead and corrosive solutions. The materials abandoned at the facility presented a significant threat to nearby populations.

The site was acquired by the Emory Plating Company in 1976. In 1985, the business and property were sold to Musser Enterprises, Inc., under a Purchase Offer and Agreement. Musser Enterprises, Inc. operated an electroplating business at the site until abandoning the facility and defaulting on the Purchase Offer and Agreement in approximately 1986. Emory Liquidation, Inc. continues to own the site property.

The EPA initiated a removal action in April 1993. The removal action that was concluded in December 1993 included the following activities: (1) characterization of the wastes in the building; (2) stabilization of uncontained waste by placement in containers; (3) excavation of contaminated soil; and (4) removal and disposal of hazardous waste and contaminated soil from the Site.

The proposed settlement provides that Respondents will make their best efforts to sell the property located at the Site and turn over to EPA the proceeds from the sale, deducting legal and appraisal fees, realtor's commissions and related taxes. The proposed settlement provides that EPA will covenant not to sue Respondents for all civil liability under Section 107(a) of CERCLA, 42 U.S.C. 9607(a), for reimbursement of response costs incurred at or in connection with the Site as of the effective date of the Agreement.

Dated: July 3, 1995.

Michael J. Sanderson,

Director, Superfund Division.

[FR Doc. 95–21171 Filed 8–24–95; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

New Commodore Cruise Lines Limited, 4000 Hollywood Blvd., Suite 385 South Tower, Hollywood, Florida 33021.

Vessel: ENCHANTED SEAS.

Dated: August 21, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–21099 Filed 8–24–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Maedgen & White, Ltd., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than September 8, 1995.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Maedgen & White, Ltd., Lubbock, Texas, and Plains Capital Corporation, Lubbock, Texas; to acquire Sunrise Leasing Corporation, Friona, Texas, and thereby engage in leasing activities, pursuant § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–21142 Filed 8–24–95; 8:45 am]

BILLING CODE 6210–01–F

The Fuji Bank Limited, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 8, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. The Fuji Bank Limited, Tokyo, Japan; to engage *de novo* through its subsidiary, Fuji Capital Markets Corporation, New York, New York (FCMC), in certain back-office and middle-office services related to swaps, swap transactions, including without interest rate and currency swaps, and swap derivative products such as caps, floors and collars, as well as various financial instruments that are used to properly hedge and manage a derivatives portfolio. These activities will be provided for third parties and will be performed on FCMC's premises. These activities will include funds transfers and other payment agency functions, rate settings, payment notifications, cash reconciliations, deal confirmations, other documentation assistance, and risk and position reporting, pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted on a worldwide basis.

2. Standard Chartered PLC, London, England, Standard Chartered Holdings Limited, London, England, and Standard Chartered Bank, London, England; to engage *de novo* through their subsidiary, Standard Chartered Trade Services Corporation, New York, New York in making, acquiring, or servicing loans or other extensions of credit for their own account or for the account of others, including the business of commercial finance and asset based financing, and including the secured and unsecured financing of trade and commodity activities, domestically, abroad and in international commerce, through the issuance of letters of credit, acceptance of notes and drafts and/or in taking title to goods in order to effect the financing of trade, and otherwise and to accept security in the form of guarantees, letters of credit, title retention and chattel mortgages in order to facilitate said transactions, pursuant to § 225.25 (b)(1) of the Board's Regulation Y. The geographic scope of this activity is worldwide.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. UMB Financial Corporation, Kansas City, Missouri; to acquire UMB U.S.A., National Association, Omaha, Nebraska (in organization), and thereby engage *de novo* in credit card activities, pursuant to the lending authority of § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–21141 Filed 8–24–95; 8:45 am]

BILLING CODE 6210–01–F

[Docket No. R–0891]

Privacy Act of 1974; Amendment to an Existing System of Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Amendment to an existing system of records.

SUMMARY: In accordance with the Privacy Act of 1974 (Privacy Act), the Board of Governors of the Federal Reserve System (Board) is publishing amendments to the existing system of records called FRB-Supervisory Tracking and Reference System (BGFRS–21) (the Tracking System). This amendment reflects the Board's ongoing review of its existing systems of records pursuant to Appendix I to OMB Circular No. A–130–Revised, which has resulted in minor changes in nearly all elements of the system of records. In addition, the changes reflect a new inter-agency suspicious activity reporting process, combining the criminal referral and suspicious financial transactions reporting requirements of the Federal banking agencies and the U.S. Department of the Treasury (Treasury), and involving the use of a new computerized database maintained by the Financial Crimes Enforcement Network (FinCEN), Department of the Treasury, on behalf of the Federal banking agencies and Treasury.

EFFECTIVE DATE: October 2, 1995.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boutilier, Senior Counsel, Legal Division, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–2418. For users of the Telecommunications Device for the Deaf (TDD) *only*, contact Dorothea Thompson (202–452–3544).

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, 5 U.S.C. 552a(e)(4) (Privacy Act), requires each agency to publish a notice of the establishment of or revision to each system of records maintained by the agency. The Office of

Management and Budget (OMB) has oversight authority over agency implementation of the Privacy Act. In this capacity it offers guidance to agencies through OMB Circulars. In a recent revision to its Appendix I to OMB Circular No. A–130 (58 FR 36068, July 2, 1993), OMB stated that each agency should regularly review the routine use disclosures associated with each system of records, as well as each system of records for which it has promulgated exemption rules. As part of this ongoing review, the Board is amending its existing system of records entitled FRB-Supervisory Tracking and Reference System (BGFRS–21), for which it has promulgated exemption rules pursuant to exemption (k)(2) of the Privacy Act, 5 U.S.C. 552a(k)(2).

Certain of the changes to the system reflect an agreement between FinCEN and the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration (the Federal Financial Regulatory Agencies) to store Suspicious Activity Reports (SAR) in electronic form in a database maintained by FinCEN and located in Detroit, Michigan. The SAR is being adopted by all Federal Financial Regulatory Agencies as a replacement for the Criminal Referral Form, which has been used by financial institutions to report suspected criminal activity by individuals to the banking agencies and the Federal law enforcement authorities (see Board, OCC and OTS proposed rulemakings at 60 FR 34481, July 3, 1995; 60 FR 34476, July 3, 1995; and 60 FR 36366, July 17, 1995; respectively); and by Treasury to implement suspicious financial transaction reporting rules. Information from the Criminal Referral Form has always been included in the existing Tracking System, and similar information will continue to be collected by the SAR. In addition to reports of suspected criminal activity, the SAR will also allow a bank to report suspicious financial transactions under Federal money laundering statutes, pursuant to Treasury regulations (31 CFR part 103). This information, which may include financial transactions by individuals, will be included in the Tracking System. Only the information collected by the SAR, and its status updates, will be located in the database maintained by FinCEN; all other information in the Tracking System will be located at the Board.

Pursuant to the inter-agency agreement between FinCEN and the Federal Financial Regulatory Agencies, FinCEN will manage a computerized database containing the SAR and status updates, which is information currently collected and/or maintained separately by each of the Federal Financial Regulatory Agencies. With regard to this database, only those records that are generated under the jurisdiction of the Board are considered to be Board records for purposes of the Privacy Act. Access to and use of these Board records by other agencies will continue to be governed by the routine uses in the Board's Tracking System.

Accordingly, the ''Routine Uses'' element is being amended to reflect the sharing among bank regulatory agencies and law enforcement agencies of the information collected by the SAR and the status updates. Additionally, the ''Safeguards'' element is amended to add that on-line access to the computerized database maintained by FinCEN is limited to authorized individuals who have been specified by each Federal Financial Regulatory Agency and Treasury, and who have been issued a nontransferable identifier or password.

Other amendments reflect organizational changes and are not significant. The exemption for this system of records continues to be (k)(2), because the information consists of investigatory material compiled for law enforcement purposes.

In accordance with 5 U.S.C. 552(r), a report of this amended system of records is being filed with the President of the Senate, the Speaker of the House of Representatives, and the Director of OMB. This amended system of records will become effective on October 2, 1995, without further notice, unless the Board publishes a notice to the contrary in the **Federal Register**.

Accordingly, the Board has amended the system of records entitled FRB-Supervisory Tracking and Reference System as follows.

BGFRS—21

SYSTEM NAME:

FRB—Supervisory Tracking and Reference System.

SYSTEM LOCATION:

Division of Banking Supervision and Regulation (Enforcement and Special Investigations and Examinations Sections), Board of Governors of the Federal Reserve System (Board), 20th and C Streets NW, Washington, DC 20551. Computerized records of Suspicious Activity Reports (SARs), with status updates, are managed by the Financial Crimes Enforcement Network (FinCEN), Department of the Treasury, pursuant to a contractual agreement, and are stored in Detroit, Michigan. Authorized personnel at the Board and the Federal Reserve Banks have on-line access to the computerized database managed by FinCEN through individual work stations that are linked to the database central computer.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Directors, officers, employees, agents and persons participating in the conduct of the affairs of entities regulated by the Board who have been involved in suspected criminal activity or suspicious financial transactions and referred to law enforcement officials; and other individuals who have been involved in irregularities, violations of law, or unsafe or unsound practices referenced in documents received by the Board in the course of exercising its supervisory functions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inter- and intra-agency correspondence, memoranda and reports. The SAR contains information identifying the financial institution involved, the suspected person, the type of suspicious activity involved, and any witnesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 248(a), 1820(d) and 1818 (for state member banks); 12 U.S.C. 1844 (for bank holding companies and their subsidiaries); 12 U.S.C. 622 and 625 (for Edge and Agreement corporations); 12 U.S.C. 3105 (for U.S. branches and agencies of foreign banks).

PURPOSE(S):

The overall system serves as a central Board repository for investigatory or enforcement information related to the Board's responsibility to examine and supervise entities regulated by the Board.

The system maintained by FinCEN serves as the database for the cooperative storage, retrieval, analysis, and use of information relating to Suspicious Activity Reports made to or by the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration (collectively, the Federal Financial Regulatory Agencies), and FinCEN to various law enforcement agencies for possible criminal, civil, or administrative proceedings based on known or suspected violations affecting or involving persons, financial institutions, or other entities under the supervision or jurisdiction of such Federal Financial Regulatory Agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

Information in these records may be used to:

(1) Provide information or records to any appropriate governmental department or agency or self-regulatory organization charged with the responsibility of administering law or investigating or prosecuting violations of law or charged with enforcing or implementing a statute, rule, regulation, order, policy, or license;

(2) Provide the Federal Financial Regulatory Agencies and FinCEN with information relevant to their operations;

(3) Disclose information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation;

(4) Disclose information, when appropriate, to foreign governmental authorities in accordance with law, and formal or informal international agreements;

(5) Disclose certain records, in the event of litigation or enforcement action, to the appropriate court, magistrate, or administrative tribunal; or to counsel or witnesses for the presentation of evidence in the course of discovery, to the extent permitted by law; and

(6) With regard to formal or informal enforcement actions, release information pursuant to 12 U.S.C. 1818(u), which requires the Board to publish and make available to the public final orders and written agreements, and modifications thereto.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

The records will be maintained in electronic data processing systems and in paper and card files.

RETRIEVABILITY:

Computer output, file folders, and card files are retrievable by indexes of data fields, including name of financial institution, Federal Reserve Bank District, and individuals' names.

SAFEGUARDS:

Paper records and word processing discs are stored at the Board in lockable metal file cabinets. The database maintained by FinCEN complies with applicable security requirements of the Department of the Treasury. On-line access to the information in the database is limited to authorized individuals who have been designated by each Federal Financial Regulatory Agency and FinCEN, and each such individual has been issued a nontransferable identifier or password.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER AND ADDRESS:

Deputy Associate Director (Enforcement and Special Investigations and Examinations Sections), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551, (202) 452–2620.

NOTIFICATION PROCEDURES:

Inquiries should be sent to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Information received by the Board from various sources, including, *inter alia*, law enforcement and other agency personnel involved in sending inquiries to the Board, documents received by the Board in the course of executing the Board's supervisory responsibilities, and reports and forms filed by individuals to whom the records pertain. The information maintained by FinCEN is compiled from SAR and related historical and updating forms compiled by financial institutions, the Board, and the other Federal Financial Regulatory Agencies for law enforcement purposes.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

By order of the Board of Governors of the Federal Reserve System, August 22, 1995.

William W. Wiles,

Secretary of the Board.

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FEDERAL TRADE COMMISSION

Paperwork Reduction Act Applications

AGENCY: Federal Trade Commission.

ACTION: Notice of application to OMB under the Paperwork Reduction Act (44 U.S.C. 3501–3520) for clearance of information collection requirements contained in twenty-four regulations issued or enforced by the Commission. The Commission is also applying to OMB for clearance of information collection requirements imposed during the performance of administrative or procedural tasks.

SUMMARY: The FTC is seeking OMB clearance for provisions of several regulations, issued or enforced by the Commission, that contain or may contain requirements for the collection of information under the Paperwork Reduction Act (''PRA''). The Paperwork Reduction Act has been amended to redefine ''collection of information'' to include ''disclosure to third parties or the public.'' This amendment serves to overturn the Supreme Court decision in *Dole* v. *United Steelworkers of America*, 494 U.S. 26 (1990), which held that such disclosures were not subject to the PRA.

In light of the amendment, the FTC is seeking to modify current OMB clearances by revising its estimates of burdens to include provisions requiring disclosures to consumers or other third parties. The FTC is also seeking approval for other disclosure requirements contained in rules that do not have current OMB clearance. Further, some requests for clearance include recordkeeping and reporting requirements.

The FTC is also seeking OMB clearance for information collection requests imposed during the performance of administrative or procedural tasks. This information is submitted voluntarily to the Commission by persons who wish to do business with or receive some benefit from the agency. Because of the limited burden imposed, these requests have been combined into a single item. See item number 25, *infra*.

Expansion of the PRA to include disclosure requirements has substantially increased the reportable burden hours attributable to the regulations enforced by the Commission. Disclosure requirements specifically mandated by Congress account for much of this increase. Of the twenty-four regulations addressed by this notice of application, eleven entail burden estimates associated with statutorily required disclosure provisions. For example, the Truth-in-Lending, Textile Act, and Fair Packaging Regulations all involve large burden estimates, totaling approximately 69 million burden hours.

Much of this burden reflects statutory provisions that require the disclosure of such basic consumer information as the annual percentage interest rate charged on loans, the composition of clothing and other textile items, and the size and content of packaged products. While the burden imposed on any individual party is often quite small (sometimes measured in seconds), the number of affected parties is often very high (sometimes measured in millions), and the total burden is therefore large. See *e.g.,* the Regulations implementing the Equal Credit Opportunity Act, the Electronic Fund Transfer Act, and the Consumer Leasing Act.

Additionally, the burden estimates in this application are larger than in the past because the Commission is seeking clearance for certain statutory recordkeeping and reporting requirements that were not previously submitted to OMB. Examples include the regulations under the Textile, Wool, and Fur Acts, totaling approximately 1,500,000 burden hours.

At this time, the Commission is seeking clearance for all statutory mandated ''collections of information'' contained in its rules. Individual Supporting Statements that detail each burden estimate and affected entities have been provided to OMB for review. Copies of these Supporting Statements may be obtained in the Public Reference Section, Room 130, Federal Trade Commission.

DATES: Comments on this application must be submitted on or before September 25, 1995.

ADDRESSES: Send comments both to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, ATTN: Desk Officer for the Federal Trade Commission, and to the Office of the General Counsel, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Elaine W. Crockett, Attorney, Office of General Counsel, Federal Trade Commission, Washington, DC 20580 (202)–326–2453.

SUPPLEMENTARY INFORMATION:

The following rules will be affected:

1. The Games of Chance Rule, 16 CFR part 419, establishes both recordkeeping and disclosure requirements for food and gasoline retailers in conducting and advertising games of chance. The Rule requires that games promoters retain records showing compliance with certain provisions, and identify winners, prizes, and number of game pieces. The recordkeeping requirements assist in the enforcement of the Rule.

The Rule also requires that games promoters disclose the odds-of-winning and other prize information in broadcast and print advertisements. Promoters must also post a winners' list, containing the names and addresses of winners, the prizes won, and the number of game pieces. The disclosure requirements assist customers in determining both the likelihood of winning prizes and the legitimacy of the game.

Estimate of Information Collection Burden. The FTC has current OMB approval of 4,500 hours relating to the Rule's recordkeeping provisions (control number 3084–0067). The FTC is seeking approval to add 3,750 burden hours relating to disclosure requirements, for a total burden of 8,250 hours.

Approximately 30 independent firms contract to conduct an average of 50 promotions per year. Most of these firms already calculate the information required by the Rule in the ordinary course of business in order to determine the contract price to charge the client for the game and to protect the integrity of the game if it is challenged by a private legal action. Accordingly, the FTC estimates that the additional burden of disclosing this information to third parties is approximately 2.5 hours per promotion, for an additional total burden of 3,750 hours.

Disclosures: Approximately 30 game promoters conduct an average of 50 games per year at an average burden of 2.5 hours.

2. The Funeral Rule, 16 CFR part 453, prohibits as unfair or deceptive acts or practices a variety of misrepresentations and other practices in the sale of funeral goods and services. The Rule requires funeral providers to give to consumers lists that display prices for individual funeral goods and services (such as the price for embalming or the price for use of funeral home facilities during the funeral ceremony) and a statement showing the items that were actually purchased by the consumer. The price lists and statements also contain several disclosures about basic funeral-related legal requirements. The disclosure requirements enable consumers to make reasoned purchasing decisions.

Funeral providers must also retain copies of the price lists and the ''statements of goods and services selected'' for a one-year period. These recordkeeping requirements assist the Commission in the enforcement of the Rule.

Estimate of Information Collection Burden. The FTC has current OMB approval for 21,000 hours relating to recordkeeping provisions (control number 3084–0025). The FTC seeks to modestly adjust the recordkeeping burden estimate to 22,300 hours and to add 54,050 burden hours relating to disclosure requirements, for a total burden of 76,350 hours.

The recordkeeping estimate is consistent with the 1988 estimate for recordkeeping hours. Much of this information is already kept during the ordinary course of business for tax purposes or other business reasons. While the precise amount of time needed to retain the records required by the Rule would vary from one funeral provider to another, the incremental time attributed to the Rule should not exceed an average of one hour per funeral provider per year.

The disclosure estimate is based on the amount of time required to update price lists as services or prices change. This amount of time would also vary from one funeral provider to another; however, the FTC estimates that an average of 2 hours per funeral provider per year would be necessary to comply with these disclosure requirements.

Recordkeeping: Approximately 22,300 funeral providers retain required records at an average burden of 1 hour per year. *Disclosures:* Funeral providers disclose required information to customers at an average burden of 2 hours per year.

3. The Equal Credit Opportunity Act (''ECOA''), 15 U.S.C. 1691 *et seq.*, prohibits discrimination in the extension of credit on the basis of sex, marital status, race, color, religion, national origin, age, derivation of income from a public assistance program, or good faith exercise of any right under the Consumer Credit Protection Act. Regulation B, 12 CFR part 202, promulgated by the Board of Governors of the Federal Reserve System, implements the ECOA. Among other things, § 202.12 of Regulation B requires creditors to retain records relating to consumer credit applications for 25 months, and records of business credit applications for 12 months. Section 202.13 of Regulation B requires creditors that receive mortgage credit applications to record the applicant's race or national origin, sex, marital status, and age. These requirements assist in enforcement of the Act and implementing Regulation.

Regulation B also has two primary disclosure provisions, both of which are statutorily required. First, creditors are required to provide applicants with information about adverse credit actions. 15 U.S.C. 1691(d). Second, creditors are required to provide notification to mortgage credit

applicants concerning appraisal reports. 15 U.S.C. 1691(e). These disclosure requirements assist consumers in understanding their rights under the ECOA. They also assist the Commission in detecting unlawful discrimination.

Estimate of Information Collection Burden. The FTC has current OMB approval for 1,004,000 hours relating to recordkeeping provisions and requirements to collect information about an applicant's race/national origin, sex, age, and marital status (control number 3084–0087). The FTC is seeking approval to add 13,400,000 hours relating to disclosure requirements, for a total burden of 14,400,000 hours.

In 1988, the FTC estimated Regulation B's recordkeeping burden to be 1,000,000 hours. At that time, the FTC also allocated 4,000 hours to collecting information about race/national origin, sex, age, and marital status. The FTC is now recalculating the burden estimate for this requirement. The credit industry has experienced significant growth in recent years and the FTC now estimates that approximately 4,000 creditors are subject to this requirement and that approximately 4 million credit applications are affected by this requirement. Because Regulation B contains a model form that creditors may use to collect the information, staff estimates that the burden associated with this recordkeeping requirement is no more than one minute for each application for a burden total of 66,700 hours.

The disclosures which account for the additional hours are all specifically mandated by the ECOA. Appoximately 1 million creditors are subject to the requirement to provide notice of adverse credit action and 200 million accounts are covered by this requirement. Because the Regulation provides model forms for these notices, the burden of providing notice of adverse action is estimated to be 4 minutes for each application, for a burden total of 13.3 million hours.

The other disclosure requirement under Regulation B involves providing appraisal reports to consumers. The FTC estimates that 4,000 creditors and 4 million mortgage credit applications are subject to this requirement. Because creditors have the option to include the required notice on other forms that would be provided to the consumer during the ordinary course of business, the additional burden of making this disclosure is estimated to be 15 seconds for each application, for a total burden estimate of 16,666 hours.

Disclosures: Approximately 4,000 mortgage credit firms collect information about approximately 4 million credit applications at a burden estimate of 1 minute per collection. Approximately 1 million credit firms provide notices of adverse action to approximately 200 million accounts per year at an average burden estimate of 15 seconds per notice. Approximately 4,000 mortgage credit firms provide notices concerning approximately 4 million applications at an average burden of 15 seconds per notice.

4. The Electronic Fund Transfer Act, 15 U.S.C. 1693 *et seq.* (''EFTA''), requires accurate disclosure of the costs, terms and rights relating to electronic fund transfer (EFT) services to consumers. Regulation E, promulgated by the Board of Governors of the Federal Reserve System, implements the EFTA. Regulation E contains several disclosure requirements relating to the terms and conditions of electronic fund transfers services. For example, among other disclosures, Regulation E requires financial institutions to (1) make initial disclosures to a customer about the terms and conditions of electronic fund transfer accounts; (2) deliver written notices concerning changes in certain terms or conditions in the customer's account; and (3) send periodic statements to customers concerning any account to or from which electronic fund transfers can be made. The disclosure requirements of Regulation E assist consumers in assessing the costs and terms of EFT services.

The vast majority of Regulation E's disclosure requirements are expressly mandated by the EFTA. See, *e.g.*, consumer liability for unauthorized use, 15 U.S.C. 1693g; initial disclosures, 15 U.S.C. 1693c(a); and documentation of transfers and receipts.

Estimate of Information Collection Burden. The FTC has current OMB approval for 500,000 hours relating to recordkeeping provisions (control number 3084–0085). The FTC is seeking approval to add 20,000,000 burden hours relating to disclosure requirements, for a total new burden of 20,500,000 hours.

Regulation E contains a wide variety of disclosure requirements. The number of regulated entities and the estimated amount of time necessary to comply with each requirement varies widely according to the specific provisions of each requirement. As stated above, the majority of these disclosures are statutorily required. It is also extremely difficult to quantify precisely the number of entities and the number of transactions affected by these requirements. In recent years a large number of additional entities subject to Regulation E have entered the market. Thus, the burden hours discussed below reflect the increase in additional entities covered by the Regulation.

Disclosures: Approximately 500,000 firms offer EFT services to consumers. However, the average burden hours vary significantly according to the type of transaction involved and related disclosures. For example, EFT initial account disclosures are sent to approximately 1 million new accounts per year at an average burden of 1 second per account, whereas investigations and resolutions of account errors average 10 minutes per complaint per year.

5. The Consumer Leasing Act, 15 U.S.C. 1667 *et seq.*, requires accurate disclosure of the costs and terms of leases to consumers. Regulation M, promulgated by the Board of Governors of the Federal Reserve System, implements the Consumer Leasing Act (''CLA''). Regulation M imposes disclosure requirements on all types of lessors, including leasing companies, finance companies, auto dealers, and some furniture, appliance, radio and television dealers. The written disclosures required by Regulation M are specifically required by the CLA. *See* 15 U.S.C. 1667a. Similarly, the advertising disclosures required by Regulation M are also specifically required by the CLA. *See* 15 U.S.C. 1667c. These disclosures assist consumers in understanding the terms of leases prior to entering into a lease agreement. Regulation M implements the disclosure provisions which are mandated by statute.

Estimate of Information Collection Burden. The FTC has current OMB approval for 100,000 hours relating to recordkeeping provisions (control number 3084–0086). The FTC is seeking approval to add 433,400 burden hours relating to disclosure requirements, for a total burden of 533,400 hours.

The number of consumer automobile leases (the largest category of consumer leases) has increased considerably in recent years and the current burden estimate reflects this growth. The FTC estimates that approximately 2,500,000 lease transactions are now subject to the written disclosure requirements and that providing the required disclosures takes an average of 10 minutes per lease for a total burden estimate of 416,000 hours. With respect to lease advertising disclosures, most (although certainly not all) lease promotions offer automobile transactions. The FTC estimates that approximately 1 million lease advertisements per year are affected by the Rule at 1 minute per advertisement for a total burden estimate of 16,666 burden hours.

Disclosures: Firms leasing products to consumers make disclosures for approximately 2,500,000 lease transactions per year at an average burden of 10 minutes per lease. Approximately 1 million lease advertisements are placed per year at an average burden of 1 minute per advertisement.

6. The Truth-in-Lending Act, 15 U.S.C. 1601 *et seq.* (''TILA''), was enacted to foster comparison credit shopping and informed credit decisionmaking by requiring accurate disclosure of the costs and terms of credit to consumers. Regulation Z, promulgated by the Board of Governors of the Federal Reserve System, implements the TILA. Regulation Z requires creditors to calculate and disclose terms that apply to both open-end credit (*e.g.*, revolving credit or credit lines) and closed-end credit (*e.g.*, installment financing). Regulation Z imposes disclosure requirements on all types of creditors in connection with consumer credit, including mortgage companies, finance companies, retailers, and credit card issuers, to ensure that consumers are fully apprised of the terms of financing prior to consummation of the transaction and, in some instances, during the loan term. It also imposes advertising disclosure requirements on advertisers of consumer credit. Among other things, Regulation Z also establishes billing error resolution procedures and limits consumer liability for the unauthorized use of credit cards. The vast majority of Regulation Z's disclosure requirements are expressly mandated by the TILA. See *e.g.*, open-end initial disclosures, 15 U.S.C. 1637(a); and open-end periodic disclosures, 15 U.S.C. 1637(b). In most instances, the disclosure and other requirements of Regulation Z form the basis both for administrative enforcement of the TILA by the FTC and other agencies and for private rights of action by private litigants.

Estimate of Information Collection Burden. The FTC has OMB approval for 1,000,000 hours relating to recordkeeping provisions (control number 3084–0088). The FTC is seeking approval to add 40,600,000 burden hours relating to disclosure requirements, for a total burden estimate of 41,600,000 hours.

As stated above, the majority of these disclosure provisions are statutorily required. In recent years Congress has amended the TILA to include additional requirements. In addition, the various types of credit accounts affected by the Regulation have greatly increased.

Disclosures: Regulation Z contains a wide variety of disclosure requirements. It is extremely difficult to quantify the number of entities and the number of transactions affected by these requirements. Further, the number of regulated entities and the estimated amount of time necessary to comply with each requirement varies widely according to the specific provisions of each requirement. For example, businesses place approximately 200,000 open-end home equity line of credit advertisements per year at an average burden of 5 minutes per advertisement. On the other hand, 4 million residential loan originations are made per year at 10 minutes per loan.

7. Textile Fiber Products Identification Act. The Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.* (''Textile Act''), prohibits misbranding and false advertising of textile fiber products. The Textile Act Regulations, 16 CFR part 303, which implement the Textile Act, require accurate disclosure of material product information in a standardized format. Many of these disclosures are required by the Textile Act. *See* 15 U.S.C. 70(b). The disclosure requirements assist consumers in making informed purchasing decisions.

The Regulations also require manufacturers and marketers who substitute labels (*e.g.*, resellers) to maintain records, invoices, and other documents which reflect the bases relied upon in making fiber content and country of origin disclosures. These recordkeeping requirements are specifically mandated by the Textile Act. See 15 U.S.C. 70d. The recordkeeping requirements assist the Commission in enforcing the Regulations.

The Regulations also contain a petition procedure for requesting the establishment of generic names for textile fibers. The information submitted is used by the FTC to determine whether the petition should be granted.

Estimate of Information Collection Burden. The FTC has current OMB approval for 50 hours relating to procedures for requesting the establishment of generic names for textile fibers (control number 3084–0047). The FTC is seeking approval to add 1,291,000 hours for recordkeeping requirements, which are statutorily required. The FTC is also seeking to add 14,209,000 hours relating to disclosure requirements, for a total burden estimate of 15,500,000 hours.

Recordkeeping: Approximately 30,000 textile firms retain required records at an average burden of 43 hours per year. *Disclosures:* Approximately 40,000 textile firms make disclosures for 9,300,000,000 covered products at an average burden of 5.5 seconds per item. *Petitions:* Approximately 1 textile firm submits 1 petition per year at an average burden of 50 hours.

8. Wool Products Labeling Act. The Wool Products Labeling Act, 15 U.S.C. 68 *et seq.* (''Wool Act''), prohibits misbranding of wool products. The Wool Act Regulations, 16 CFR part 300, require accurate disclosure of material information about wool products, including fiber content and country of origin disclosures. Many of these disclosures are mandated by the Wool Act. See 15 U.S.C. 68b. The disclosure requirements assist consumers in making informed purchasing decisions.

The Regulations also require manufacturers and other marketers of covered products to maintain records that support both claims made on labels and invoices and savings representations. These recordkeeping requirements are specifically mandated by the Wool Act, see 15 U.S.C. 68d, and assist the Commission in enforcing the Regulations.

The Regulations also contain a procedure for filing a petition concerning whether or not representations of the fiber content of a class of articles are commonly made, or whether or not the textile content of certain products is insignificant or inconsequential. The information submitted is used by the FTC to determine whether the petition should be granted.

Estimate of Information Collection Burden. The FTC has current OMB approval for 50 hours relating to recordkeeping provisions (control number 3084–0047). The FTC is seeking to adjust its current recordkeeping burden estimate to 191,000 hours for these requirements, which are statutorily required, and to add 2,100,000 hours relating to disclosure requirements, for a new burden estimate of 2,291,000 hours.

Recordkeeping: Approximately 15,000 wool firms retain records at an average burden of 12.73 hours per firm. *Disclosures:* Approximately 20,000 wool firms make disclosures on 1,375,000,000 covered products at an average burden of 5.5 seconds per item. *Petitions:* Approximately 1 wool firm submits 1 petition per year at an average burden of 50 hours.

9. Fur Products Labeling Act. The Fur Products Labeling Act, 15 U.S.C. 69 (''Fur Act''), prohibits misbranding and false advertising of fur products. The Fur Products Regulations, 16 CFR part 301, which implement the Fur Products Labeling Act, require accurate disclosure of material information about fur products, including the fur content

and the country of origin. Many of these disclosures are mandated by the Fur Act. See 15 U.S.C. 69b. The disclosure requirements assist consumers in making informed purchasing decisions.

The Regulations also require manufacturers and dealers in fur products to retain records to support claims made on labels and to support representations made in advertisements. The recordkeeping requirements are specifically mandated by the Fur Act, see 15 U.S.C. 69e, and assist the Commission in enforcing the Regulations.

The Regulations also provide a procedure for exemption from certain disclosure provisions under the Act.

Estimate of Information Collection Burden. The FTC has current OMB approval for 50 hours relating to recordkeeping provisions (control number 3084–0047). The Commission is seeking approval to adjust its current recordkeeping burden for these requirements, which are statutorily required, to 59,000 hours and to add 78,500 hours relating to disclosure requirements, for a total burden estimate of 137,600 hours.

Recordkeeping: Approximately 7,500 manufacturers and retailers retain records at an average burden of 48 hours for manufacturers and 12 hours for retailers. *Disclosures:* Approximately 1,600 fur firms disclose information at an average burden of 1 hour per firm. *Petitions:* Approximately 1 fur firm submits 1 petition per year at an average burden of 50 hours.

10. The Appliance Labeling Rule, 16 CFR part 305, establishes testing, reporting, recordkeeping, and labeling requirements, for manufacturers of certain appliances in disclosing and advertising information relating to energy consumption of water usage. The Rule's testing and disclosure requirements assist consumers in comparing the energy efficiency or consumption of competing products. The Rule also requires manufacturers to submit relevant data regarding energy or water usage in connection with the products they manufacture. The Commission uses this data to compile the ranges of comparability for covered appliances for publication in the **Federal Register**. In addition, the submissions may be used for comparison purposes in enforcement actions involving alleged misstatements on labels or in advertisements.

The Rule also requires manufacturers to keep records of test data to derive information included on the labels. The records may be requested and used by the Commission for enforcement purposes.

All of the requirements discussed above are specifically imposed by the Energy Policy and Conservation Act of 1995. See, *e.g.*, 42 U.S.C. 6296(a); 42 U.S.C. 6294(c)(1)(A); 42 U.S.C. 6296(b)(4); and 42 U.S.C. 6296(b)(2).

Estimate of Information Collection Burden. The FTC seeks approval of 2,600 hours for these recordkeeping and reporting provisions, which are statutorily imposed, and 923,400 hours for these disclosure provisions, which are also statutorily imposed, for a total burden estimate of 926,000 hours.

The Rule contains a wide variety of recordkeeping and disclosure requirements. The number of regulated entities and the estimated amount of time necessary to comply with each requirement varies widely according to the specific provisions of each requirement. For example, the test procedure for dishwashers requires an estimated 2 hours for each of 70 basic models for a total burden of 140 hours. On the other hand, the test procedure for central air conditioners requires an estimated burden of 24 hours multiplied by 2 units tested for each of 1,500 basic models for a total burden of 72,000 hours.

11. The Fuel Rating Rule, 16 CFR part 306, establishes standard procedures for determining, certifying and disclosing the octane rating of automotive gasoline and the automotive fuel rating of alternative liquid automotive fuel. These requirements are specifically mandated by the Petroleum Marketing Practices Act. See 15 U.S.C. 2822(a)–(c). The fuel rating determination, certification and labeling requirements establish a framework that provides consumers with reliable, comparable, and readily available information about the fuel ratings of similar types of fuel.

The Rule also requires refiners, producers, importers, distributors and retailers to retain records of delivery tickets, letters of certification or tests upon which automotive fuel ratings are based. The primary purpose of the Rule's recordkeeping requirements is to preserve evidence of automotive fuel rating certification for enforcement purposes.

Estimate of Information Collection Burden. The FTC has current OMB approval for 19,000 hours relating to recordkeeping provisions (control number 3084–0068). The FTC is seeking approval to add 24,000 burden hours for disclosure requirements, which are specifically required by statute, for a total burden of 43,000 hours.

Recordkeeping: Approximately 24,000 automotive fuel industry members retain records at an average annual burden of 6 minutes per industry member. *Disclosures:* Approximately 190,000 automotive fuel industry members make required disclosures at an average annual burden of 1 hour per industry member.

12. The Alternative Fuel Rule, 16 CFR part 309, establishes uniform labeling requirements for alternative fuels and alternative fueled vehicles. These disclosures provide consumers with reliable and comparable information about the fuel ratings of similar types of fuel and alternative fueled vehicles. The Rule also requires affected entities to retain records relating to representations made about fuel ratings for non-liquid alternative fuels and estimated cruising ranges and emission certification standards for alternative fueled vehicles. The primary purpose of these recordkeeping requirements is to preserve evidence of compliance with the Rule.

Estimate of Information Collection Information. The Commission has current OMB approval for 159 hours relating to recordkeeping provisions (control number 3084–0094). The Commission is revising its recordkeeping burden from 159 to 189 burden hours. The Commission is also seeking approval to add 22,167 burden hours relating to *disclosure* requirements, for a new burden total of 22,400 hours.

Recordkeeping: Approximately 1,658 automotive fuel industry members retain records at an average annual burden of 6 minutes per industry member. *Disclosures:* These requirements vary according to the type of disclosure required and the members of the automotive fuel industry affected. For example, approximately 350 industry members are affected by the fuel rating certification requirements for non-liquid alternative fuels at an estimated annual burden of 24 hours per industry member for a total burden of 8,400 hours. The burden for the same industry members to make a fuel rating determination is estimated at 2 hours per industry member for a total burden of 700 hours.

13. The ''900'' Number Rule, 16 CFR part 308, establishes requirements for advertising and operating pay-per-call services. The Rule also establishes procedures for billing and collecting charges for these services. The primary purpose of the Rule is to assist in preventing unfair and deceptive acts or practices by ensuring that consumers are informed of cost and other material information prior to calling 900 numbers; to provide consumers with adequate billing information subsequent to calling 900 numbers; and to establish a mechanism for disputing charges for

900 number calls. The advertising, preamble, and billing statement disclosures are specifically mandated by the Telephone Disclosure and Dispute Resolution Act. 15 U.S.C. 5701 *et seq.* (''TDDRA''). The TDDRA also requires the rules under the billing dispute resolution portion of the Rule to be substantially similar to the requirements imposed under the Truth-in-Lending Act and Fair Credit Billing Acts. 15 U.S.C. 5721(a)(2).

In addition, any common carrier who provides telecommunication services to a provider of pay-per-call services is required to provide the Commission with financial information and other records relating to the arrangement. This requirement assists in the enforcement of the Rule by permitting the Commission to obtain information from telephone companies that provide transmission services to 900 number providers.

Estimate of Information Collection Burden. The FTC seeks approval for 125 burden hours relating to reporting requirements and 3,241,000 burden hours relating to disclosure requirements, for a total burden estimate of 3,241,200.

Reporting: Approximately 25 common carriers make records available to the Commission at an average burden of 5 hours per submission. *Disclosures:* Approximately 20,000 information providers place approximately 3 advertisements per year at an average burden of 1 hour per provider. Approximately 60,000 pay-per-call services are required to make disclosures in the preamble at an average burden of 10 hours for each preamble. Approximately 20,000 information providers are required to ensure that disclosures appear on each billing statement at an average burden estimate of 12 hours per provider.

14. The Care Labeling Rule, 16 CFR part 423, requires manufacturers and importers to attach a permanent care label to all covered textile clothing. Also, manufacturers and importers of piece goods used to make textile clothing must provide the same care information on the end of each bolt or roll of fabric. These labels disclose information about washing or dry cleaning the apparel or fabric. These requirements assist consumers in making purchasing decisions and in deciding what method to use to clean their apparel. Professional cleaners also use this information to clean apparel in a manner that avoids damage to the garment. The Rule also provides a procedure whereby a member of the industry may petition the Commission for an exemption for products that are claimed to be harmed in appearance by the requirement for a permanent label.

Estimate of Information Collection Burden. The FTC is seeking approval for a burden estimate of 3,985,000 hours relating to disclosure requirements.

Disclosures: Approximately 25,000 apparel manufacturers and importers make disclosures at an average burden of 159 hours per company per year. *Petitions:* Only 1 petition, subsequently withdrawn, has been filed in recent years. An estimated 50 hours for preparing a petition has been incorporated into the hours calculated for disclosure requirements.

15. The Negative Option Rule, 16 CFR part 425, establishes disclosure requirements for sellers who use negative option plans. Negative option plans require the consumer to affirmatively decline an offer of merchandise or else have the merchandise shipped automatically. The Rule requires sellers of these plans to disclose the material terms of the plan and cancellation procedures in promotional materials. This information allows consumers to weigh the benefits and burdens of negative option plans.

Estimate of Information Collection Burden. The FTC is seeking approval for a burden estimate of 15,500 hours relating to disclosure requirements.

Disclosures: Approximately 124 negative option plan providers comply with disclosure requirements at an average burden of 125 hours per company.

16. The Amplifier Rule, 16 CFR part 432, establishes requirements for disclosing power output specifications in advertising. The Rule also specifies test conditions to be used to obtain this information. Consumers use the information to make comparisons among the types and brands of audio equipment.

Estimate of Information Collection Burden. The FTC is seeking approval for a burden estimate of 2,700 hours relating to disclosure requirements.

Disclosures: Approximately 300 new products must be tested annually at an average burden of 1 hour per product. Approximately 1200 magazine advertisements appear each year for an average burden of 2 hours per advertisement.

17. The Mail Order or Telephone Merchandise Rule, 16 CFR part 435, requires mail or telephone order merchants to substantiate any shipment representation; to notify the consumer of, and obtain consent for, any shipment delay; and to make prompt and full refunds when the consumer exercises a cancellation option or the merchant is unable to meet the Rule's other requirements. The disclosure requirements ensure that consumers are provided with reliable shipment information in the solicitation of mail or telephone order sales and in notifications of delays in shipment.

Estimate of Information Collection Burden. The FTC is seeking approval for a burden estimate of 16,213,300 burden hours relating to disclosure requirements.

Disclosures: Approximately 70,560 mail and telephone order merchants make required disclosures at an average burden of 230 hours per merchant per year.

18. The Franchise Rule, 16 CFR part 436, requires franchisors and franchise brokers to furnish a disclosure document to prospective franchisees prior to sale. This document contains information on 20 subjects relating to the franchisor, the franchisor's business, and the nature of the proposed franchise relationship. Franchisors must also disclose additional information if they make any claim about actual or potential sales, income, or profits for a prospective franchisee. These disclosures assist consumers in making informed investment decisions and otherwise verifying the representations of the franchisor.

Estimate of Information Collection Burden. The FTC is requesting approval for an estimated burden of 36,200 hours relating to disclosure requirements.

Disclosures: Approximately 3,613 franchisors and franchise brokers make required disclosures at an average burden of 10 hours per firm.

19. The Used Car Rule, 16 CFR part 455, requires used car dealers to disclose information about warranty coverage, if any, and the mechanical condition of used cars on a one page, two-sided Buyers Guide, which must be placed in the window of the car. This information allows consumers to make informed purchasing decisions by evaluating whether a warranty is offered, the terms of the warranty, and the condition of the car.

Estimate of Information Collection Burden. The FTC is requesting approval for an estimated burden of 2,304,100 hours relating to disclosure requirements.

Disclosures: Approximately 80,000 used car dealers make required disclosures at an average burden of 29 hours per dealer.

20. The R-Value Rule, 16 CFR part 460, requires that manufacturers and sellers disclose the R-value (degree of resistance to the flow of heat) of a home insulation product prior to sale. This information is a measure of how well

the product will perform as an insulator and allows consumers to compare products and make cost-effective decisions about purchasing home insulation products.

The Rule also requires home insulation manufacturers and laboratories to maintain records of tests conducted to determine the R-value of each insulation product. Sellers who make representations concerning fuel or energy cost savings are required to maintain records to substantiate these claims. These recordkeeping requirements assist the Commission in enforcing the Rule.

Estimate of Information Collection Burden. The FTC is requesting approval for an estimated burden of 366,056 hours relating to disclosure requirements and 275 hours relating to recordkeeping requirements, for a total estimated burden of 366,400 hours (rounded).

Disclosures: 150 manufacturers, 1,500 installers, 137,000 new home sellers, and 25,000 retailers make disclosures at an average burden of 23 hours for manufacturers, 20 hours for installers, 2 hours for new home sellers, and 2 hours for retailers. *Recordkeeping:* 150 manufacturers and 1,500 installers keep records at an annual average burden of 1 hour per manufacturer and 5 minutes per installer.

21. The Fair Packaging and Labeling Act, 15 U.S.C. 1450, (''FPLA'') was enacted to eliminate consumer deception concerning product size representations and package content information. The Regulations which implement the FPLA, 16 CFR part 500, establish requirements for the manner and form of labeling consumer commodities. Section 4 of the FPLA specifically requires packages or labels to be marked with: (1) A statement of identity, (2) a new quantity of contents disclosure, and (3) the name and place of business of a company that is responsible for the product.

Estimate of Information Collection Burden. The FTC is seeking approval for an estimated burden of 12,000,000 hours relating to disclosure requirements.

Recordkeeping: Most of the records that manufacturers, packagers, distributors, and retailers of consumer commodities are required to retain would otherwise be kept in the normal course of business. *Disclosures:* Approximately 1,200,000 manufacturers, packagers, distributors, and retailers of consumer commodities make disclosures, most of which are statutorily required, at an average burden of 10 hours per company.

22. The Consumer Product Warranty Rule, 16 CFR part 701, provides that, where written warranties are provided, the warranties must disclose certain material facts regarding their terms and conditions. The purpose of the Rule is to prevent deception by providing consumers with information to assess written warranty terms.

Estimate of Information Collection Burden. The FTC is seeking approval for an estimated burden of 34,000 burden hours associated with these disclosure requirements.

Disclosures: Approximately 4,241 warrantors of products make required disclosures at an average burden of 8 hours.

23. The Pre-Sale Availability Rule, 16 CFR part 702, requires that the terms of written warranties for consumer products be made available to consumers prior to purchase. Manufacturers are required to provide materials sufficient for retailers to meet their obligations. The Rule also contains requirements for disclosing the availability of warranty information in catalogues and door-to-door sales.

Estimate of Information Collection Burden. The FTC is seeking approval for an estimated burden of 2,759,700 hours associated with these disclosure requirements.

Disclosures: Approximately 422,100 small retailers, 6,552 large retailers, 4,095 small manufacturers, and 146 large manufacturers make required disclosures at an average burden of 6 hours for small retailers, 26 hours for large retailers, 12 hours for small manufacturers, and 52 hours for large manufacturers.

24. The Informal Dispute Settlement Procedures Rule, 16 CFR part 703, provides for disclosures in warranties when warrantors offer dispute settlement resolution procedures in a written consumer product warranty. The Rule also provides for dispute resolution information to be provided to consumers upon request. The disclosure requirements allow consumers to be fully informed regarding the warranty's dispute settlement procedures.

The Rule also requires affected entities to retain individual records for each dispute; indexes that categorize disputes by product model, and show the extent to which the warrantor has abided by decisions of the resolution process; and statistical summaries that classify disputes according to various status and final disposition categories.

Affected entities must conduct an annual audit of their dispute resolution procedures and submit a report to the Commission. These requirements assist the Commission in enforcing the Rule.

Estimate of Information Collection Burden. The FTC is requesting approval for an estimated burden of 500 disclosure hours and 6,456 recordkeeping hours, for a total burden estimate of 7,000 hours (rounded).

Disclosures: Approximately 2 warrantors who offer informal dispute settlement procedures make required disclosures at an average burden of 250 hours. *Recordkeeping:* Approximately 2 warrantors who offer informal dispute settlement procedures make required disclosures at an average burden of 3,228 hours.

25. FTC Administrative Activities. These information collection requests constitute administrative or procedural matters. Each specifies information to be submitted voluntarily to the Commission by persons who wish to do business with or receive some benefit from the agency. Because of the limited burden imposed, these requests for OMB approval have been combined into a single item. These requests relate to: (1) FTC procurement activities; (2) the document order form used by the FTC public reference branch; (3) applications and notices to the Commission; and (4) rules governing claims under the Equal Access to Justice Act.

The FTC seeks to modify item (3) to include applications and notices to the Commission contained in other rules (generally in Parts I, II, and IV of the Commission's rules of practice) that may, or may not, constitute the ''collection of information.'' *See, e.g.,* 16 CFR 4.8(e) (requests for a waiver of costs for obtaining Commission records). Because these provisions are generally imposed during the conduct of federal criminal, civil, or administrative action with respect to a specific party they would normally not be covered by the PRA. See 5 CFR 1320.22. Any requirements that are not imposed in this context are extremely rare, and the *de minimis* burden associated with them can be easily incorporated into the 50 burden hours already requested in this section.

The FTC is also requesting approval to delete three currently approved requests from item (3)—the procedure for establishing generic names under the Textile Act Regulations and the procedures for certain exemptions under the Wool and Fur Act Regulations. The FTC has prepared separate submissions for these regulations. *See* item numbers 7, 8 & 9, *infra.* In 1993, the total burden estimate for the Textile, Wool, and Fur Act Regulations was approximately 50 hours. Even though the FTC has deleted these hours, the total burden associated with item (3) has not changed because

of the additional hours associated with the new request for clearance of notices and applications to the Commission.

Estimate of Information Collection Burden. The FTC is requesting an estimated burden of 2,300 hours (rounded) relating to administrative activities. This figure is unchanged from the Commission's current approval (control number 3084–0047). Various states, companies, and individuals make requests pursuant to this item for a total burden of 2,300 hours.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–21165 Filed 8–24–95; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3589]

David Green, M.D.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, an individual doing business as The Varicose Vein Center from making various representations about any vein treatment or cosmetic surgery procedure he markets in the future unless he possesses competent and reliable scientific evidence to substantiate the claims.

DATES: Complaint and Order issued June 23, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Richard Kelly or Sondra Mills, FTC/H–200, Washington, D.C. 20580. (202) 326–3304 or 326–2673.

SUPPLEMENTARY INFORMATION: On Friday, April 14, 1995, there was published in the **Federal Register**, 60 FR 19065, a proposed consent agreement with analysis In the Matter of David Green, M.D., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–21164 Filed 8–24–95; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3590]

European Body Concepts, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, the corporation and its president from making false and unsubstantiated claims that their body wrap causes weight-loss; eliminates cellulite; and is completely safe for all users. In addition, it requires that prominent safety warnings be given to customers.

DATES: Complaint and Order issued June 23, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Nancy Warder, FTC/S–4002, Washington, DC 20580. (202) 326–3048.

SUPPLEMENTARY INFORMATION: On Tuesday, April 11, 1995, there was published in the **Federal Register**, 60 FR 18406, a proposed consent agreement with analysis In the Matter of European Body Concepts, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–21163 Filed 8–24–95; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3592]

Reebok International Ltd., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Massachusetts corporation and its subsidiary from fixing, controlling or maintaining the resale prices at which any dealer may advertise, promote, offer for sale or sell any Reebok or Rockport product. The consent order also prohibits, for a period of ten years, the respondents from enforcing or threatening suspension or termination of a dealer that sells or advertises a product below a resale price designated by Reebok or Rockport.

DATES: Complaint and Order issued July 18, 1995.[1]

FOR FURTHER INFORMATION CONTACT: William Baer, FTC/H–374, Washington, D.C. 20580. (202) 326–2555 or Michael Bloom, New York Regional Office, Federal Trade Commission, 150 William St., Suite 1300, New York, N.Y. 10038. (212) 264–1207.

SUPPLEMENTARY INFORMATION: On Thursday, May 11, 1995, there was published in the **Federal Register**, 60 FR 25227, a proposed consent agreement with analysis In the Matter of Reebok International Ltd., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–21162 Filed 8–24–95; 8:45 am]

BILLING CODE 6750–01–M

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[1] Copies of the complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Copies of the Complaint, the Decision and Order, and Commissioner Starek's statement are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[Dkt. 9189]

Detroit Auto Dealers Association, Inc., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modified Final Order.

SUMMARY: This order modifies an earlier Commission order to require, for one year, that the automobile dealership and dealership owner respondents involved in the proceeding open their showrooms for a minimum of 64 hours per week, or, at their option, to maintain minimum hours of operation of an average of ten and one half hours per day on weekdays, plus a minimum of eight hours on Saturdays. In addition, the Commission modifies Part VII.D of the Final Order, issued in 1989, by changing from 30 days to 60 days the time period within which the dealership association respondent must investigate and resolve allegations that association members have violated by-laws, rules, or regulations affected by the order.

DATES: Final order issued February 22, 1989. Modified final order issued June 20, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Ernest Nagata, FTC/H–394, Washington, D.C. 20580. (202) 326–2714.

SUPPLEMENTARY INFORMATION: In the Matter of Detroit Auto Dealers Association, Inc., et al. The prohibited trade practices and/or corrective actions as set forth at 54 FR 14337, are changed in part.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–21161 Filed 8–24–95; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Order and the Opinion of the Commission, are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Advisory Committee on Childhood Lead Poisoning Prevention: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee on Childhood Lead Poisoning Prevention.

Times and Dates: 8:30 a.m.–5 p.m., September 12, 1995; 8:30 a.m.–12 noon, September 13, 1995.

Place: Holiday Inn Atlanta—Peachtree Corners, 6050 Peachtree Industrial Boulevard, NW, Norcross, Georgia 30071.

Status: Open to the public, limited only by the space available.

Supplementary Information: In October 1991 the Secretary of Health and Human Services released the CDC policy statement ''Preventing Lead Poisoning in Young Children.'' This statement is used by pediatricians and lead screening programs throughout the United States, and great progress has been made in implementing the statement. Copies of this statement may be requested from the contact person listed below.

Matters to be Discussed

Since the release of this statement, new data have become available and some information gaps have been identified. The Committee will continue to discuss issues related to revising the statement, particularly the blood lead screening guidelines.

Agenda items are subject to change as priorities dictate.

Persons wishing to make written comments regarding additions or changes to the statement should provide such written comments to the contact person no later than September 5, 1995.

Opportunities will be provided during the meeting for oral comments. Depending on the time available and the number of requests, it may be necessary to limit the time of each presenter.

Contact Person for More Information: Barbara Nelson, Program Analyst, Lead Poisoning Prevention Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, (F42), Atlanta, Georgia 30341–3724, telephone 404/448–7330, FAX 404/488–7335.

Dated: August 17, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–21136 Filed 8–24–95; 8:45 am]

BILLING CODE 4163–18–M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Health Statistics for Minority and Other Special Populations: Meeting

Pursuant to Pub. L. 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following subcommittee meeting.

Name: NCVHS Subcommittee on Health Statistics for Minority and Other Special Populations.

Time and Date: 8:30 a.m.–4:30 p.m., September 28, 1995.

Place: Room 503A–529A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Status: Open

Purpose: The subcommittee will investigate racial disparities among the insured population and will be briefed on the status of the Report to the Assistant Secretary on Socioeconomic Status and the Health of Americans. The subcommittee will review progress in the effort to improve racial and ethnic identification on the Social Security Administration and the Health Care Financing Administration's administrative records and results from the U.S. Census Bureau studies designed to evaluate the use of multi-racial categories in population surveys.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, MD 20782, telephone 301/436–7050.

Dated: August 21, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–21138 Filed 8–24–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 95N–0271]

Drug Export; Anzemet (Dolasetron Mesilate) Tablets 25 mg, 50 mg, 100 mg, 200 mg

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Marion Merrell Dow Inc., has filed an application requesting conditional approval for the export of the human drug Anzemet (dolasetron mesilate) Tablets to France for packaging and transshipment to the United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of

human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Center for Drug Evaluation and Research, HFD–310 Food and Drug Administration, 7520 Standish Place, Rockville, MD 20855, 301–594–3150.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Marion Merrell Dow, Inc., Marion Park Drive, P.O. Box 9627, Kansas City, Missouri 64134–0627, has filed an application requesting conditional approval for the export of the human drug Anzemet (dolasetron mesilate) Tablets to France for packaging and transshipment to the United Kingdom. Anzemet is used for the treatment of nausea and vomiting induced by cancer chemotherapy, radiotherapy and post-operative nausea and vomiting. The application was received and filed in the Center for Drug Evaluation and Research on August 8, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by September 5, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec.and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food Research (21 CFR 5.44).

Dated: August 14, 1995.

Betty L. Jones,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 95–21094 Filed 8–24–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95D–0114]

Medical Devices; Premarket Notification (510(k)) Practices; Procedures/Good Manufacturing Practices/Compliance Program; Availability; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that announced the availability of revisions to the standard compliance program for good manufacturing practices (GMP's) (Compliance Program 7382.830). The document was published in the **Federal Register** of June 20, 1995 (60 FR 32160). The document was published with an error in the telephone number for CDRH Facts on Demand. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Marquita B. Steadman, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–4765.

SUPPLEMENTARY INFORMATION: In FR Doc. 95–14947, appearing on page 32160 in the **Federal Register** of June 20, 1995, the following correction is made:

In the second column, under the **"Addresses"** caption, in line 20, the telephone number ''1–800–899–0281'' for CDRH Facts on Demand is corrected to read ''1–800–899–0381''.

Dated: August 17, 1995.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 95–21095 Filed 8–24–95; 8:45 am]

BILLING CODE 4160–01–F

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

Oscar R. Rosales, M.D., Yale University School of Medicine: On August 2, 1995, ORI found that Oscar R. Rosales, M.D., Assistant Professor of Medicine (Cardiology) at the Yale University School of Medicine, committed scientific misconduct by plagiarizing and intentionally misrepresenting research in an application for Public Health Service (PHS) funded research supported by grant application 1 R24 RR05358–01.

Dr. Rosales has entered into a Voluntary Settlement Agreement with ORI in which he has accepted ORI's finding and, for the three (3) year period beginning August 2, 1995, has voluntarily agreed to:

(1) exclude himself from serving in any advisory capacity to the PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) certify in every PHS research application or report that all contributors to the application or report are properly cited or otherwise acknowledged. This certification must be endorsed by an institutional official, and the institution must send a copy of the certification to ORI.

FOR FURTHER INFORMATION CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852.

Lyle W. Bivens,

Director, Office of Research Integrity.

[FR Doc. 95–21093 Filed 8–24–95; 8:45 am]

BILLING CODE 4160–17–P

Public Health Service

National Institutes of Health; Proposed Data Collection Available for Public Comment

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH), National Cancer Institute (NCI) will publish periodic summaries of proposed projects. To request more information on the proposed project, call Shelia Hoar Zahm, Sc.D., Epidemiologist, at (301) 496–9093.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Shelia Hoar Zahm, Sc.D., National Cancer Institute, EPN 418, 6130 Executive Boulevard, Rockville, MD 20892–7364. Written comments should be received by October 24, 1995.

Proposed Project: Pilot Research for Epidemiologic Studies of Migrant and Seasonal Farmworkers—New—A pilot study will be conducted to evaluate the ability to trace farmworkers over extended periods of time, to determine cancer diagnosis and treatment patterns among migrant and seasonal farmworkers, and to assess the reliability of farm work histories from farmworkers and from their spouses. The information will be used by the National Cancer Institute to identify the most appropriate study design, case ascertainment procedures, and exposure assessment methods for a full-scale epidemiologic study of cancer among migrant and seasonal farmworkers. Determining the feasibility of using automated data collection techniques to obtain occupational histories from farmworkers will be part of this project. Burden estimates are as follows:

	Number of respondents	Number of responses per respondent	Average burden/response (hours)
Farmworkers and families	230	1	.33
Farmworker relatives of cancer patients	300	1	.25
Farmworkers and spouses	160	1	1.00
Farmworker Opportunity Program clients	50,000	1	.10

Dated: August 18, 1995.

Donald P. Christoferson,

Acting NCI Executive Officer.

[FR Doc. 95–21182 Filed 8–24–95; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health

Division of Research Grants; 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 Division of Research Grants Special Emphasis Panel (SEP) meetings.

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.
Date: October 12, 1995.
Time: 1:00 p.m.
Place: Holiday Inn, Bethesda, MD.
Contact Person: Dr. Ramesh Nayak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5146, Bethesda, MD 20892, (301) 435–1026.

Name of SEP: Clinical Sciences.
Date: October 23, 1995.
Time: 8:00 a.m.
Place: Holiday Inn, Bethesda, MD.
Contact Person: Ms. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, MD 20892, (301) 435–1786.

Name of SEP: Clinical Sciences.
Date: February 27, 1996.
Time: 8:00 a.m.
Place: Residence Inn, Bethesda, MD.
Contact Person: Ms. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, MD 20892, (301) 435–1786.

Name of SEP: Clinical Sciences.
Date: October 13, 1995.
Time: 9:00 a.m.
Place: American Inn, Bethesda, MD.
Contact Person: Dr. Joseph Kaiser, Scientific Review Administrator, 6701 Rockledge Drive, Room 4132, Bethesda, MD 20892 (301) 435–1211.

Name of SEP: Multidisciplinary Sciences.
Date: September 18, 1995.
Time: 8:30 a.m.
Place: Washington Dulles Airport Marriott, VA.
Contact Person: Dr. Harish Chopra, Scientific Review Administrator, 6701 Rockledge Drive, Room 5112, Bethesda, MD 20892, (301) 435–1169.

Name of SEP: Multidisciplinary Sciences.
Date: September 15, 1995.
Time: 6:00 p.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Richard Panniers, Scientific Review Administrator, 6701 Rockledge Drive, Room 5106, Bethesda, MD 20892, (301) 435–1166.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 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: August 18, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–21184 Filed 8–24–95; 8:45 am]

BILLING CODE 4140–01–M

National Center for Research Resources; 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:

Name of Committee: Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities.
Dates of Meeting: October 24–25, 1995.
Time: 8:00 a.m.–until adjournment.
Place of Meeting: The Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814.
Scientific Review Administrator: Dr. Jill Carrington, National Institutes of Health, 1 Rockledge Center, Room 6104, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965, Telephone: (301) 435–0812.
Purpose/Agenda: To review and evaluate grant applications. The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.214, Extramural Research Facilities Construction Projects, National Institutes of Health, HHS)

Dated: August 18, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–21185 Filed 8–24–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Notice of Meeting of the National Advisory Child Health and Human Development Council and Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting and activities of the National Advisory Child Health and Human Development Council, September 18–19, 1995. The meeting will be held in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland. The meeting of the Subcommittee on Planning will be open on September 18. The Subcommittee meeting will be held in Building 31, Room 2A03, from 8:00 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

The Council meeting will be open to the public on September 18 from 9:30 a.m. until 5:00 p.m. The agenda includes a report by the Director, NICHD, a report by the Pregnancy and Perinatology Branch and a presentation on the Institute of Medicine Report entitled The Best Intentions: Unintended Pregnancy and the Well-Being of Children and Families. The meeting will be open on September 19 upon completion of applications at approximately 12:30 p.m. to adjournment if any policy issues are raised which need further discussion.

In accordance with the provision set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. and section 10(d) of Public Law 92–463, the meeting of the full Council will be closed to the public on September 19 from 8:00 a.m. to approximately 12:30 p.m. for the completion of the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Executive Secretary, NICHD, 6100 Executive Boulevard, Room 5E03, National Institutes of Health, Bethesda, Maryland 20892–7510, Area Code 301, 496–1485, will provide a summary of the meeting and a roster a Council members as well as substantive program information. Individuals who plan to attend the open session and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Plummer.

(Catalog of Federal Domestic Assistance Program Nos. 93.864, Population Research, and 93.865, Research for Mothers and Children, National Institutes of Health.)

Dated: August 18, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–21183 Filed 8–24–95; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Agency Forms Undergoing Paperwork Reduction Act Review

Each Friday the Public Health Service (PHS) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the PHS Reports Clearance Office on (202) 690–7100.

The following requests have been submitted for review since the list was last published on August 18.

1. Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents—NPRM—New—The NPRM would require packages to show the established name for the product and require firms to establish and maintain an educational program to discourage persons under age 18 from using cigarettes and smokeless tobacco products. The NPRM would also restrict cigarette and smokeless tobacco product labeling and advertising to a ''text only'' format. The NPRM would further require firms to submit copies of labels and labeling, and representative samples of advertising to FDA. Respondents: Business or other for-profit; Number of Respondents: 1; Number of Responses per Respondent: 1; Average Burden per Response: 1 hour; Estimated Annual burden: 1 hour. Send comments to Allison Eydt, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503.

2. Application of Excludability Under Immigration and Nationality Act—0920–0006—Extension, no change—The Immigration and Naturalization Act (8 USC Section 212) states that aliens with specific health-related problems are ineligible for admission to the United States unless granted a waiver. CDC, by regulation, is involved in the waiver process as recipient of a medical evaluation required from the alien and a health-care provider. CDC must review the information to determine eligibility status and report any irregularities to the Immigration and Naturalization Service. Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Number of Respondents: 400; Number of Responses per Respondent: 1; Average Burden per Response: .11 hour; Estimated Annual burden: 33 hours. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737–F, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

3. Pulmonary Function Testing Course Approval Program—Extension—0920–0138—NIOSH has responsibility under Section 21 of the OSH Act & 29 CFR 1910.1043 for approving courses for training technicians in pulmonary function testing. Successful completion of a NIOSH approved training course is mandatory for technicians performing lung function tests on workers in the cotton dust industry. Respondents: Not-for-profit institutions. Number of Respondents: 83; Number of Responses per Respondent: 1; Average Burden per Response: 0.59 hour; Estimated Annual burden: 49 hours. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737–F, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

Written comments and recommendations concerning the proposed information collections should be sent within 30 days of this notice directly to the individual designated.

Dated: August 21, 1995.

James Scanlon,

Director, Data Policy Staff, Office of the Assistant Secretary for Health and PHS Reports Clearance Officer.

[FR Doc. 95–21154 Filed 8–24–95; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3778–N–51]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact Mark Johnston, room 7256,

Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION:

In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Dept. of Transportation: Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW, room 10319, Washington, DC 20590; (202) 366–4246; U.S. Navy: John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474; Dept. of Justice: Benjamin F. Burrell, Director, Facilities and Administrative Services Staff, Justice Management Division, NPB Suite 1050, Washington, DC 20530; (202) 616–2277; Dept. of Energy: Tom Knox, Realty Specialist, AD223.1, 1000 Independence Ave. SW, Washington, DC 20585; (202) 586–1191; (These are not toll-free numbers).

Dated: August 18, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 08/25/95

Unsuitable Properties

Buildings (by State)

Colorado

Bldg. 1
2597 B¾ Road
Grand Junction Co: Mesa CO 81503–
Landholding Agency: Energy
Property Number: 419530002
Status: Unutilized
Reason: Secured Area, Within 2,000 ft. of flammable or explosive material

Guam

Bldg. 1720
Marine Drive
Agana GU 96540–1000
Landholding Agency: Navy
Property Number: 779530008
Status: Excess
Reason: Secured Area, Extensive deterioration

Bldg. 1986, Naval Activities
Sierra Waterfront Center
Agana GU 96540–1000
Landholding Agency: Navy
Property Number: 779530012
Status: Excess
Reason: Secured Area, Extensive deterioration

Bldg. 3113, Naval Activities
Corner of Tango/Uniform Wharves
Agana GU 96540–1000
Landholding Agency: Navy
Property Number: 779530013
Status: Excess
Reason: Secured Area, Extensive deterioration

Bldg. 6002, Naval Activities
Wharf V–6
Agana GU 96540–1000
Landholding Agency: Navy
Property Number: 779530014
Status: Excess
Reason: Extensive deterioration

Hawaii

Bldg. 9
Navy Public Works Center
Kolekole Road
Lualualei Co: Honolulu HI 96782–
Landholding Agency: Navy
Property Number: 779530009
Status: Excess
Reason: Secured Area, Within 2,000 ft. of flammable or explosive material

Bldg. X5
Nanumea Road
Pearl Harbor Co: Honolulu HI 96782–
Landholding Agency: Navy
Property Number: 779530010
Status: Excess
Reason: Secured Area

Bldg. SX30
Nanumea Road
Pearl Harbor Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 779530011

Status: Excess
Reason: Secured Area

Massachusetts

Newburgh Estate
70 Dragon Court
Woburn Co: Middlesex MA
Landholding Agency: Justice
Property Number: 649530001
Status: Excess
Reason: Extensive deterioration

New York

Bldg. 370
Naval Support Activity
Park & Vanderbilt Avenues
Brooklyn NY
Landholding Agency: Justice
Property Number: 649530002
Status: Excess
Reason: Extensive deterioration

Texas

WPB Building
Station Port Isabel
Coast Guard Station
South Padre Island Co: Cameron TX 78597–6497
Landholding Agency: DOT
Property Number: 879530002
Status: Unutilized
Reason: Floodway

Aton Shops Building
USCG Station Sabine
Sabine Co: Jefferson TX 77655–
Landholding Agency: DOT
Property Number: 879530003
Status: Unutilized
Reason: Secured Area, Within 2,000 ft. of flammable or explosive material

WPB Storage Shed
USCG Station Sabine
Sabine Co: Jefferson TX 77655–
Landholding Agency: DOT
Property Number: 879530004
Status: Unutilized
Reason: Secured Area, Within 2,000 ft. of flammable or explosive material

Flammable Storage Building
USCG Station Sabine
Sabine Co: Jefferson TX 77655–
Landholding Agency: DOT
Property Number: 879530005
Status: Unutilized
Reason: Secured Area, Within 2,000 ft. of flammable or explosive material

Battery Storage Building
USCG Station Sabine
Sabine Co: Jefferson TX 77655–
Landholding Agency: DOT
Property Number: 879530006
Status: Unutilized
Reason: Secured Area, Within 2,000 ft. of flammable or explosive material

Boat House
USCG Station Sabine
Sabine Co: Jefferson TX 77655–
Landholding Agency: DOT
Property Number: 879530007
Status: Unutilized
Reason: Secured Area, Within 2,000 ft. of flammable or explosive material

Small Boat Pier
USCG Station Sabine
Sabine Co: Jefferson TX 77655–
Landholding Agency: DOT
Property Number: 879530008
Status: Unutilized
Reason: Secured Area, Within 2,000 ft. of flammable or explosive material

[FR Doc. 95–21110 Filed 8–24–95; 8:45 am]

BILLING CODE 4210–29–M

Office of Lead-Based Paint Abatement and Poisoning Prevention

[Docket No. FR–3939–N–01]

Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing

AGENCY: Office of Lead-Based Paint Abatement and Poisoning Prevention, HUD.

ACTION: Notice of availability of new Guidelines.

SUMMARY: The ''Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing'' provide detailed, comprehensive, technical information on how to identify lead-based paint hazards in housing and how to control such hazards safely and efficiently. The goal of the document is to help property owners, private contractors, and Government agencies sharply reduce children's exposure to lead without unnecessarily increasing the cost of housing. This notice describes the content and availability of the Guidelines.

DATES: The Guidelines will be available August 25, 1995.

ADDRESSES: For copies of the Guidelines, contact HUD USER at P.O. Box 6091, Rockville, MD 20850. Additional information on purchasing the Guidelines, including cost and ordering by telephone, is provided under the heading ''Supplementary Information'' in this notice.

FOR FURTHER INFORMATION CONTACT: William Wisner, Planning and Standards Division, Office of Lead-Based Paint Abatement and Poisoning Prevention, Room B–133, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 755–1805, extension 107; or 1–800–877–8339 (TDD). (Only the ''800'' TDD number is toll-free.)

SUPPLEMENTARY INFORMATION: The Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (Guidelines) are issued pursuant to section 1017 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is often referred to as Title X (pronounced ''title ten''), because it was enacted as Title X of the Housing and Community Development Act of 1992 (Pub. L. 102–550, 106 Stat. 3897; 42 U.S.C. 4851 et seq.). The Guidelines are based on the concepts, definitions, and requirements set forth by Congress in Title X. The Department prepared the Guidelines in close consultation with the Environmental Protection Agency, the Centers for Disease Control, the Occupational Safety and Health Administration, and several other Federal agencies.

General Description

Section 1017 requires the Secretary to issue guidelines for the conduct of federally supported work involving risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. Therefore, the primary purpose of the document is to provide guidance to people involved in identifying and controlling lead-based paint hazards in housing that is associated with the Federal Government. The Guidelines may also be useful to individuals in housing that has no connection with the Federal Government, as well as day-care centers and public buildings that exhibit conditions similar to those in residential structures.

Evaluation and control of lead-based paint hazards is an evolving field. Recognizing that problems require answers, the Guidelines offer advice based on the experience and considered judgment of the authors and reviewers. Whenever possible, the Guidelines explain the rationale for recommendations and provide a technical description of the action to be taken. For cases in which research has demonstrated that certain techniques are appropriate, references are cited. For cases in which citations are not provided, the reader should assume that it is the best advice that HUD can provide at this time.

Contents of Guidelines

A short summary of steps is provided at the beginning of each technical chapter to alert the reader to especially critical points and action steps. In general, the material is presented in each chapter in order of the sequence in a typical lead project. Photographs and technical graphics are used throughout the document and Appendices are also included. The document contains 680 pages. It is unbound and pages are pre-punched for use in a three ring binder (not provided). The shrink-wrapped package also contains a multi-color front cover, back cover, and spine (for use in binders with clear plastic overlays on front, back and spine.)

Chapters 1–4: Background Information. Chapter 1 describes the purpose and application of the Guidelines; briefly reviews the hazards of lead-based paint in housing; summarizes major departures from past approaches; and provides context in terms of Federal law and regulations and agency programs. Chapter 2 introduces categories of individuals involved in evaluating and controlling lead-based paint hazards in housing, explains their roles, and summarizes their qualifications. Chapter 3 identifies the critical steps that must be taken to avoid problems and mistakes that can result in project delays and cost overruns. Chapter 4 provides general advice on how to carry out work in older housing so that lead hazards are not inadvertently created and on how to combine renovation with abatement work.

Chapters 5–7: Hazard Evaluation. Hazard evaluation helps to ensure the selection of the safest and most cost-effective hazard control strategy for each situation. Chapter 5 provides detailed guidance on how risk assessments are to be conducted in various categories of housing, including protocols for environmental sample collection and interpretation, evaluation of building and paint condition, and methods for sampling a subset of units in multifamily buildings. Chapter 6 describes how reevaluations are to be performed and provides detailed schedules for when reevaluations are needed. Chapter 7 provides detailed information on methods for testing housing to determine the presence of lead-based paint on a surface-by-surface basis, including the use of portable XRF analyzers and paint-chip sampling for laboratory analysis.

Chapters 8–10: Preparation for the Project. Chapters 8–10 cover the critical steps in preparing to control lead-based paint hazards. Chapter 8 provides guidance on the steps needed to ensure that occupants are not endangered and that contamination is not spread. Chapter 9 provides detailed advice on how to comply with the OSHA Lead in Construction Standard while performing work in housing. Chapter 10 provides detailed, practical advice on methods for segregating, handling, and disposing of various kinds of debris, to protect the environment and meet hazardous waste requirements at the lowest cost.

Chapters 11–15: Hazard Control, Cleanup, and Clearance. Chapters 11–15 provide detailed information on how to carry out all aspects of lead hazard control. Chapter 11 provides specific guidance on interim controls: general principles of interim controls, dust removal, paint stabilization, friction surface treatments, and soil and exterior dust treatments. Chapter 12 covers general principles of abatement, such as component replacement, enclosure, paint removal methods, and soil abatement. Chapter 13 describes how to use an encapsulant and the status of such products pending the development of performance standards pursuant to Title X. Chapter 14 details cleanup procedures for lead hazard control projects. Chapter 15 explains how to conduct clearance tests after a lead hazard control project, to ensure that a unit or area is safe for occupancy.

Chapters 16–18: Other Issues. The final chapters provide information on addressing lead-based paint hazards in special situations. Chapter 16 describes the special measures that are usually taken by health department staff and others to investigate environmental lead hazards once a child has been identified as lead-poisoned. Chapter 17 addresses the range of issues related to lead-based paint as it is encountered in the course of routine maintenance work. Chapter 18 discusses the special situations and issues surrounding lead-based paint in historic dwellings.

Purchasing the Guidelines

Copies of the Guidelines can be obtained from HUD USER, P.O. Box 6091, Rockville, MD 20850, for the cost of handling and postage. All orders must be prepaid. When the cost is being charged to a VISA or MasterCard account, purchasers may also order by telephoning HUD USER at 1–800–245–2691. All inquiries, whether by mail or telephone, should reference ''Notice FR–3939. Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.''

Dated: August 11, 1995.

David E. Jacobs,

Director, Office of Lead-Based Paint Abatement and Poisoning Prevention.

[FR Doc. 95–21109 Filed 8–24–95; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–942–1150–00]

Idaho: Filing of Plats of Survey

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., August 17, 1995.

The plat representing the dependent resurvey of portions of the subdivisional lines, and subdivision of certain sections, T. 5 N., R. 1 E., Boise Meridian, Idaho, Group No. 883, was accepted, August 17, 1995.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: August 17, 1995.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 95–21174 Filed 8–24–95; 8:45 am]

BILLING CODE 4310–GG–M

Bureau of Reclamation

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting Reclamation's clearance officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to Reclamation's clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1006–****), Washington, DC 20503, telephone 202–395–7340.

Title: Customer Satisfaction Survey-Bureau of Reclamation-Pacific Northwest Region (to Implement Executive Order 12862)

OMB approval number: 1006–****

Abstract: As required by Executive Order 12862, written survey of our water resource customers (environmental groups; irrigators; Federal, State, and local entities; Native American Tribes; public, etc.) to determine the quality of services they want and their level of satisfaction with existing services

Bureau form number: None

Frequency: On going

Description of respondents: Water resource customers (environmental groups; irrigators; Federal, State, and local entities; Native American Tribes; public, etc.).

Estimated completion time: 1/2 hour

Annual responses: 1,000

Annual burden hours: 500

Reclamation clearance officer: Marilyn Rehfeld 303–236–0305 extension 459

Dated: July 20, 1995.

Murlin Coffey,

Leader, Property and Office Services.

[FR Doc. 95–21175 Filed 8–24–95; 8:45 am]

BILLING CODE 4310–94–M

National Park Service

Niobrara National Scenic River Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Niobrara Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE AND TIME: Friday, Sept. 15, 1995; 1:00 p.m.

ADDRESSES: Brown County Courthouse, Ainsworth, Nebraska.

Agenda topics include:

1. Review of latest draft of the Niobrara National Scenic River General Management Plan reflecting changes recommended at the June 29 meeting.
2. Review of the Draft Environmental Impact Statement for the General Management Plan.
3. The opportunity for public comment and proposed agenda, date, and time, of the next Advisory Group meeting.

The meeting is open to the public. Interested persons may make oral/written presentation to the Commission or file written statements. Requests for time for making presentations may be made to the Superintendent prior to the meeting or to the Chair at the beginning of the meeting. In order to accomplish the agenda for the meeting, the Chair may want to limit or schedule public presentations.

The meeting will be recorded for documentation and a summary in the form of minutes will be transcribed for dissemination. Minutes of the meeting will be made available to the public after approval by the Commission members. Copies of the minutes may be requested by contacting the Superintendent. An audio tape of the meeting will be available at the headquarters office of the Niobrara/Missouri National Scenic Riverways in O'Neill, Nebraska.

FOR FURTHER INFORMATION CONTACT: Warren Hill, Superintendent, Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763–0591, 402–336–3970.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established by the law that established the Niobrara National Scenic River, Public Law 102–50. The purpose of the group, according to its charter, is to advise the Secretary of the Interior on matters pertaining to the development of a management plan, and management and operation of the Scenic River. The Niobrara National Scenic River includes the 40-mile segment from Borman Bridge southeast of Valentine, Nebraska to its confluence with Chimney Creek; and the 30-mile segment from the confluence with Rock Creek downstream to State Highway 137.

Dated: August 14, 1995.

William W. Schenk,

Field Director.

[FR Doc. 95–21087 Filed 8–24–95; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32749]

Pine Belt Southern Railroad Company—Acquisition and Operation Exemption—Line of Central of Georgia Railroad Company

Pine Belt Southern Railroad Company (PBSR), a noncarrier, filed a notice of exemption on July 26, 1995 to acquire and operate approximately 42.4 miles of rail line owned and operated by Central of Georgia Railroad Company (CGA), a wholly-owned subsidiary of Norfolk Southern Railway Company.[1] The involved rail lines, known as the Roanoke Junction-Lafayette Line and the Nuckols-Hurtsboro Line, are located in Chambers, Lee, and Russell Counties, AL. Specifically, (1) the Roanoke Jct.-Lafayette Line runs between milepost T–322.3 at Roanoke Jct. and milepost T–339.7 at Lafayette, a distance of 17.4 miles; and (2) the Nuckols-Hurtsboro Line runs between milepost S–304.0 at Nuckols and milepost S–329.0 at Hurtsboro, a distance of 25 miles. The proposed transaction will be consummated after the July 26, 1995 notice takes effect and all conditions to closing have been satisfied.[2]

Any comments must be filed with the Commission and served on: Andrew C. Rambo, P.O. Box 129, 104 Depot St., Shelbyville, TN 37160.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: August 21, 1995.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams

Secretary.

[FR Doc. 95–21190 Filed 8–24–95; 8:45 am]

BILLING CODE 7035–01–P

[1] The acquisition includes the real estate together with all buildings, improvements, fixtures, appurtenances and all interests of CGA in and to any leases, easements, licenses, permits, agreements, sidetrack agreements and privileges pertaining to the real estate.

[2] The parties anticipated a closing date of July 28, 1995.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 95–15]

Anthony E. Doss, M.D., Revocation of Registration

On December 12, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, (DEA) issued an Order to Show Cause to Anthony E. Doss, M.D., (Respondent), of 621 Commonwealth Avenue, Bristol, Virginia, proposing to revoke his DEA Certificate of Registration, AD7453537, and to deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f). The proposed action was predicated on Dr. Doss' lack of authorization to handle controlled substances in the Commonwealth of Virginia.

By letter dated January 16, 1995, Respondent requested a hearing on the issue raised in the Order to Show Cause and the matter was placed on the docket of Administrative Law Judge Paul A. Tenney. On January 30, 1995, Judge Tenney issued an order for prehearing statements. In lieu of filing a prehearing statement, Government counsel filed a motion for summary disposition on the ground that Respondent was no longer authorized to handle controlled substances in the Commonwealth of Virginia. Attached to the Government's motion were a copy of the Virginia Board of Medicine's order revoking Respondent's state medical license, and an affidavit from the Virginia Board of Pharmacy attesting that Respondent is not authorized to prescribe, distribute or manufacture Schedule I through V drugs in the Commonwealth of Virginia. On February 13, 1995, Judge Tenney issued an order permitting Respondent to file a response, on or before February 27,

1995, to the Government's motion. Respondent failed to file a response. On March 2, 1995, Judge Tenney issued his conclusions of law and recommended ruling, granting the Government's motion for summary disposition and recommending revocation of Respondent's DEA Certificate of Registration. No exceptions were filed and, on April 11, 1995, Judge Tenney transmitted the record of these proceedings to the Deputy Administrator. The Deputy Administrator, having considered the record in its entirety, hereby enters his final order in this matter pursuant to 21 CFR 1316.67.

The Deputy Administrator finds that on June 10, 1993, the Virginia Board of Medicine (''Board'') revoked Respondent's license to practice medicine. The Board found, *inter alia,* that Respondent engaged in a sexual relationship with a patient and prescribed controlled substances to that patient. The Board further found that Respondent improperly and with the intent to evade established insurance reimbursement policies submitted, or caused to be submitted, claims to the patient's insurance carrier requesting reimbursement for psychotherapy services on dates when he had not met with the patient.

The Deputy Administrator further finds that the affidavit submitted on behalf of the Virginia Board of Pharmacy provided that Respondent's state controlled substance registrations expired on June 30, 1987 and June 30, 1994. The affidavit further provided that as of February 6, 1995, Respondent was not authorized to prescribed, distribute or manufacture Schedule I through V drugs in the Commonwealth of Virginia.

The DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. See 21 U.S.C. 802(21), 21 U.S.C. 823(f) and 824(a)(3). This prerequisite has been consistently upheld. *See Lawson A. Akpulonu, M.D.,* 60 FR 33434 (1995); *Robert C. Davis, M.D.,* 59 FR 66049 (1994); *Elliott F. Monroe, M.D.,* 57 FR 23246 (1992); *Bobby Watts, M.D.,* 53 FR 11919 (1988); *Avner Kauffman, M.D.,* 50 FR 34208 (1985).

The Deputy Administrator finds that Respondent is not currently licensed to practice medicine or authorized to handle controlled substances in the Commonwealth of Virginia. Therefore, his DEA registration must be revoked.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AD7453537, previously issued to Anthony E. Doss, M.D., be, and it hereby is, revoked. The Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective September 25, 1995.

Dated: August 18, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–21102 Filed 8–24–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' are listed by Volume and State:

Volume II

Delaware
DE950010 (Aug. 25, 1995)
Maryland
MD950054 (Aug. 25, 1995)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document

entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New York
NY950003 (Feb. 10, 1995)
NY950004 (Feb. 10, 1995)
NY950006 (Feb. 10, 1995)
NY950019 (Feb. 10, 1995)
NY950076 (Feb. 17, 1995)
Rhode Island
RI950001 (Feb. 10, 1995)
RI950002 (Feb. 10, 1995)
RI950003 (Feb. 10, 1995)
RI950004 (Feb. 10, 1995)

Volume II

Delaware
DE950001 (Feb. 10, 1995)
DE950006 (Feb. 10, 1995)
Maryland
MD950005 (Feb. 10, 1995)
Pennsylvania
PA950001 (Feb. 10, 1995)
PA950002 (Feb. 10, 1995)
PA950004 (Feb. 10, 1995)
PA950005 (Feb. 10, 1995)
PA950006 (Feb. 10, 1995)
PA950010 (Feb. 10, 1995)
PA950011 (Feb. 10, 1995)
PA950014 (Feb. 10, 1995)
PA950016 (Feb. 10, 1995)
PA950017 (Feb. 10, 1995)
PA950020 (Feb. 10, 1995)
PA950022 (Feb. 10, 1995)
PA950025 (Feb. 10, 1995)
PA950026 (Feb. 10, 1995)
PA950027 (Feb. 10, 1995)
PA950030 (Feb. 10, 1995)
PA950031 (Feb. 10, 1995)
PA950033 (Feb. 10, 1995)
PA950064 (Feb. 10, 1995)
PA950065 (Feb. 10, 1995)

Volume III

Florida
FL950011 (Feb. 10, 1995)

Volume IV

Illinois
IL950049 (Feb. 10, 1995)
Wisconsin
WI950006 (Feb. 10, 1995)

Volume V

Iowa
IA950017 (Feb. 10, 1995)
Kansas
KS950006 (Feb. 10, 1995)
KS950007 (Feb. 10, 1995)
KS950009 (Feb. 10, 1995)
KS950012 (Feb. 10, 1995)
KS950013 (Feb. 10, 1995)
KS950021 (Feb. 10, 1995)
KS950023 (Feb. 10, 1995)
Texas
TX950005 (Feb. 10, 1995)
TX950010 (Feb. 10, 1995)
TX950014 (Feb. 10, 1995)
TX950018 (Feb. 10, 1995)
TX950054 (Feb. 10, 1995)

Volume VI

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. This 18th Day of August 1995.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 95–20927 Filed 8–24–95; 8:45 am]

BILLING CODE 4510–27–M

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

Meeting

AGENCY: Martin Luther King, Jr. Federal Holiday Commission.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Act, Public Law 92–463, as amended, the Martin Luther King, Jr. Federal Holiday Commission announces a forthcoming meeting of the Commission.

DATE: October 10, 1995.

TIME: 12:30 p.m.–3 p.m.

LOCATION: U.S. House of Representatives, Rayburn House Office Building, Room 2168 (Gold Room), Washington, D.C. The public is invited.

FOR FURTHER INFORMATION CONTACT: Scott Laury, Atlanta office, (404) 730–3155.

Dated: August 18, 1995.

Fern H. Spivy,

Executive Officer.

[FR Doc. 95–21108 Filed 8–24–95; 8:45 am]

BILLING CODE 4210–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–076]

NASA Advisory Council, Space Science Advisory Committee, Space Physics Subcommittee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Space Science Advisory Committee, Space Physics Subcommittee.

DATES: September 21–22, 1995, 8:30 a.m. to 6 p.m.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW, Conference Room MIC 7, Side A and B, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. George L. Withbroe, Code SS, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1544.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

—Space Physics Division Overview: Headquarters Status, Division Reorganization, Budget, Future Activities
—Program Reports for Magnetospheric Physics, Cosmic and Heliospheric Physics, Solar Physics, Ionospheric-Thermospheric-Mesospheric Physics
—Space Physics Research and Analysis Program
—Outreach Issues
—Strategic Planning
—Reports on Solar Physics and Cosmic Ray Studies
—Discussion and Writing Groups

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: August 18, 1995.

Timothy M. Sullivan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 95–21097 Filed 8–24–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice (95–075)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Kinetic Concepts, Inc. of 8023 Vantage Drive, San Antonio, Texas 78230–4726, has applied for an exclusive license to practice the invention described and claimed in: U.S. Patent Application 08/297,474 entitled ''NON-INVASIVE METHOD FOR MEASURING AND MONITORING INTRACRANIAL PRESSURE AND PRESSURE VOLUME INDEX,'' which was filed on May 23, 1995, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license to Kinetic Concepts, Inc. should be sent to Ms. Kimberly A. Chasteen, Patent Attorney, NASA Langley Research Center.

DATES: Responses to this Notice must be received by October 24, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly A. Chasteen, NASA Langley Research Center, Mail Code 212, Hampton, VA 23681–0001; (804) 864–3227.

Dated: August 17, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–21096 Filed 8–24–95; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8857]

Power Resources, Inc.

AGENCY: Nuclear Regulatory Commission.

ACTION: Final finding of no significant impact notice of opportunity for hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) proposes to renew Source Materials License No. SUA–1511. This license authorizes Power Resources, Inc. (PRI) to receive, acquire, possess, and transfer uranium at its Highland Uranium Project approximately 24 miles northeast of the town of Glenrock, in Converse County, Wyoming. PRI's Highland Uranium Project is an In-Situ Leach (ISL) uranium mine and processing facility. An Environmental Assessment (EA) was performed by NRC staff in support of PRI's license renewal request. The conclusion of the Environmental Assessment is a Finding of No Significant Impact (FONSI) for the proposed license renewal.

FOR FURTHER INFORMATION CONTACT: Mr. Michael C. Layton, High-Level Waste and Uranium Recovery Projects Branch, Mail Stop TWFN 7–J9, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone 301/415–6676.

SUPPLEMENTARY INFORMATION:

Background

The ISL mining method involves: (1) Injecting a leaching solution (lixiviant), comprised of native groundwater fortified with gaseous carbon dioxide and oxygen, into a uranium-bearing ore body through injection wells; (2) chemically mobilizing the uranium through oxidation and complexing it with a carbonate ion in solution; and (3) extracting the uranium-bearing solution through a pattern of pumping wells. Uranium is then separated from the leach solution by conventional ion exchange methods in a processing facility. The depleted solution is recharged with carbon dioxide and oxygen and is then returned to the mining zone for additional uranium recovery. This cycle continues until the ore zone is depleted or the uranium is no longer economically feasible to recover.

The recovered uranium solution is further processed by using ammonia or hydrogen peroxide to precipitate the uranium into a slurry. The resulting slurry is further thickened by gravity settling, then washed and dewatered in a filter press to about 50 percent solids. The filter press solids (cake) are then dried in a natural gas dryer, which operates at about 1200 degrees Fahrenheit, producing uranium oxide commonly called ''yellowcake''. The dried yellowcake is packaged in 55-gallon steel drums for storage and shipment to a fuel processing facility.

In the injection and extraction process, well patterns typically include four injection wells at the corners of a 50- to 100-foot square with one pumping (production) well centrally located. There are currently six wellfields installed at the PRI Highland site, designated as wellfields A through F. The A and B wellfields were constructed in 1987 and are now under restoration. The C wellfield was installed in 1989 and is still in production. The D wellfield was installed during 1990–1991 and started production in 1991. The E wellfield was built during 1991–1992 and started production in 1992. The F wellfield was approved by the NRC staff in 1994.

Environmental Assessment

The EA discusses the environmental aspects of the PRI renewal request. Safety aspects for the continued operation of the Highland Uranium Project are discussed in a Safety Evaluation Report (SER). The license renewal would authorize PRI to continue operating the facility, such that the annual throughput will not exceed an average flow rate of 7500 gallons per minute (gpm), exclusive of the flow involved in restoring the depleted wellfields. Yellowcake production will not exceed 1.897 million pounds annually. To assure that the process emissions associated with this project are accurate, the licensee will be prohibited by license condition from exceeding the 7500 gpm process rate. All license conditions and commitments presented in the licensee's Operations and Reclamation Plan are subject to NRC inspection. Violation of the license may result in enforcement action.

An impact appraisal for the license renewal was performed by the NRC, Division of Waste Management, and documented in the EA. The NRC staff performed the appraisal of environmental considerations associated with continuation of the ISL operation in accordance with Title 10, Code of Federal Regulations (10 CFR) Part 51, Licensing and Regulatory Policy Procedures for Environmental Protection.

In conducting this appraisal, the NRC staff considered the following: (1) environmental, operational, and restoration information submitted by PRI for previous and ongoing work at the Highland Uranium Project, (2) additional information submitted in the licensee's application, and (3) information derived from professional papers, journals and text books, NRC Regulations and Regulatory Guides, as well as other Federal, State and local agencies.

Conclusions

The NRC staff has reexamined actual and potential environmental impacts

associated with the operations at PRI's Highland Uranium Project and has determined that renewal of Source Materials License No. SUA–1511 will: (1) be consistent with the licensing requirements of 10 CFR 40, (2) not endanger the public health and safety, and (3) not have long-term detrimental impacts on the environment. Specific reasons for drawing these conclusions are:

1. The proposed control and monitoring program for groundwater is sufficient for detecting any excursion, either vertical or horizontal.

2. The radium settling basins and purge storage reservoirs are clay lined to minimize seepage of waste solutions; monitoring systems as designed should detect any leakage which may occur.

3. Radiological releases from the uranium extraction operations will be very small (exposures which are small fractions of the radiological exposure standards) and will be closely monitored to detect any problems.

4. All radioactive wastes will be disposed of at an existing NRC licensed tailings disposal site.

5. The proposed restoration plan, as demonstrated by the R&D ISL test project, should be sufficient to return the groundwater to its premining use (or potential use). On a parameter-by-parameter basis, groundwater quality will be returned as close to baseline conditions as reasonably achievable.

6. The remote location of the Highland Uranium Project facility and sparse population in this portion of Converse County, Wyoming has mitigated any potential adverse impacts to minority and low-income populations. Further evaluation of 'Environmental Justice' concerns, as outlined in Executive Order 12898 and NRC's Office of Nuclear Material Safety and Safeguard Policy and Procedures Letter 1–50 Rev. 1, is not warranted.

Finding of No Significant Impact

Based on these conclusions, the NRC finds that the impacts associated with the proposed renewal of Source Materials License No. SUA–1151 are within the scope of impacts anticipated in the November, 1978 Final Environmental Statement (FES) and the July, 1987 EA; which supported the initial licensing. Recognizing these impacts, the NRC has available two alternatives with respect to the requested license renewal: (1) Renew the license with such conditions as are considered necessary or appropriate to protect public health, safety, and the environment; or (2) deny renewal of the license.

The environmental impacts of the renewal described in the EA do not warrant denial of the application. For this reason, the NRC has made a finding of no significant impact associated with this action and will issue a renewed license for the PRI Highland Uranium Project.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this proceeding on an application for a licensing action falls within the scope of Subpart L, ''Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings, of the Commission's Rules of Practice for Domestic Licensing Proceedings in 10 CFR Part 2'' (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The licensee, Power Resources Inc., 800 Werner Court, Suite 230, Casper, WY 82601;

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Any hearing that is requested and granted will be held in accordance with the Commission's Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings in 10 CFR Part 2, Subpart L.

Dated at Rockville, Maryland, this 17th day of August 1995.

For the Nuclear Regulatory Commission

Joseph J. Holonich,

Chief High-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, Office of Nuclear Material, Safety and Safeguards.

[FR Doc. 95–21176 Filed 8–24–95; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21315; File No. 812–9432]

The Alger American Fund, et al.; Notice of Application

August 18, 1995.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an amended order of exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: The Alger American Fund (the ''Fund'') and Fred Alger Management, Inc. (''Alger Management'').

RELEVANT 1940 ACT SECTIONS AND RULES: Order requested under Section 6(c) for exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF THE APPLICATION: Applicants seek an order under Section 6(c) of the Act granting exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder, to the extent necessary to amend an existing order issued by the Commission on February 17, 1989 (Investment Company Release No. 16822) (''Existing Order''), to engage in mixed and shared funding. The proposed relief would amend the prior order to permit the Fund to sell its shares directly to qualified pension and retirement plans (''Qualified Plans'') outside of the separate account context.

FILING DATE: The application was filed on January 12, 1995 and amended on August 4, 1995.[1]

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be

[1] Applicants represent that they will amend the application during the notice period to include the representations herein.

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 September 12, 1995, and should be accompanied by proof of service on Applications, 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, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Applicants, The Alger American Fund, 75 Maiden Lane, New York, New York 10038.

FOR FURTHER INFORMATION CONTACT: Edward P. Macdonald, Staff Attorney, or Wendy Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. The Fund, organized as a Massachusetts Business Trust, is an open-end diversified management investment company. It currently has six portfolios. The Fund may offer additional portfolios in the future. The Fund's shares are distributed by Fred Alger & Company, Incorporated.

2. Fred Alger Management, Inc. (''Alger Management''), a registered investment adviser under the Investment Advisers Act of 1940, is the investment adviser to each portfolio. Alger Management is owned by Alger Inc., which in turn is owned by Alger Associates, Inc., a financial services holding company.

3. The Existing Order allows the Fund to offer its shares to registered separate accounts of insurance companies, which may be affiliated or unaffiliated, issuing variable annuity contracts or scheduled or flexible premium variable life insurance contracts. Applicants now propose that the Fund also sell its shares directly to Qualified Plans outside of the separate account context so that it may increase its asset base through the sale of its shares to such Qualified Plans.

Applicants' Legal Analysis

1. Section 817(h) of the Internal Revenue Code of 1986 (the ''Code'') imposes certain diversification requirements on the underlying assets of variable contracts held in the portfolios of management investment companies. The Code provides that a variable contract shall not be treated as an annuity or life insurance contract for any period for which the investments are not adequately diversified in accordance with Treasury Department Regulations (''Regulations'').

2. In March 1989, the Treasury Department issued Treasury Regulation § 1.817–5 which established diversification requirements for investment company portfolios underlying variable contracts. In order to satisfy the diversification requirements of Regulation § 1.817–5, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. However, the Regulations also contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by the trustee of a Qualified Plan without adversely affecting the ability of the same investment company's shares to be held also by insurance company separate accounts.

3. Rules 6e–2 and 6e–3(T) under the Act provide certain exemptions from the Act in order to permit insurance company separate accounts, investing in registered investment companies, to issue variable life insurance contracts.

Rules 6e–2(b)(15) and 6e–3(T)(b)(15) require that shares of the registered management investment companies be offered exclusively to separate accounts of life insurance companies. Rule 6e–2(b)(15) precludes mixed and shared funding and Rule 6e–3(T)(b)(15) precludes shared funding. In the Existing Order, the Commission extended the requested mixed and shared funding relief to a class consisting of insurers and separate accounts investing in the Fund which would otherwise have been precluded from investing in the Fund by virtue of the Fund offering its shares to both variable annuity separate accounts and scheduled and flexible premium variable life insurance contracts of affiliated and unaffiliated separate accounts. Applicants assert that the relief previously granted in the Existing Order should not be affected by the proposed amendment to permit the sale of shares also directly to Qualified Plans.

4. The promulgation of Rule 6e–2(b)(15) preceded the issuance of the Regulations which made it possible for shares of an investment company to be held by the trustee of a Qualified Plan without adversely affecting the tax status of the investment company's shares held also by insurance company separate accounts.

5. Applicants assert that the relief granted by Rules 6e–2(b)(15) and 6e–3(T)(b)(15) is in no way affected by the purchase of Fund shares by Qualified Plans. However, in that the relief under these rules is available only where shares are offered exclusively to separate accounts, it is Applicants' belief that additional exemptive relief is necessary if the shares of the Fund are also sold to Qualified Plans. Applicants assert that if the Fund were to sell its shares only to Qualified Plans no exemptive relief would be necessary. None of the relief provided for in Rules 6e–2 and 6e–3(T) relate to Qualified Plans or to a registered investment company's ability to sell its shares to such Qualified Plans. It is only because the separate accounts investing in the Fund are themselves investment companies, which are relying upon Rules 6e–2 and 6e–3(T) and which desire to have the relief continue in place, that Applicants are applying for the requested relief.

6. Section 9(a) of the Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company, if an affiliated person of that company is subject to a disqualification enumerated in Section 9(a) (1) or (2). Rules 6e–2(b)(15) (i) and (ii) and 6e–3(T)(b)(15) (i) and (ii), provide exemptions from Section 9(a) under certain circumstances subject to the limitations on mixed and shared funding. These exemptions limit the application of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying management investment company.

7. Applicants previously requested and received relief from Sections 13(a), 15(a) and 15(b) of the Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder to the extent necessary to permit mixed and shared funding. In support of its previous requests for relief, Applicants represent that all variable annuity and variable life insurance contractholders would be provided pass-through voting rights with respect to the shares of the Fund and that any potential irreconcilable conflicts which could develop among the separate accounts due to an insurance company's right to disregard voting instructions in certain

limited circumstances would be resolved through certain undertakings which Applicants made as a condition of the exemptive relief granted.

8. Shares of the Fund sold to Qualified Plans would be held by the trustees of the Qualified Plans mandated by Section 403(a) of the Employee Retirement Income Security Act. Some of the Qualified Plans may have their trustee(s) or other fiduciaries exercise voting rights attributable to investment securities held by the Qualified Plans in their discretion. Some of the Qualified Plans, however, may provide for the trustee(s), an investment adviser or other named fiduciary to exercise voting rights in accordance with instructions from participants.

9. Where a Qualified Plan does not provide participants with the right to give voting instructions, Applicants do not see any potential for material irreconcilable conflicts of interest between or among variable contractholders and Qualified Plan investors with respect to voting of Fund shares. In that there is no pass-through voting with respect to Qualified Plan participants, Applicants submit that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting, is not present with Qualified Plans. In this regard, investment in one Fund by a Qualified Plan will not create any of the voting complications occasioned by mixed and shared funding. Unlike mixed or shared funding, Qualified Plan investor voting rights cannot be frustrated by veto rights of insurers or state regulators.

10. Where a Qualified Plan provides participants with the right to give voting instructions, Applicants assert that there is no reason to believe that participants in Qualified Plans generally, or those in a particular plan, either as a single group or in combination with participants in other Qualified Plans, would vote in a manner that would disadvantage variable contractholders. The purchase of Fund shares by Qualified Plans that provide voting rights does not present any complications not otherwise occasioned by mixed or shared funding as addressed in the Existing Order.

11. Applicants assert that the Commission's primary concern with respect to mixed and shared funding is that of potential conflicts of interest. Applicants submit that no increased conflicts of interest would be present if the Commission grants the exemptive relief requested.

12. Applicants assert that regardless of the type of shareholder in the Fund, Alger Management will continue to manage the portfolios solely and exclusively in accordance with each portfolio's investment objectives and restrictions, as well as any guidelines established by the Board of Trustees of the Fund. Individual portfolio managers work with a pool of money and do not take into account the identity of the shareholders. The Fund is thus managed in the same manner as any other mutual fund. If shareholders are displeased with the Fund's investment results, or in the manner in which the Fund is being operated, they redeem their shares. Since the Fund is sold without the imposition of any sales load, such redemption is at net asset value without the imposition of any other charge or fee. It is the duty of the management of the Fund, including its governing board, to keep shareholders informed through updated prospectuses and annual and semi-annual reports. Applicants believe that these periodic communications to shareholders function as they are intended. Qualified Plans as well as contractholders will thus be given up-to-date information necessary for them to make informed investment decisions.

13. The difference between a Qualified Plan shareholder and a contractholder whose variable contract invests in the Fund is that the Qualified Plan shareholder can immediately redeem its shares and reinvest them while the contractholder must either wait for the participating insurance company to fund another suitable investment medium or exchange contracts, both of which require multiple steps and some period of time.

14. Applicants assert that the sale of the shares of the Fund to Qualified Plans should result in an increased amount of assets available for investment by the Fund. This should inure to the benefit of variable contractholders by promoting economies of scale, by permitting greater safety through increased diversification, and by making the addition of new portfolios to the Fund more feasible. Further, Applicants submit that the purposes of an investment in the Fund by a Qualified Plan is not that dissimilar to the purposes currently served by variable contracts which are generally long-term retirement vehicles. Applicants further submit that the sale of the shares of the Fund of Qualified Plans will not increase the risk of material irreconcilable conflicts to the Fund or to the separate accounts of participating insurance companies.

Applicants' Conditions

Applicants represent that they will comply with the following conditions:

1. A majority of the board shall consist of persons who are not ''interested persons'' of the Fund as defined by Section 2(a)(19) of the Act and the rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification or bona fide resignation of any trustee, then the operation of this condition shall be suspended: (a) for a period of 45 days, if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Board will monitor the Fund for the existence of any material irreconcilable conflict among the interests of the contractholders of all of the separate accounts investing in the Fund. A material irreconcilable conflict may arise for a variety of reasons, including: (a) an action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or similar action by insurance, tax or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Fund are being managed; (e) a difference in voting instructions given by owners of variable annuity contracts and owners of variable life insurance contracts; or (f) a decision by a participating insurance company to disregard the voting instructions of contractholders.

3. The participating insurance companies, Alger Management (or any other investment adviser of the Fund), and any Qualified Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the assets of the Fund (the ''Participants'') will report any potential or existing conflicts to the Board. Participants will be responsible for assisting the Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participant to inform the Board whenever voting instructions of contractholders are disregarded. The responsibility to report such

information and conflicts and to assist the Board will be a contractual obligation of all Participants investing in the Fund under their agreements governing participation in the Fund, and such agreements shall provide that these responsibilities will be carried out with a view only to the interests of contractholders.

4. If it is determined by a majority of the Board, or by a majority of its disinterested trustees, that a material irreconcilable conflict exists, the relevant Participant shall, at its expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees), take any steps necessary to remedy or eliminate the material irreconcilable conflict, including: (a) withdrawing the assets allocable to some or all of the separate accounts from the Fund or a portfolio of the Fund and reinvesting such assets in a different investment medium including another portfolio of the Fund, or submitting the question as to whether such segregation should be implemented to a vote of all affected contractholders; and, as appropriate, segregating the assets of any appropriate group (i.e., variable annuity contractholders, variable life insurance contractholders, or variable contractholders of one or more Participant) that votes in favor of such segregation, or offering to the affected variable contractholders the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participant's decision to disregard voting instructions of the contractholders, and that decision represents a minority position or would preclude a majority vote, the Participant may be required, at the election of the Fund, to withdraw its separate account's assets investment in the Fund and no charge or penalty will be imposed as a result of such withdrawal.

The responsibility to take remedial action in the event of a Board determination of a material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participants under their agreements governing their participation in the Funds. The responsibility to take such remedial action shall be carried out with a view only to the interests of Contractholders. For purposes of this Condition Four, a majority of the disinterested members of the Board shall determine whether any proposed action adequately remedies any material irreconcilable conflict, but, in no event will the Fund or Alger Management (or any other investment adviser of the Fund) be required to establish a new funding medium for any Contract. Further, no Participant shall be required by this Condition Four to establish a new funding medium for any variable contract if any offer to do so has been declined by a vote of a majority of the contractholders materially affected by the material irreconcilable conflict.

5. The Board's determination of the existence of a material irreconcilable conflict and its implication shall be made known promptly and in writing to all Participants.

6. Participants will provide pass-through voting privileges to all Contractholders so long as the Commission continues to interpret the Act as requiring pass-through voting privileges for variable contractholders. Accordingly, the Participants, where applicable, will vote shares of the Fund held in their separate accounts in a manner consistent with voting instructions timely received from variable contractholders. Participants will be responsible for assuring that each of their separate accounts that participates in the Fund calculates voting privileges in a manner consistent with other Participants. The obligation to calculate voting privileges in a manner consistent with all other separate accounts will be a contractual obligation of all Participants under the agreements governing their participation in the Fund. Each Participant will vote shares for which it has not received timely voting instructions as well as shares it owns in the same proportion as it votes those shares for which it has received voting instructions.

7. All reports received by the Board of potential or existing conflicts, and all Board action with regard to: (a) determining the existence of a conflict; (b) notifying Participants of a conflict, and (c) determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records. Such minutes or other records shall be made available to the Commission upon request.

8. The Fund will notify all Participants that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. The Fund shall disclose in its prospectus that: (a) shares of the Fund may be offered to insurance company separate accounts of both annuity and life insurance variable contracts, and to Qualified Plans; (b) due to differences of tax treatment and other considerations, the interests of various contractholders participating in the Fund and the interests of Qualified Plans investing in the Funds may conflict; and (c) the Board will monitor the Fund for any material conflicts and determine what action, if any, should be taken.

9. The Fund will comply with all the provisions of the Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of the Fund), and, in particular, the Fund will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the Act not to require such meetings) or comply with Section 16(c) of the Act (although the Fund is not one of the trusts described in Section 16(c) of the Act), as well as Section 16(a), and, if applicable, Section 16(b) of the Act. Further, the Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of trustees and with whatever rules the Commission may promulgate with respect thereto.

10. If and to the extent that Rules 6e–2 and 6e–3(T) are amended (or if Rule 6e–3 under the Act is adopted) to provide exemptive relief from any provision of the Act or the rules thereunder with respect to mixed and shared funding on terms and conditions materially different from any exemptions granted in the order requested by Applicants, then the Fund and/or Participants, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

11. No less than annually, the Participants shall submit to the Board such reports, materials or data as the Board may reasonably request so that the Board may carry out fully the obligations imposed upon it by the conditions contained in the Application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of the Participants to provide these reports, materials and data to the Board, when the Board so reasonably requests, shall be a contractual obligation of all Participants under the agreements governing their participation in the Fund.

12. If a Qualified Plan becomes an owner of 10% or more of the assets of the Fund, such Qualified Plan will execute a fund participation agreement with the Fund. A Qualified Plan will execute an application containing an acknowledgement of this condition upon such Qualified Plan's initial purchase of the shares of the Fund.

Conclusion

For the reasons summarized above, Applicants represent that the exemptive relief requested is necessary or appropriate in the public interest and otherwise meets the standards of Section 6(c) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–21127 Filed 8–24–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26357]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

August 18, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 11, 1995, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

New England Electric System, et al. (70–8671)

New England Electric System (''NEES''), 25 Research Drive, Westborough, Massachusetts 01582, a registered holding company, and its subsidiary company Narragansett Energy Resources Company (''NERC''), 280 Melrose Street, Providence, Rhode Island 02901, have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, and 12 of the Act and rules 42 and 45 thereunder.

NERC is a general partner with 20% interest in each of two partnerships owning the Ocean State Power Project (''OSP Partnerships''). The OSP Partnerships own a two-unit combined cycle electric generating facility located in Burrillville, Rhode Island. By prior order dated October 13, 1988 (HCAR No. 24727), the Commission authorized NERC to issue and sell notes to NEES (''NEES Notes'') in order to fund NERC's equity contributions to the OSP Partnerships. NERC now proposes to retire the NEES Notes.

To accomplish this retirement, NERC proposes to issue and sell, on or before December 31, 1996, one or more long term notes to one or more third parties in an aggregate principal amount not to exceed $33 million (the ''Note''). The Note will have a maturity of up to 17 years, may provide for a sinking fund or other mandatory pre-payments, and may have limitations on callability or refundability depending upon market conditions. NERC proposes that the Note will be redeemable at any time at its option, upon reasonable notice, at the then outstanding principal amount plus accrued interest and redemption premium, and may include a yield to maturity premium. The interest rate for the Note will not exceed 12% per annum.

As security for its obligations under the Note, NERC proposes to assign its interests in the OSP Partnerships, which assignment will include a security interest in distributions to NERC from the OSP partnerships. Additionally, NEES proposes to pledge its stock in NERC to the purchaser or purchasers of the Note as limited security for the Note.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–21128 Filed 8–24–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36119; File No. SR–CBOE–95–31]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Exchange Fees

August 18, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on July 3, 1995, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE hereby gives notice that it is proposing to amend (i) its Fee Reduction Program for Market-Maker Transaction Fees, Floor Broker Fees, and Member Dues; (ii) its Fee Discount Program for Customer ''Block'' Transactions; (iii) its Fee Discount Program for SPX and OEX Transaction Fees charged to Chicago Mercantile Exchange (''CME'') Members; and (iv) certain Exchange fees.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend (i) the Exchange's Fee Reduction Program for Market-Maker Transaction Fees, Floor Broker Fees, and Member Dues; (ii) the Exchange's Fee Discount Program for Customer ''Block'' Transactions; (iii) the Exchange's Fee Discount Program for SPX and OEX Transaction Fees Charged to CME members; and (iv) certain Exchange fees. The foregoing fee changes are being implemented by the Exchange pursuant to CBOE Rule 2.22 and became effective on July 1, 1995.

The Exchange's Fee Reduction Program for Market-Maker Transaction Fees, Floor Broker Fees, and Member Dues (''Program'') currently provides

that if at the end of any quarter of the Exchange's fiscal year the Exchange's average contract volume per day on a fiscal year-to-date basis exceeds one of certain predetermined volume thresholds, the Exchange's Market-Maker transaction fees, Floor Broker fees, and member dues will be reduced in the following fiscal quarter in accordance with a fee reduction schedule. The Program is ongoing and has no termination date. The Program is proposed to be amended to change the current volume thresholds and fee reduction amounts under the Program. The Program is also proposed to be amended to provide that the Program will terminate on June 30, 1996 at the end of the Exchange's 1996 fiscal year. In addition, the proposed rule change makes certain editorial changes to the provisions that describe the Program without affecting their substance.

The Exchange's Fee Discount Program for Customer ''Block'' Transactions (''Quantity Program'') currently provides for discounts on the transaction fees that CBOE members pay with respect to public customer orders for 500 or more contracts. The Quantity Program also currently provides for a higher discount if a public customer order is for 1,000 or more contracts. The Quantity Program is ongoing and currently has no termination date. Under the proposed rule change, the Quantity Program will retain its current feature that a discount is applicable regardless of the Exchange's volume level, but will be amended to provide for increased discounts in the event that the Exchange's volume level exceeds one of certain predetermined volume thresholds. Specifically, for any month the Exchange's average contract volume per day exceeds one of the predetermined volume thresholds referred to above, the transaction fees that are assessed by the Exchange in that month with respect to public customer orders for 500 or more contracts will be subject to a larger discount in accordance with a discount schedule. The Quantity Program is also proposed to be amended to provide that all public customer orders for 500 or more contracts will receive the same discount, to provide that the Quantity Program will terminate on June 10, 1996 at the end of the Exchange's 1996 fiscal year, and to change the name of the Quantity Program to the Customer ''Large'' Trade Discount Program. In addition, the proposed rule change makes certain editorial changes to the provisions that describe the Quantity Program without affecting their substance.

The Exchange's Fee Discount Program for SPX and OEX Transaction Fees Charged to CME Members (''Reciprocity Program'') was established pursuant to an agreement between the Exchange and the CME and currently provides that on transactions for their own account in SPX and OEX option contracts, CME members are eligible to receive the transaction fee rates that the Exchange charges to CBOE member firms on their proprietary transactions. Although the Exchange charges CME members the transaction fee rates that the Exchange charges with respect to public customer orders, CME members may submit an itemized rebate request to the Exchange's Accounting Department and receive a rebate under the Reciprocity Program equal to the difference between the customer transaction fee rate and the member firm proprietary transaction fee rate. In order for a CME member to be eligible to receive a rebate under the Program with respect to a particular transaction, a rebate request listing such transaction must be received by the Accounting Department no later than 60 days after the end of the month in which the transaction was consummated and must include the information relating to the transaction which was reported to the Exchange's trade match system. The Program is ongoing and has no termination date.

The Reciprocity Program is proposed to be amended to eliminate the eligibility of CME members to receive member firm proprietary rates and instead to make CME members eligible to receive a 14% discount on the customer transaction fee rates that they are charged through the submission of rebate requests in accordance with the same procedural requirements that are currently in place under the Reciprocity Program. This 14% discount is equal to the discount that the CME currently provides to CBOE members with respect to CME transaction fees on transactions for their own account in S&P 500 and S&P 100 futures contracts. In addition, the proposed rule change makes certain editorial changes to the provisions that describe the Reciprocity Program without affecting their substance.

The proposed rule change also amends four Exchange fees.

First, the proposed rule change increases the SPX Phone Position Monthly Rental Fee from $150 to $300. The Exchange charges this fee for the rental of a telephone position adjacent to or near the SPX trading pit. The new rate is equal to the rate that the Exchange charges for the rental of a booth adjacent to or near the OEX trading pit.

Second, the proposed rule change increases the Exchange Bulletin Annual Subscription Fee from $75 to $100. The Exchange Bulletin is a weekly publication of the Exchange that contains Exchange notices of a regulatory, administrative, operational, and informational nature. The Exchange provides all Exchange members with one subscription to the Exchange Bulletin free of charge. The Exchange Bulletin Annual Subscription Fee is applicable to additional Exchange Bulletin subscriptions from Exchange members and to Exchange Bulletin subscriptions from those who are not members of the Exchange.

Third, the proposed rule change will alter the Inactive Nominee Status Maintenance Fee charged by the Exchange to a fixed fee of $600 per quarter. This fee is currently equal to the amount of the Exchange's quarterly membership dues.[1] This fee is provided for by CBOE Rule 3.8(b)(1), is payable quarterly by Exchange member firms for each inactive nominee status that such firms wish to maintain, and is payable regardless of any waiver of membership dues which might be applicable. The Exchange's Membership Fee Circular will be amended to reflect this fee change.

Fourth, the proposed rule change amends the Application, Maintenance, and Transfer Registration Fees that the Exchange charges member firms with respect to their Registered Representatives (''RRs'') as described in CBOE Rule 9.3 and their Registered Options Principals (''ROPs'') as described in CBOE Rule 9.2. Specifically, the proposed rule change (i) increases from $15 to $25 the Application Registration Fee that the Exchange charges for each new RR or ROP applicant, (ii) increases from $15 per year to $20 per year the Maintenance Registration Fee that the Exchange charges for the maintenance of each RR and ROP registration, and (iii) increases from $15 to $20 the Transfer Registration Fee that the Exchange charges for each RR or ROP who transfers from another organization. The foregoing Registration Fees are set forth in CBOE Rule 2.22(b), and therefore that Rule will be amended to reflect these fee changes.

The proposed amendments are the product of the Exchange's annual budget review. The CBOE represents that the amendments are structured to fairly allocate the costs of operating the Exchange in the event that the Exchange experiences higher volume and to shift

[1] The Exchange's membership dues are currently $625 per quarter.

a portion of the Exchange's revenue from variable fees to fixed fees. In addition, although the proposed rule change provides that the Exchange's Program and Quantity Program will terminate at the end of the Exchange's 1996 fiscal year, the Exchange intends to evaluate these Programs prior to the beginning of the 1997 fiscal year and may renew these Programs in the same or modified form for the 1997 fiscal year.

The CBOE represents that the proposed rule change is consistent with Section 6 of the Act, in general, and Section 6(b)(4), in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The rule change described herein establishes or changes a due, fee, or other charge imposed by the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e) thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR–CBOE–95–31 and should be submitted by September 15, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–21153 Filed 8–24–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2800; Amendment #1]

Florida; Declaration of Disaster Loan Area

The above numbered declaration is hereby amended to include Sarasota County and the contiguous Counties of Charlotte, DeSoto, and Manatee in the State of Florida which constitute a disaster area as a result of damages caused by flooding that occurred on July 18.

All other information remains the same, i.e., the termination date for filing applications for physical damage is September 25, 1995, and for applications for economic injury the deadline is April 25, 1996.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: August 21, 1995.

Cassandra M. Pulley,

Acting Administrator.

[FR Doc. 95–21211 Filed 8–24–95; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2244]

Meeting of Protection of Minors Study Group of the Secretary of State's Advisory Committee on Private International Law

The first meeting of the Study Group on the Protection of Minors will take place on Friday, September 8, 1995 in the large conference room in the South Building, Navy Hill, west of the main Department of State building, from 9:30 a.m. to about 4:30 p.m.

The *purpose of the meeting* is to review and provide expert guidance on the preliminary draft of a convention (multilateral treaty) that was prepared by a special commission of the international organization known as the Hague Conference on Private International Law. That organization decided in 1993 to prepare by 1996 a convention revising the 1961 Hague Convention on the Competence of Authorities and the Law Applicable to the Protection of Minors. The draft revised convention addresses various aspects of parental responsibility, rights of custody, the designation and functions of any person or institution charged with responsibility for a child's person or property, jurisdiction, applicable law, the recognition and enforcement of measures of protection taken, and international cooperation to achieve the objectives of the convention.

Guidance on the draft convention that will be the basic working document at the third session of the special commission of the Hague Conference at The Hague on September 11–22, 1995 will be *crucial* to the effective participation of the U.S. delegation in that session. The draft convention emerging from that session will form the basic working document for the next intergovernmental diplomatic conference of the Hague Conference itself in October 1996, at the conclusion of which the convention is to be ready for signature and ratification.

Copies of documents consisting of the preliminary draft convention, conclusions resulting from the second special commission session in February 1995, and a set of issues to be discussed at the study group meeting *may be obtained* by contacting Ms. R. Gonzales by fax at (202) 776–8482 or by writing to Ms. Gonzales, Office of the Legal Adviser (L/PIL), Suite 203 South Building, 2430 ''E'' Street NW., Washington, DC 20037–2800.

Members of the *general public may attend* the September 8 meeting up to the capacity of the conference room, subject to the direction of the Chair. Access to the South Building grounds (''Navy Hill'') is controlled, and those planning to attend should notify Ms. Gonzales (telephone: (202) 776–8420; fax: (202) 776–8482) not later than Wednesday, September 6, of their name, affiliation, address, phone number, date of birth and social security number. Persons interested in the project but unable to attend are welcome to request documents and submit *written comments or proposals* by fax or letter

[2] 17 CFR 200.30–3(a)(12) (1994).

to the fax number or address in the preceding paragraph.

No parking on site is available. *Attendees* should seek *admission* at the gate to ''Navy Hill'' on the west side of 23rd Street N.W. at the level of ''D'' Street N.W. across from the NW corner of Main State Department building and ask the guard to direct them to the South Building, where the meeting is in the conference room (Room 240) at the west end of the 2nd Floor.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law, Vice-Chair, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 95–21098 Filed 8–24–95; 8:45 am]

BILLING CODE 4710–08–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Investment and Services Policy Advisory Committee

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the September 12, 1995 meeting of the Investment and Services Policy Advisory Committee will be held from 10:00 a.m. to 2:00 p.m. The meeting will be closed to the public from 10:00 a.m. to 1:15 p.m. The meeting will be open to the public from 1:15 p.m. to 2:00 p.m.

SUMMARY: The Investment and Services Policy Advisory Committee will hold a meeting on September 12, 1995 from 10:00 a.m. to 2:00 p.m. The meeting will be closed to the public from 10:00 a.m. to 1:15 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, I have determined that this portion of the meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. The meeting will be open to the public and press from 1:15 p.m. to 2:00 p.m. when trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committee will not be invited to comment.

DATES: The meeting is scheduled from September 12, 1995, unless otherwise notified.

ADDRESSES: The meeting will be held at the Jefferson Hotel at 16th and M streets NW., Washington, D.C., unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Michaelle Burstin, Director of Public Liaison, Office of the United States Trade Representative, (202) 395–6120.

Michael Kantor,

United States Trade Representative.

[FR Doc. 95–21207 Filed 8–24–95; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 95–66; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1992 Volkswagen Passat 4–Door Sedan Passenger Cars are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1992 Volkswagen Passat 4–Door Sedan passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1992 Volkswagen Passat 4–Door Sedan that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is September 25, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (''Champagne'') (Registered Importer 90–009) has petitioned NHTSA to decide whether 1992 Volkswagen Passat 4–Door Sedan passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1992 Volkswagen Passat 4–Door Sedan that was manufactured for importation into, and sale in, the United States and certified by its manufacturer, Volkswagenwerke A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1992 Volkswagen Passat 4–Door Sedan to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1992 Volkswagen Passat 4–Door Sedan, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S.

certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1992 Volkswagen Passat 4–Door Sedan is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that the non-U.S. certified 1992 Volkswagen Passat 4–Door Sedan complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies; (d) installation of a high-mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch and a warning buzzer in the steering lock assembly.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) installation of a passive restraint system consisting of driver's and passenger's side automatic seat belts, knee bolsters, and associated hardware that have identical part numbers to those found on the vehicle's U.S. certified counterpart. The petitioner states that the vehicle is equipped at its rear outboard seating positions with combination lap and shoulder restraints that release by means of a single push button, and with a lap belt at its center seating position.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: August 21, 1995.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–21147 Filed 8–24–95; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 95–68; Notice 1]

Notice of Receipt of Petition for Decision that Nonconforming 1972 MG-B Roadster Passenger Cars are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1972 MG-B Roadster passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1972 MG-B Roadster that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is September 25, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the

model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (''Champagne'') (Registered Importer 90–009) has petitioned NHTSA to decide whether 1972 MG-B Roadster passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1972 MG-B Roadster that was manufactured for importation into, and sale in, the United States and certified by its manufacturer, British Leyland Motor Corp., Ltd., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1972 MG-B Roadster to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1972 MG-B Roadster, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1972 MG-B Roadster is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *., 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* and 301 *Fuel System Integrity.*

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Replacement of the convex passenger side rearview mirror.

Standard No. 114 *Theft Protection:* Installation of a buzzer microswitch and warning buzzer in the steering lock assembly.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a U.S.-model seat belt in the driver's position, or a belt webbing actuated microswitch in the driver's seat belt retractor; (b) installation of an ignition switch actuated seat belt warning lamp and buzzer.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered.

Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: August 21, 1995.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–21146 Filed 8–24–95; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 95–67; Notice 1]

Notice of Receipt of Petition for Decision that Nonconforming 1994 and 1995 Dodge Ram Pickup Trucks are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1994 and 1995 Dodge Ram pickup trucks manufactured in Mexico are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1994 and 1995 Dodge Ram pickup trucks manufactured in Mexico that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATE: The closing date for comments on the petition is September 25, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor

vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''Wallace'') (Registered Importer 90–005) has petitioned NHTSA to decide whether 1994 and 1995 Dodge Ram pickup trucks manufactured in Mexico are eligible for importation into the United States. The vehicles that Wallace believes are substantially similar are 1994 and 1995 Dodge Ram pickup trucks that were manufactured for sale in the United States and certified as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1994 and 1995 Dodge Ram pickup trucks to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that non-U.S. certified 1994 and 1995 Dodge Ram pickup trucks, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1994 and 1995 Dodge Ram pickup trucks are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 101 *Controls and Displays,* 102 *Transmission Shift Lever Sequence * * *.,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 108 *Lamps, Reflective Devices and Associated Equipment,* 109 *New Pneumatic Tires,* 111 *Rearview Mirror,* 113 *Hood Latch Systems,* 115 *Vehicle Identification Number,* 116 *Brake Fluid,* 118 *Power Window Systems,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that non-U.S. certified 1994 and 1995 Dodge Ram pickup trucks MPVs comply with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 105 *Hydraulic Brake Systems:* Inscription of the word ''Brake'' on the brake failure indicator light.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer to be activated when the driver's door is opened with the key left in the ignition.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles other than Passenger Cars:* Installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* Installation of a driver's side air bag and knee bolster. The petitioner stated that the vehicles are equipped with Type 2 lap and shoulder belts at each outboard seating position and a Type 1 lap belt at each center seating position.

Standard No. 209 *Seat Belt Assemblies:* Replacement of the Type 2 lap and shoulder belts at each outboard seating position with U.S.-model components that bear the required markings.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: August 21, 1995.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–21145 Filed 8–24–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

August 14, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Departmental Offices/Office of Foreign Assets Control

OMB Number: 1505–0092.

Form Number: TD F 90–22.29 (TFAC).

Type of Review: Extension.

Title: Libyan Sanctions Regulations.

Description: Submissions will provide the United States Government with information to be used in administering and enforcing sanctions against Libya.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 300.

Estimated Burden Hours Per Response: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 300 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, room 2110, 1425 New York Avenue NW., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–21116 Filed 8–24–95; 8:45 am]

BILLING CODE 4810–25–P

Public Information Collection Requirements Submitted to OMB for Review

August 17, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Financial Management Service (FMS)

OMB Number: 1510–0052.

Form Number: FMS 458 and FMS 459.

Type of Review: Revision.

Title: Financial Institution Agreement and Application Forms for Designation as a Treasury Tax and Loan Depositary (FMS 458); Resolution Authorizing the Financial Institution Agreement and Application for Designation as a Treasury Tax and Loan Depositary (FMS 459).

Description: Financial institutions are required to complete an agreement and application to participate in the Federal Tax Deposit/Treasury Tax and Loan Program. The approved application designates the depositary as an authorized recipient of the taxpayers' deposits for Federal Taxes.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 450.

ESTIMATED BURDEN HOURS PER RESPONSE

Form	Response time
FMS 458	15 minutes.
FMS 459	15 minutes.

Frequency of Response: Other.

Estimated Total Reporting Burden: 225 hours.

Clearance Officer: Jacqueline R. Perry, (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–21117 Filed 8–24–95; 8:45 am]

BILLING CODE 4810–35–M

Public Information Collection Requirements Submitted to OMB for Review

August 18, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue NW., Washington, DC 20220.

U.S. Customs Service (CUS)

OMB Number: 1515–0108.

Form Number: None.

Type of Review: Extension.

Title: Declaration by the Person Abroad Who Received and is Returning Merchandise to the U.S.

Description: The declaration is used under conditions where articles are imported and then exported and reimported duty free due to the declaration. Use insures Customs control over duty free merchandise.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 292 hours.

Clearance Officer: Norman Waits, (202) 927–1551, U.S. Customs Service, Printing and Records Management Branch, room 6426, 1301 Constitution Avenue NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–21118 Filed 8–24–95; 8:45 am]

BILLING CODE 4820–02–P

Public Information Collection Requirements Submitted to OMB for Review

August 14, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0256.

Form Number: IRS Forms 941c and 941cPR.

Type of Review: Extension.

Title: Supporting Statement to Correct Information (941c), Planilla Para La Correccion De Informacion (941cPR).

Description: Used by employers to correct previously reported FICA or income tax data. It may be used to support a credit or adjustment claimed on a current return for an error in a prior return period. The information is used to reconcile wages and taxes previously reported or used to support claim for refund credit or adjustment of FICA or income tax.

Respondents: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 98,050.

ESTIMATED BURDEN HOURS PER RESPONDENT/RECORDKEEPER

	Form 941c	Form 941cPR
Record-keeping.	8 hr., 51 min.	7 hr., 25 min.
Preparing the form.	8 min.	7 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 8,528,697 hours.

OMB Number: 1545–962 .

Form Number: IRS Publication 1075.

Type of Review: Extension.

Title: Safeguard Procedures and Safeguard Activity Reports.

Description: Internal Revenue Code section 6103(p) requires that IRS provide periodic reports to Congress describing safeguard procedures utilized by agencies, which receive information from the IRS, to protect the

confidentiality of the information. This section also requires that these agencies furnish reports to the IRS describing their safeguards.

Respondents: State, Local or Tribal Government, Business or other for-profit, Not-for-profit institutions, Federal Government.

Estimated Number of Respondents: 5,100.

Estimated Burden Hours Per Respondent: 5 hours.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 25,500 hours.

OMB Number: 1545–1012.

Form Number: IRS Form 5305A-SEP.

Type of Review: Reinstatement.

Title: Salary Reduction and Other Elective Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement.

Description: This form is used by an employer to make an agreement to provide benefits to all employees under a salary reduction Simplified Employee Pension (SEP) described in section 408(k). This form is not to be filed with IRS, but to be retained in the employers records as proof of establishing such a plan, thereby justifying a deduction for contributions made to this SEP. The data is used to verify the deduction.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 100,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—40 min.
Learning about the law or the form—54 min.
Preparing the form—1 hr., 5 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 265,000.

OMB Number: 1545–1102.

Regulation ID Number: PS–19–82 Final, Notice 89–1 and Notice 89–6.

Type of Review: Extension.

Title: Carryover Allocations and Other Rules Relating to the Low-Income Housing Credit.

Description: The regulations provide the Service the information it needs to ensure that low-income housing tax credits are being properly allocated under section 42. This is accomplished through the use of carryover allocation documents, election statements, and binding agreements executed between taxpayers (e.g., individuals, businesses, etc.) and housing credit agencies.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Estimated Number of Respondents: 2,230.

Estimated Burden Hours Per Respondent: 4 hours, 30 minutes.

Frequency of Response: Other.

Estimated Total Reporting Burden: 4,008 hours.

OMB Number: 1545–1355.

Regulation ID Number: INTL–848–89 NPRM.

Type of Review: Extension.

Title: Taxable Year of Certain Foreign Corporations Beginning After July 10, 1989.

Description: Proposed regulations set forth the ''required year'' for ''specified foreign corporations'' for taxable years beginning after July 10, 1989, and give guidance on which foreign corporations must change their taxable year and how to effect the change in taxable year. Specified foreign corporations must conform to the required year and must state so on Form 5471.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–21119 Filed 8–24–95; 8:45 am].

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

August 15, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0710.

Form Number: IRS Forms 5500, 5500–C/R and Schedules.

Type of Review: Revision.

Title: Annual Return/Report of Employee Benefit Plan, Return/Report of Employee Benefit Plan and Associated Schedules.

Description: The forms listed in Item 7 are Annual Information Returns filed by Employee Benefit Plans. The IRS uses this information to determine if the plan appears to be operating properly as required under the law or whether the plan should be audited.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 901,400.

ESTIMATED BURDEN HOURS PER RESPONDENT/RECORDKEEPER:

Form/schedule	Recordkeeping	Learning about law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS
5500 (initial filers)	87 hours, 46 minutes	9 hours, 32 minutes	14 hours, 11 minutes	0 hours, 48 minutes.
5500 (all other filers)	82 hours, 16 minutes	9 hours, 32 minutes	14 hours, 6 minutes	0 hours, 48 minutes.
Schedule A	17 hours, 28 minutes	0 hours, 28 minutes	1 hour, 42 minutes	0 hours, 16 minutes.
Schedule B (Part I)	29 hours, 39 minutes	2 hours, 47 minutes	3 hours, 23 minutes	0 hours, 0 minutes.
Schedule B (Part II)	18 hours, 39 minutes	1 hour, 23 minutes	1 hour, 45 minutes	0 hours, 0 minutes.
Schedule C	5 hours, 16 minutes	0 hours, 18 minutes	0 hours, 23 minutes	0 hours, 0 minutes.
Schedule E (nonleveraged ESOP)	1 hour, 12 minutes	0 hours, 12 minutes	0 hours, 13 minutes	0 hours, 0 minutes.
Schedule E (leveraged ESOP)	10 hours, 2 minutes	1 hour, 41 minutes	1 hour, 56 minutes	0 hours, 0 minutes.
Schedule F	2 hours, 52 minutes	0 hours, 24 minutes	0 hours, 28 minutes	0 hours, 0 minutes.
Schedule G	15 hours, 4 minutes	0 hours, 6 minutes	0 hours, 21 minutes	0 hours 0 minutes.

ESTIMATED BURDEN HOURS PER RESPONDENT/RECORDKEEPER:—Continued

Form/schedule	Recordkeeping	Learning about law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS
Schedule P	1 hour, 55 minutes	0 hours, 30 minutes	0 hours, 33 minutes	0 hours, 0 minutes.
Schedule SSA	5 hours, 30 minutes	0 hours, 6 minutes	0 hours, 11 minutes	0 hours, 0 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 27,946,240 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–21120 Filed 8–24–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

August 15, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0633.

Form Number: Notices 437, 438 and 466.

Type of Review: Extension.

Title: Notice of Intention to Disclose.

Description: Notice is required by 26 USC 6110(f). A reply is necessary if recipient disagrees with the Service's proposed deletions. The Service uses the reply to consider propriety of making additional deletions to public inspection version of written determinations or related background file documents.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, State, Local or Tribal Government

Estimated Number of Respondents: 2,500.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,250 hours.

OMB Number: 1545–922.

Form Number: IRS Forms 8329 and 8330.

Type of Review: Extension.

Title: Lender's Information Return for Mortgage Credit Certificates (MCCs) (8329); Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs) (8330).

Description: Form 8329 is used by lending institutions and Form 8330 is used by state and local governments to report on mortgage credit certificates (MCCs) authorized under Internal Revenue Code (IRC) section 25. IRS matches the information supplied by lenders and issuers to ensure that the credit is computed properly.

Respondents: Business or other for-profit, State, Local or Tribal Government.

Estimated Number of Respondents/Recordkeepers: 10,500.

ESTIMATED BURDEN HOURS PER RESPONDENT/RECORDKEEPER

	Form 8329	*Form 8330*
Recordkeeping	3 hr., 35 min.	4 hr., 32 min.
Learning about the law or the form	1 hr., 5 min.	1 hr., 17 min.
Preparing and sending the form to the IRS	1 hr., 12 min.	1 hr., 25 min.

Frequency of Response: Quarterly and Annually.

Estimated Total Reporting/Recordkeeping Burden: 73,300 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95–21121 Filed 8–24–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

August 16, 1995.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0229.

Form Number: IRS Form 6406.

Type of Review: Resubmission.

Title: Short Form Application for Determination for Amendment of Employee Benefit Plan.

Description: This form is used by certain employee plans who want a determination letter or an amendment to the plan. The information gathered will be used to decide whether the plan is qualified under section 401(a).

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 16,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Frequency of Response: Annually.

Estimated Total Reporting Burden: 207,840 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue

Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–21122 Filed 8–24–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

August 16, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0458.

Form Number: IRS Form 4852.

Type of Review: Extension.

Title: Substitute for Form W–2, Wage and Tax Statement or Form 1099R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

Description: In the absence of a Form W–2 or 1099R from the employer or payer, Form 4852 is used by the taxpayer to estimate gross wages, pensions, annuities, retirement or IRA payments received as well as income or FICA tax withheld during the year. It is attached to the return for processing.

Respondents: Individuals or households, Business or other for-profit, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 1,300,000.

Estimated Burden Hours Per Respondent: 18 minutes.

Frequency of Response: On occasion and Annually.

Estimated Total Reporting Burden: 390,000 hours.

OMB Number: 1545–0597.

Form Number: IRS Form 4598.

Type of Review: Extension.

Title: Form W–2 or 1099 Not Received or Incorrect.

Description: Employers and/or payers are required to furnish Forms W–2 or 1099 to employees and other payees. This three-part form is necessary for the resolution of taxpayer complaints concerning the non-receipt of or incorrect Forms W–2 or 1099.

Respondents: Individuals or households, Business or other for-profit, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 850,000.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 212,500 hours.

OMB Number: 1545–0806.

Regulation ID Number: EE–12–78 Final.

Type of Review: Extension.

Title: Nonbank Trustees of Pension and Profit-Sharing Trusts Benefiting Owner-Employees.

Description: Internal Revenue Code (IRC) section 408(a)(2) permits a person other than a bank to be the trustee of an IRA. To do so, an application needs to be filed and various qualifications need to be met. IRS uses the information to determine whether a person qualifies to be a non-bank trustee.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 340.

Estimated Burden Hours Per Respondent: 46 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 260 hours.

OMB Number: 1545–0807.

Form Number: TD 7533 and TD 7896 Final Regulations (LR 2013).

Type of Review: Extension.

Title: Time for Filing Returns of Corporations.

Description: Section 6072 (b), (c), (d), and (e) of the Internal Revenue Code (IRC) deals with the filing dates of certain corporate returns. Regulation section 1.6072–2 provides additional information concerning these filing dates.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion and annually.

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–0814.

Regulation ID Number: EE–44–78 Final.

Type of Review: Extension.

Title: Cooperative Hospital Service Organizations.

Description: This regulation establishes the rules for cooperative hospital service organizations which seek tax-exempt status under section 501(e) of the Internal Revenue Code. Such an organization must keep records in order to show its cooperative nature and to establish compliance with other requirements in section 501(c).

Respondents: Not-for-profit institutions.

Estimated Number of Recordkeepers: 1.

Estimated Burden Hours Per Recordkeeper: 1 hour.

Frequency of Response: Other.

Estimated Total Recordkeeping Burden: 1 hour.

OMB Number: 1545–1141.

Form Number: Notice 89–102.

Type of Review: Extension.

Title: Treatment of Acquisition of Certain Financial Institutions; Tax Consequences of Federal Financial Assistance.

Description: Section 597 of the Internal Revenue Code provides that the Secretary shall provide guidance concerning the tax consequences of Federal financial assistance received by qualifying institutions. These institutions may defer payment of Federal income tax attributable to the assistance. Required information identifies deferred tax liabilities.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 250.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 125 hours.

OMB Number: 1545–1212.

Form Number: IRS Form 706–QDT.

Type of Review: Revision.

Title: U.S. Estate Return for Qualified Domestic Trusts.

Description: Form 706–QDT is used by the trustee or the designated filer to compute and report the Federal estate tax imposed on qualified domestic trusts by Internal Revenue Code (IRC) section 2056A. IRS uses the information to enforce this tax and to verify that the tax has been properly computed.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 80.

ESTIMATED BURDEN HOURS PER RESPONDENT/RECORDKEEPER

Recordkeeping	1 hr., 12 min.
Learning about the law or the form.	42 min.

ESTIMATED BURDEN HOURS PER RESPONDENT/RECORDKEEPER—Continued

Preparing the form	1 hr., 28 min.
Copying, assembling, and sending the form to the IRS.	1 hr., 3 min.

Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 354 hours.
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–21123 Filed 8–24–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

August 17, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0023.
Form Number: IRS Form 720.
Type of Review: Revision.
Title: Quarterly Federal Excise Tax Return.
Description: Form 720 is used to report excise taxes due from retailers and manufacturers on the sale or manufacture of various articles, to report taxes on facilities and services, and taxes on certain products and commodities (gasoline and vaccines, etc. It enables IRS to monitor excise tax liability for various categories on a single form and to collect the tax quarterly in compliance with the law and regulations (Internal Revenue Code (IRC) section 6011).
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents/Recordkeepers: 286,000.
Estimated Burden Hours Per Respondent/Recordkeeper:

Form/sched	Record-keeping	Learning about the law of the form	Preparing and sending the to the IRS
720	25 hr., 7 min.	2 hr., 38 min.	9 hr., 10 min.
Schedule A	1 hr., 55 min.	——	2 min.
Schedule C—Part I	1 hr., 55 min.	——	2 min.
Part II	18 hr., 39 min.	——	18 min.
Part III	14 min.	——	——

Frequency of Response: Quarterly.
Estimated Total Reporting Burden/Recordkeeping: 9,313,920 hours.

OMB Number: 1545–0833.
Form Number: None.
Type of Review: Extension.
Title: Regulations Under Tax Conventions—Sweden (Part 520).
Description: This information is needed to secure for individuals and businesses the benefits to which they are entitled under the tax convention and to facilitate the administration and enforcement of the tax laws of the United States.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents: 100.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 25 hours.

OMB Number: 1545–0837.
Form Number: None.
Type of Review: Extension.
Title: Regulations Under Tax Conventions—Germany (Part 503)
Description: This information is needed to secure for individuals and businesses the benefits to which they are entitled under the tax convention and to facilitate the administration and enforcement of the tax laws of the United States.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents: 65.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 16 hours.

OMB Number: 1545–0841.
Form Number: None.
Type of Review: Extension.
Title: Regulations Under Tax Conventions—Austria (Part 516)
Description: This information is needed to secure for individuals and businesses the benefits to which they are entitled under the tax convention and to facilitate the administration and enforcement of the tax laws of the United States.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents: 50.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 13 hours.

OMB Number: 1545–0844.
Form Number: None.
Type of Review: Extension.
Title: Regulations Under Tax Conventions—Greece (Part 502).
Description: This information is needed to secure for individuals and businesses the benefits to which they are entitled under the tax convention and to facilitate the administration and enforcement of the tax laws of the United States.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents: 50.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping Burden: 13 hours.

OMB Number: 1545–0845.
Form Number: None.
Type of Review: Extension.
Title: Regulations Under Tax Conventions—France (Part 514).
Description: This information is needed to secure for individuals and businesses the benefits to which they are entitled under the tax convention and to facilitate the administration and enforcement of the tax laws of the United States.

Respondents: Individuals or households, Business or other for-profit.
Estimated Number of Respondents: 200.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 50 hours.

OMB Number: 1545–0846.
Form Number: None.
Type of Review: Extension.
Title: Regulations Under Tax Conventions—Switzerland (Part 509).
Description: This information is needed to secure for individuals and businesses the benefits to which they are entitled under the tax convention and to facilitate the administration and enforcement of the tax laws of the United States.
Respondents: Individuals or households, Business or other for-profit.
Estimated Number of Respondents: 50.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping Burden: 30 hours.

OMB Number: 1545–0848.
Form Number: None.
Type of Review: Extension.
Title: Regulations Under Tax Conventions—Denmark (Part 521).
Description: This information is needed to secure for individuals and businesses the benefits to which they are entitled under the tax convention and to facilitate the administration and enforcement of the tax laws of the United States.
Respondents: Individuals or households, Business or other for-profit.
Estimated Number of Respondents: 100.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 25 hours.

OMB Number: 1545–0849.
Form Number: None.
Type of Review: Extension.
Title: Regulations Under Tax Conventions—Pakistan (Part 517).
Description: This information is needed to secure for individuals and businesses the benefits to which they are entitled under the tax convention and to facilitate the administration and enforcement of the tax laws of the United States.
Respondents: Individuals or households, Business or other for-profit.
Estimated Number of Respondents: 20.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 5 hours.

OMB Number: 1545–0954.
Form Number: IRS Form 1120–ND.
Type of Review: Revision.
Title: Return for Nuclear Decommissioning Funds and Certain Related Persons.
Description: A nuclear utility files Form 1120–ND to report the income and taxes of a fund set up by the public utility to provide cash for the dismantling of the nuclear power plant. The IRS uses Form 1120–ND to determine if the fund income taxes are correctly computed and if a person related to the fund or the nuclear utility must pay taxes on self-dealing.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 100.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—23 hr., 12 min.
Learning about the law or the form—3 hr., 1 min.
Preparing the form—5 hr., 23 min.
Copying, assembling, and sending the form to the IRS—32 min.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 3,215 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 95–21124 Filed 8–24–95; 8:45 am].
BILLING CODE 4830–01–P.

Office of Thrift Supervision

[AC–46; OTS Nos. H–2114 and 04192]

First Federal Mutual Holding Company, Definance, Ohio; Approval of Conversion Application

Notice is hereby given that on August 14, 1995, the Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of First Federal Mutual Holding Company, Defiance, Ohio, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: August 21, 1995.

By the Office of Thrift Supervision.

Kimberly M. White,
Corporate Technician.
[FR Doc. 95–21107 Filed 8–24–95; 8:45 am]
BILLING CODE 6720–01–M

[AC–45; OTS No. 05015]

Statewide Savings Bank, S.L.A., Jersey City, New Jersey; Approval of Conversion Application

Notice is hereby given that on August 10, 1995, the Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Statewide Savings Bank, S.L.A., Jersey City, New Jersey, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, NJ 07302.

Dated: August 21, 1995.

By the Office of Thrift Supervision.

Kimberly M. White,
Corporate Technician.
[FR Doc. 95–21106 Filed 8–24–95; 8:45 am]
BILLING CODE 6720–01–M

[AC–44; OTS No. 06332]

Illinois Guarantee Savings Bank, FSB, Effingham, Illinois; Approval of Conversion Application

Notice is hereby given that on August 7, 1995, the Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Illinois Guarantee Savings Bank, FSB, Effingham, Illinois, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: August 21, 1995.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 95–21105 Filed 8–24–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–43; OTS No. 06278]

Damen Federal Bank for Savings, Chicago, Illinois; Approval of Conversion Application

Notice is hereby given that on August 7, 1995, the Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Damen Federal Savings for Savings, Chicago, Illinois, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: August 21, 1995.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 95–21104 Filed 8–24–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–42; OTS No. 04436]

Tarrytowns Bank, FSB, Tarrytown, New York; Approval of Conversion Application

Notice is hereby given that on August 1, 1995, the Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Tarrytown Bank, FSB, Tarrytown, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: August 21, 1995.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 95–21103 Filed 8–24–95; 8:45 am]

BILLING CODE 6720–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 165
Friday, August 25, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. COMMISSION ON CIVIL RIGHTS

DATE AND TIME: Friday, September 8, 1995, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW, Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of July 14, 1995 Meeting
III. Announcements
IV. Staff Director's Report
V. SAC Chair Conference Follow-up
VI. Miami Hearing Briefing
VII. State Advisory Committee Appointments for Arkansas, Delaware, Georgia (interim), Illinois, Maine, North Dakota, Oklahoma, Rhode Island, Tennessee (interim), Virginia (interim), and West Virginia
VIII. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Dated: August 23, 1995.

Miguel A. Sapp,

Acting Solicitor.

[FR Doc. 95–21303 Filed 8–23–95; 2:10 pm]

BILLING CODE 6335–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 2:30 p.m., Wednesday, August 30, 1995.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, Virginia 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
2. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 95–21326 Filed 8–23–95; 4:03 pm]

BILLING CODE 7535–01–M

STATE JUSTICE INSTITUTE

TIME AND DATE:

Friday, September 15, 1995, 9 a.m.–5 p.m.

Saturday, September 16, 1995, 9 a.m.–5 p.m.

PLACE: Richmond Hill Inn, 87 Richmond Hill Drive, Asheville, NC 28806.

MATTERS TO BE CONSIDERED: FY 1995 grant applications and internal Institute business.

PORTIONS OPEN TO THE PUBLIC: All matters other than those noted as closed below.

PORTIONS CLOSED TO THE PUBLIC: Internal personnel matters; Board committee meetings.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 95–21243 Filed 8–23–95; 2:04 pm]

BILLING CODE 6820–SC–M

Corrections

Federal Register

Vol. 60, No. 165

Friday, August 25, 1995

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 28272; Notice No. 95-9]
RIN 2120-AF21

Revision of Emergency Evacuation Demonstration Procedures To Improve Participant Safety

Correction

In proposed rule document 95–17392 beginning on page 36932 in the issue of Tuesday, July 18, 1995, make the following corrections:

Appendix J to Part 25 [Corrected]

On page 36936, in the third column, in Appendix J to Part 25, in paragraph (o), in the second line, ''closure'' should read ''disclosure''; and in paragraph (p), in the sixth line, ''exists'' should read ''exits''.

BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTRATION

48 CFR Part 514

General Services Administration Acquisition Regulation; Implementing Federal Acquisition Circular (FAC 90–29)

Correction

In rule document 95–20215 beginning on page 42801 in the issue of Thursday, August 17, 1995, make the following correction:

514.408–1 [Corrected]

On page 42804, in the first column, in amendatory instruction 26, in the seventh line, ''FAR 519.502–2(b)'' should read ''FAR 519.502–3(b)''.

BILLING CODE 1505–01–D

federal register

Friday
August 25, 1995

Part II

Department of Education

Waivers Granted Under the Authority of the Elementary and Secondary Act and the Goals 2000: Educate America Act; Notice

DEPARTMENT OF EDUCATION

Waivers Granted Under the Authority of the Elementary and Secondary Act and the Goals 2000: Educate America Act

ACTION: Notice of waivers granted by the U.S. Secretary of Education under the authority of the Elementary and Secondary Education Act and the Goals 2000: Educate America Act.

SUMMARY: States and communities have new opportunities for flexibility in the use of Federal education funds in order to improve school effectiveness and academic achievement. The Improving America's Schools Act (Pub. L. 103–382), which reauthorized the Elementary and Secondary Education Act (ESEA), the Goals 2000: Educate America Act (Pub. L. 103–227), and the School-to-Work Opportunities Act (Pub. L. 103–239) provide States, school districts, and schools with significant new opportunities to seek waivers of certain requirements of Federal education programs in order to improve teaching and learning.

This notice identifies the waiver requests approved by the U.S. Department of Education under these new waiver authorities through June 30, 1995. This notice also identifies one State that has had its Education Flexibility (Ed-Flex) Partnership Demonstration Program application approved and that has been delegated the Secretary's waiver authority under the Goals 2000: Educate America Act. As of June 30, no waivers had been requested under the general Goals 2000 authority or School-to-Work Opportunities Act.

Application Approvals

Through June 30, 1995, the Secretary has approved 14 applications for waivers and one application for Ed-Flex. The successful applications are described briefly in this notice, which is published as provided for in section 14401(g) of the ESEA and section 311(g) of Goals 2000. These summaries are presented to illustrate some of the key elements of the approved requests. Each waiver application is reviewed and evaluated based on its individual merits in accordance with the statutory criteria.

(A) Waivers Approved Under the General Waiver Authority in Section 14401 of the ESEA

(1) Name of Applicant: Palm Beach County School District, West Palm Beach, FL.

Requirement waived: Section 1113(a)(3) of the ESEA.

Duration of Waiver: One year.

Summary: The district will not allocate Title I funds to four eligible secondary schools for one year. This will enable the district to continue improvement strategy efforts in 22 elementary schoolwide programs and follow through with plans to begin six new elementary schoolwide programs in the upcoming school year.

Date Granted: March 9, 1995.

(2) Name of Applicant: School District of Lancaster, Lancaster, PA.

Requirement waived: Section 1113(a)(3) of the ESEA.

Duration of Waiver: Three years.

Summary: As part of its comprehensive approach to using Federal, State, and local education resources, the district will use its Title I funds in 11 elementary schools, including two schools otherwise ineligible for Title I funds. While the district will not fund an eligible middle school, it will devote substantial non-Title I resources there. Title I funds will continue to support an early intervention program serving children from preschool through grade 3. The district points to strong indications of prior success of this program and describes plans to monitor the program for long-term improvement.

Date Granted: May 23, 1995.

(3) Name of Applicant: Riverside Unified School District, Riverside, CA.

Requirement waived: Section 1113(a)(4) of the ESEA.

Duration of Waiver: Three years.

Summary: The district will not serve three newly Title I—eligible elementary schools, in order to continue Title I services for children who reside in an eligible attendance area but who, under the district's voluntary desegregation plan, are transported to an elementary school that has a lower rate of poverty than the newly eligible schools. The school to be served has been identified by the State as a ''Distinguished School,'' with Title I as the centerpiece of its program.

Date Granted: May 23, 1995.

(4) Name of Applicant: Fort Worth Independent School District, Fort Worth, TX.

Requirement waived: Section 1113(c)(1) of the ESEA.

Duration of Waiver: Three years.

Summary: The district will provide a greater per pupil allocation of Title I funds to four high-poverty elementary schools than to other schools that rank higher in poverty. The four schools operate schoolwide programs that will aim to increase the quality of instruction and improve academic achievement through reorganizing staff, lengthening the school year, providing extensive professional development, focusing heavily on reading and math, and strengthening links to the community.

Date Granted: June 5, 1995.

(5) Name of Applicant: Penn Manor School District, Penn Manor, PA.

Requirement waived: Section 1113(a)(2)(B) of the ESEA.

Duration of Waiver: One year.

Summary: Consistent with its strategic plan, the district supports an early intervention reading program and will provide Title I services to all educationally at-risk first grade students. The waiver will enable the district to serve three elementary schools that are otherwise ineligible for Title I funds. The school poverty levels in this district are relatively low and span a small range.

Date Granted: June 8, 1995.

(6) Name of Applicant: South Eastern School District, South Eastern, PA.

Requirement waived: Section 1113(a)(2)(B) of the ESEA.

Duration of Waiver: Three years.

Summary: The district has adopted a strategic plan stressing early intervention. The district will provide Title I funds to two otherwise ineligible elementary schools so that they may continue their Reading Recovery programs. This is a relatively low-poverty school district, in which all of the schools fall within a small range around the district average.

Date Granted: June 8, 1995.

(7) Name of Applicant: Hillsborough County Public Schools, Tampa, FL.

Requirement waived: Section 1113(a)(3)(B) of the ESEA.

Duration of Waiver: Three years—6th Grade Center; Two-years—Junior High School.

Summary: The district will delay providing Title I services to a 6th grade center (for three years) and a junior high school (for two years). Both of these schools are undergoing major physical and institutional restructuring efforts, including school closures and changes in grade spans served. Assuming continued eligibility, Title I services will be provided at both schools at the end of the waiver period.

Date Granted: June 12, 1995.

(8) Name of Applicant: Huntingdon Area School District, Huntingdon, PA.

Requirement waived: Section 1113(a)(2)(B) of the ESEA.

Duration of Waiver: Three years.

Summary: The district will provide Title I funds to two otherwise ineligible elementary schools. Consistent with the district's three-year strategic plan, the funds will enable the district to provide Reading Recovery programs in the two schools. Both of these schools formerly

were eligible for Chapter 1 funds under the no-wide variance provision of Chapter 1.

Date Granted: June 27, 1995.

(9) Name of Applicant: Nash-Rocky Mount School District, Nashville, NC.

Requirement waived: Section 1114(a)(1)(A) of the ESEA.

Duration of Waiver: One year.

Summary: This waiver will enable an elementary school, with a poverty rate near the 60 percent requirement, to implement a Title I schoolwide program one year early. Requirements pertaining to schoolwide programs other than the poverty level of the attendance area still apply.

Date Granted: June 27, 1995.

(10) Name of Applicant: Knoxville Community Unit School District No. 202, Knoxville, IL.

Requirement waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.

Duration of Waiver: One year.

Summary: The waiver will enable the district to plan for the termination of the Chapter 1 program in one elementary school, allowing the district to minimize the negative impact of the discontinuation and develop alternatives to meet the educational needs of the students who would no longer be served.

Date Granted: June 30, 1995.

(11) Name of Applicant: West Chester School District, West Chester, PA.

Requirement waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.

Duration of Waiver: Three years.

Summary: This waiver will enable the district to provide Title I funds to three otherwise ineligible elementary schools, attended by 24 percent of the district's identified low-income students, and to maintain its early intervention program in all 10 of its elementary schools. The schools' poverty levels are closely clustered, with the three ineligible elementary schools ranked within 1.1 percentage points of the district average. Instead of allocating funds strictly based on poverty, the district will fund equally a reading specialist position in each of the ten schools.

Date Granted: June 30, 1995.

(B) Waivers Approved Under the Special Waiver Authority in Section 1113(a)(7) of the ESEA

(1) Name of Applicant: Metropolitan School District of Decatur Township, Marion County, Indianapolis, IN.

Requirement waived: Sections 1113(a) and 1113(c) of the ESEA.

Duration of Waiver: Three years.

Summary: The waiver allows the district to provide Title I funds to two schools with poverty rates below 35 percent but above 25 percent and to fund all elementary schools at a rate less than 125 percent of the minimum per pupil allocation. This waiver allows the district to provide services in schools where students are transported under a court-ordered, cross-district desegregation plan. The district will maintain substantial services in its higher-poverty schools.

Date Granted: May 17, 1995.

(2) Name of Applicant: San Diego City Schools, San Diego, CA.

Requirement waived: Sections 1113(a) and 1113(c) of the ESEA.

Duration of Waiver: Three years.

Summary: The waiver allows Title I funds to be allocated to 33 schools with poverty levels below the district average and 10 schools at less than the minimum required allocation. All such schools serve students transported from higher-poverty attendance areas under the district's court-ordered desegregation plan. The district will allocate funds to schools eligible without the waiver based on the total number of poor children, both bused and resident. Allocations to schools served under the waiver will be based only on students bused into the attendance area, although the funds will serve any child at risk of failing to meet State standards.

Date Granted: June 7, 1995.

(3) Name of Applicant: Ferguson-Florissant R–II School District, Florissant, MO.

Requirement waived: Sections 1113(a) and 1113(c) of the ESEA.

Duration of Waiver: Three years.

Summary: The waiver will enable the district to continue to provide Title I services in attendance centers with at least 25 percent economically disadvantaged school children enrolled as a part of a court-ordered desegregation plan. This will help support the district's desegregation efforts and advance the purposes of Title I by providing additional services to educationally disadvantaged children at schools receiving minority students from other attendance areas.

Date Granted: June 30, 1995.

(C) Plans Approved Under the Education Flexibility Partnership Demonstration Program in Section 311(e) of the Goals 2000: Educate America Act

(1) Name of Applicant: Oregon.

Summary: Under this demonstration program, the Secretary has delegated the Oregon State Educational Agency (SEA) the power to grant waivers of certain requirements of Federal education programs to individual local educational agencies and schools. This delegation will allow the SEA, which has an approved Goals 2000 plan, to build on its system for evaluating and monitoring performance under waivers of State and local requirements. The SEA's waiver process is explicitly linked to its State standards and assessments, with the waivers being significant tools to improve student academic performance.

Date Granted: February 17, 1995.

FOR FURTHER INFORMATION CONTACT: Collette Roney, Planning and Evaluation Service. Telephone: (202) 401–7801. Persons specifically interested in waivers of requirements of the Title I program may contact Mary Jean LeTendre, Director of Compensatory Education Programs. Telephone: (202) 260–0826.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: August 21, 1995.

Marshall S. Smith,

Under Secretary.

[FR Doc. 95–21114 Filed 8–24–95; 8:45 am]

BILLING CODE 4000–01–P

federal register

Friday
August 25, 1995

Part III

Department of the Interior

Bureau of Indian Affairs

Near-Reservation Designations; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Near-Reservation Designations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. Pursuant to 25 CFR 20.1(r), notice is hereby given of the near-reservation designations for certain Indian tribes within the contiguous 48 states recognized as eligible to receive services from the United States Bureau of Indian Affairs (BIA).

DATES: These near-reservation designations become effective immediately.

FOR FURTHER INFORMATION CONTACT: Betty Tippeconnie, Acting Chief, Division of Social Services, Bureau of Indian Affairs, 1849 C Street NW., MS 310 SIB, Washington, DC 20240. Tel: 202–208–2721.

SUPPLEMENTARY INFORMATION: In accordance with the Code of Federal Regulations, title 25 Indians, chapter 1 BIA, Department of the Interior, subchapter Human Services, part 20 Financial Assistance and Social Services Program (25 CFR part 20) 25 CFR 20.1(r), the Assistant Secretary—Indian Affairs designates the following locales as ''near-reservation'' areas appropriate for the extension of BIA financial assistance and/or social services. 25 CFR part 20 Financial Assistance and Social Services Program regulations have full force and effect when extending BIA financial assistance and/or social services into these designated ''near-reservation'' locations. In the absence of officially designated ''near-reservation'' areas, such services are provided only to Indian people who live within reservation boundaries. The tribes identified below are now authorized to extend financial assistance and social services to their eligible tribal members (and their family members who are Indian) who reside outside the boundaries of a federally recognized tribe's reservation, but within the areas designated below.

The locales listed below are those designated for this purpose.

Agency: Blackfeet

Tribe: Blackfeet Tribe of the Blackfeet Indian Reservation of Montana

''Near-reservation'' locations: The communities of Cut Bank, Dupuyer, and Valier in the State of Montana.

Agency: Eastern Area Office

Tribe: Chitimacha Tribe of Louisiana

''Near-reservation'' location: The Saint Mary Parish in the State of Louisiana.

Agency: Olympic Peninsula

Tribe: Quinault Indian Nation

''Near-reservation'' locations: The counties of Grays Harbor and Jefferson in the State of Washington.

Agency: Truxton Canon

Tribe: Tonto Apache Indians of Arizona

''Near-reservation'' locations: The communities of Gisela, Payson, and Star Valley in the State of Arizona.

Agency: Western Nevada

Tribes: Fallon Paiute Shoshone; Fort McDermitt Paiute Shoshone; Lovelock Paiute; Pyramid Lake Paiute; Reno Sparks Indian Colony's Summit Lake Paiute; Walker River Paiute; Washoe Tribe of Nevada and California; Winnemucca Indian Colony; Yerington Paiute, and Yomba Shoshone

''Near-reservation'' location: The county of Carson City in the State of Nevada

Agency: Yakama

Tribe: Yakama Indian Nation

''Near-reservation'' location: The community of Celilo Village in the State of Oregon.

Dated: August 15, 1995.

Ada E. Deer,

Assistant Secretary, Indian Affairs.

[FR Doc. 95–21140 Filed 8–24–95; 8:45 am]

BILLING CODE 4310–02–M

federal register

Friday
August 25, 1995

Part IV

Department of Agriculture

Food Safety and Inspection Service

9 CFR Part 381

Use of the Term ''Fresh'' on the Labeling of Raw Poultry Products; Final Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 94–022F]

RIN 0583–AB86

Use of the Term ''Fresh'' on the Labeling of Raw Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal poultry products inspection regulations to prohibit the use of the term ''fresh'' on the labeling of raw poultry products whose internal temperature has ever been below 26° F. This final rule requires that raw poultry products whose internal temperature has ever been below 26° F, but above 0° F, must be labeled with the descriptive term ''hard chilled.'' The word ''previously'' may be used with the term ''hard chilled'' on an optional basis. The rule also provides for the relabeling of raw poultry products. This action will help ensure that raw poultry products distributed to consumers are not labeled in a false or misleading manner.

EFFECTIVE DATE: August 26, 1996.

FOR FURTHER INFORMATION CONTACT: Charles R. Edwards, Director, Product Assessment Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 254–2565.

SUPPLEMENTARY INFORMATION:

Background

The current poultry products inspection regulations prescribe freezing procedures for poultry products and the labeling of products that are rapidly changed from a non-frozen state to a frozen state. The regulations (9 CFR 381.66(f)(2)) state that ''ready-to-cook poultry shall be frozen in a manner so as to bring the internal temperature of the birds at the center of the package to 0° F or below within 72 hours from the time of entering the freezer.'' Under the poultry products labeling regulations (9 CFR 381.129(b)(3)), poultry that is not quick-frozen according to certain permitted procedures may be labeled ''frozen'' only if it has undergone prescribed 0° F or below freezing procedures.

On January 11, 1989, FSIS issued Policy Memo No. 022C that allowed raw poultry to be labeled as ''fresh'' if its internal temperature is above 0° F and below 40° F, and it has not been previously frozen at or below 0° F. The policy memorandum states that ''it is not practical, under existing marketing strategies and distribution patterns, to define 'fresh' in terms of internal temperature beyond the scope of current regulations, nor is it practical to define consumer expectations for poultry products labeled as 'fresh.' '' In establishing this policy in 1989, FSIS concluded that the consumer is the best judge of preference in chilling temperatures for raw poultry products labeled as ''fresh,'' and that the marketplace is best suited for making these distinctions.

The State of California enacted a law (Section 26661 of the California Food and Agriculture Code) on September 27, 1993, restricting the use of the term ''fresh'' on the labels of poultry products. Section 26661 prohibited, among other things, poultry wholesalers from labeling or otherwise marketing as ''fresh'' any poultry product whose internal temperature ever has been equal to or below 25° F or that ever has been stored in the aggregate for 24 hours or more at an average ambient temperature of 25° F or below, regardless of the temperature of the product itself. That law was to have taken effect January 1, 1994. However, three trade associations filed suit in the U.S. District Court for the Eastern District of California to prevent enforcement of the California statute, claiming that it was preempted by the Poultry Products Inspection Act (PPIA) (*National Broiler Council, et al.* v. *Voss* (E.D.Cal. Civil No. CV–S–93–1882 DFL/JFM)). At the request of the Court, USDA filed a brief on February 14, 1994, as *amicus curiae*, on the question of whether the California law was preempted by Federal law. In its decision of April 8, 1994, a U.S. District Judge held that the PPIA preempts state labeling requirements that are ''in addition to, or different than'' Federal requirements and declared that the labeling provision of the California law was preempted by Federal law.[1]

California appealed this decision to the U.S. Court of Appeals for the Ninth Circuit, and USDA filed an *amicus* brief. On June 16, 1994, the State of California amended its statute by removing the reference to the ''ambient temperature'' of the poultry and prohibiting use of the term ''fresh'' on the labeling of any poultry or poultry meat whose internal temperature has been below 26° F. On December 14, 1994, the Court of Appeals for the Ninth Circuit upheld the District Court's judgment that the labeling provision of the California statute was pre-empted by the PPIA, but ruled that other portions of the amended statute, such as those governing the advertising of ''fresh'' poultry, could stand.[2]

Reassessment of FSIS' Policy on ''Fresh''

Because of the issues raised by the California law, the Secretary of Agriculture on February 10, 1994, directed FSIS to reexamine its policy on the use of the term ''fresh'' on the labeling of raw poultry products. The Secretary stated that this reexamination of policy was necessary to ensure that the policy ''is reasonable and meets today's consumer expectations.'' The Secretary directed FSIS to ''make sure that any policy change does not open the door to problems like the growth of bacteria that could cause foodborne illness.''

On June 16, 1994, two subcommittees of the U.S. House of Representatives Committee on Government Operations held a joint hearing on the issue of ''fresh'' labeling of poultry products. Representatives from USDA, the poultry industry, and consumer groups presented their views on the ''fresh'' labeling issue. Subsequently, on July 27, 1994, Senator Barbara Boxer of California, together with Congressman Gary Condit of California, introduced H.R. 4839, the Truth in Poultry Labeling Act of 1994. This bill would have prohibited use of the term ''fresh'' on labeling of poultry that has ever been frozen below 26° F.

In response to the Secretary's direction and the events described above, FSIS initiated the following action. On August 26, 1994, it published a notice in the **Federal Register** (59 FR 44089) announcing three public hearings on the use of the term ''fresh'' on the labeling of raw poultry products. The hearings were held during September 1994 in Modesto, CA, Atlanta, GA, and Washington, DC. The hearings focused on issues relating to current industry practices and controls and consumer expectations and perceptions regarding the term ''fresh'' on the labeling of raw poultry products. Also in September 1994, FSIS conducted an informal survey of callers

[1] The District Court's Memorandum of Decision and Order as well as other documents and pleadings related to the lawsuit are available for public inspection under Docket Number 94–022F at the office of the FSIS Docket Clerk, Room 4352, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, from 8:30 a.m. to 1:00 p.m., and from 2:00 p.m. to 4:30 p.m., Monday through Friday.

[2] The Ninth Circuit's ruling is also on file at the office of the FSIS Docket Clerk.

to the USDA Meat and Poultry Hotline to determine their attitudes, perceptions, and expectations regarding poultry that is to be labeled as ''fresh.'' FSIS also reviewed the scientific literature to determine and resolve any scientific or technical time- and temperature-related issues concerning the safety of poultry products during shipment and storage. Transcripts of the public hearings and copies of information submitted during the hearings, a copy of the informal survey entitled ''Consumer Views on Fresh Chicken—Results of a Hotline Survey,'' and a copy of the literature review entitled ''Effects of Temperature on the Microbiological Profile and Quality Characteristics of Raw Poultry'' were made available for review at the office of the FSIS Docket Clerk.

FSIS also requested USDA's Agricultural Research Service (ARS) to conduct research studies on sensory, chemical, and microbial properties of raw poultry products that have been exposed to and held at temperatures from 0° F to 40° F for different storage periods. The ARS report entitled ''Characteristics of Chilled Poultry,'' dated December 20, 1994, was subsequently placed on file in the office of the FSIS Docket Clerk. The ARS report found that there was no clear-cut pattern of change in the sensory characteristics of cooked, deboned chicken breasts over the temperature range tested (40° F, 32° F, 26° F, 10° F, and 0° F). Slight changes that were noted were sample dependent, and it is unlikely that the average consumer would detect the differences found by the highly trained taste panel. All shear values were in a range that would be translated as ''tender.'' Near infrared reflectance spectroscopy (NIR) can be used for the determination of temperature, drip loss, and to classify storage temperature of deboned chicken breasts. However, classification of the 26° F storage temperature is not, at present, sufficiently accurate to permit NIR to be used as a regulatory enforcement tool to detect if a product was chilled to temperatures in the mid 20-Fahrenheit range. ARS also reported that microorganisms were not killed or significantly reduced by exposure to temperatures as low as 0° F; however, *Salmonella* and other enterobacteriaceae do not grow below 40° F. Spoilage type bacteria can grow at temperatures as low as 26° F but will not grow at 10° F or 0° F.

The Proposal

After reviewing the information provided at the public hearings, the results of the Meat and Poultry Hotline survey, the literature review, the U.S. District Court proceedings in California on ''fresh,'' and other information, FSIS issued in the **Federal Register** on January 17, 1995 (60 FR 3454), a proposed rule to amend the Federal poultry products inspection regulations to establish the conditions that would govern the use of the term ''fresh'' on the labeling of raw poultry products and the language that would apprise consumers when such products do not meet FSIS' proposed criteria for ''fresh.'' FSIS stated that the current policy on the use of the term ''fresh'' on the labeling of raw poultry products has considerable potential to mislead consumers about the products they seek to buy as ''fresh,'' and that the potential for economic deception is great when a product offered for sale as ''fresh'' is not the product the consumer expects to purchase. FSIS also stated that there should be no increased microbiological safety risks associated with raw poultry that is maintained at 40° F or below.

FSIS proposed that raw poultry products whose internal temperature has ever been below 26° F, but above 0° F, may not bear a label declaration of ''fresh'' and must be labeled with the descriptive term ''previously frozen.'' The term ''previously frozen'' was chosen because FSIS believed that this term would be the most readily understood by consumers based upon comments from the public hearings. FSIS also proposed that raw poultry products whose internal temperature has ever been at or below 0° F may not bear a label declaration of ''fresh'' and must be labeled with either the descriptive term ''frozen'' or ''previously frozen,'' except when such labeling duplicates or conflicts with the products' special handling labeling instructions, e.g., ''keep frozen'' or ''shipped/stored and handled frozen for your protection,'' as required by 9 CFR 381.125. FSIS stated that it would continue to permit use of terms such as ''fresh frozen'' and ''frozen fresh,'' as currently provided by 9 CFR 381.129(b)(3), to describe products that are frozen rapidly to an internal temperature of 0° F or below in accordance with the provisions of 9 CFR 381.66(f)(1).

FSIS also identified several additional issues regarding the use of the term ''fresh'' on the labeling of raw poultry products and solicited comments on whether these issues should also be addressed in the final rule. While FSIS proposed the use of the descriptive term ''previously frozen,'' it invited comments on alternate descriptive terms. FSIS indicated that it would consider alternate terms if information submitted during the comment period demonstrated greater consumer understanding and acceptability. In addition, FSIS discussed the advantages and disadvantages, which it identified, of the terms ''previously frozen,'' ''previously held at _____° F,'' ''thawed for your convenience,'' ''freshly frozen,'' and ''previously freshly frozen.'' FSIS invited comments regarding procedures for monitoring compliance with the fresh labeling requirements. FSIS also sought comments on its position that the term ''fresh'' can be used in brand names, company names, sensory modifiers, etc., on the labeling of raw poultry product in a manner that does not cause the purchaser to assume the product itself is unprocessed and, consequently, not ''fresh.'' FSIS described its labeling policy expressed in Policy Memo No. 022C that the term ''fresh'' may not be used on the labeling of any cured, canned, hermetically sealed shelf stable, dried, or chemically preserved poultry product and invited comments on whether it would be useful and desirable to initiate rulemaking to establish regulatory requirements for all uses of the term ''fresh'' on the labeling of poultry products.

Extension of Comment Period; Solicitation of Comments

During the comment period on the proposed rule, FSIS received two requests from trade associations to extend the comment period in order to allow the public time to obtain and review the findings of the ARS evaluation on chilled poultry. The ARS report was not available for public review in the FSIS Docket Clerk's office at the time the proposed rule was published. Previously, FSIS had stated its intention to seek comment from the National Advisory Committee on Microbiological Criteria for Foods on FSIS' conclusion stated in the preamble to the proposed rule that ''there should be no increased microbiological safety risks associated with the growth of pathogenic microorganisms'' by changing the labeling definition for ''fresh'' poultry. At that time, the next meeting of the Committee was scheduled to begin April 17, 1995. FSIS also received a comment noting the conflict between the proposed use of the term ''previously frozen'' and the existing regulatory definition of ''frozen.'' In order to allow adequate time for public comment on the ARS report, allow the National Advisory Committee on Microbiological Criteria for Foods the opportunity to comment on FSIS's conclusion that product safety is not an issue should FSIS change the

definition of ''fresh'' from 0° F to a value less than 28° F, and solicit public comments on options for reconciling dual use of the term ''frozen,'' FSIS announced in the **Federal Register** on March 20, 1995 (60 FR 14668), that it was extending the comment period for an additional 60 days until May 19, 1995.

In the notice of extension of comment period and solicitation of comments, FSIS discussed three possible options to resolve the inconsistency between the proposed use of the term ''previously frozen'' and the preexisting regulatory definition of ''frozen.'' The first option on which FSIS solicited comments involved using descriptive terms that do not include the word ''frozen'' or the unqualified word ''frozen,'' e.g., ''previously semi-frozen,'' ''held semi-frozen,'' ''previously partially frozen,'' ''previously chilled to a semi-solid state,'' ''shipped/stored/handled semi-frozen (insert optional statement, e.g., to preserve quality),'' or ''previously frosted.'' The second option was to eliminate the requirement that poultry products labeled as ''frozen'' be brought to an internal temperature of 0° F or below and to require use of the term ''frozen'' to identify all poultry products whose internal temperature has ever been below 26° F. The third option described would use the proposed term ''previously frozen'' on labeling of products with internal temperatures between 0° F and 26° F and would create an additional qualifier for products with an internal temperature of 0° F or below, such as ''frozen for long-term preservation,'' in order to differentiate between these two types of products.

Discussion of Comments

FSIS received 26,208 comments in response to the January 17, 1995 proposed rule and the March 20, 1995 solicitation of comments. The comments were from a range of sources as follow: 25,530 from individuals; 611 from poultry processors and growers; 23 from trade associations; 12 from state government agencies; 6 from academia; 6 from consumer organizations; 5 from congressional members; 3 from chefs; 2 from Federal government agencies; 2 from professional associations; 2 from food consultants; 2 from food retailers; and 4 from other sources. Many of the individual commenters who identified themselves as consumers also indicated that they were employed by the poultry industry. Some of the comments included issues beyond the scope of the proposed rule. For example, some commenters raised questions about the difference in meaning of the term ''fresh'' as proposed for poultry products and its meaning for red meat and fish products. In addition, 7 other comments addressed only issues outside the proposal, e.g., water uptake during the chilling process. Since these issues do not come within the scope of the proposed regulation, they are not addressed in this final rule. FSIS also received 3,990 letters in support of the proposal, which carried typed signature blocks but were unsigned. A summary of the comments submitted with respect to the proposed rule and FSIS' response to the comments follows.

Use of the Term ''Fresh''

Numerous commenters agreed that the proposed rule is necessary to provide consumers with information they need to make informed purchasing decisions. Many commenters indicated that they often freeze poultry at home for later use and that they want to avoid inadvertently refreezing poultry that has been previously frozen and thawed out. Many expressed surprise that the practice of marketing thawed poultry existed and was allowed under Federal regulations. Some of these commenters suggested that a twice-frozen, twice-thawed product might be dry and tough, more likely to spoil, or be unsafe. Most supporting commenters expressed the opinion that the issue is one of labeling a product for what it is, that ''fresh'' is the opposite of ''frozen,'' and that, to consumers, ''frozen'' means a product was rock hard or previously in that condition. While some of these commenters associated the term ''fresh'' with other factors in addition to temperature history, such as recent slaughter or age, freedom from bacteria, and superior flavor, texture, and juiciness, they insisted that ''fresh'' and ''frozen'' are, nonetheless, mutually exclusive.

In contrast, a large number of commenters who opposed the proposed rule contended that it is based on perceptions and that selection of a temperature threshold level of 26° F below which a product could not be labeled as ''fresh'' was arbitrary and lacked a scientific foundation. Large poultry processors stated that they had received no or extremely few complaints from consumers that made any reference to temperature as it relates to freshness of the product. They interpreted the lack of complaints to mean that the ''fresh'' versus ''frozen'' issue is a very minor consumer concern. Others commenters suggested that consumers have demonstrated their satisfaction with broiler meat through an unparalleled increase in per capita consumption in the last 50 years. Opponents of the proposal further argued that consumers demand a product that does not require thawing, but, instead, is ready-to-cook, and that most consumers know that the colder the temperature, the higher the quality of the product. With respect to concerns about refreezing thawed poultry, one processor noted that, since this has been the general practice for years, there are obviously no problems.

Many of the commenters who objected to the proposed rule suggested that temperature alone is not a reasonable basis for labeling poultry products as ''fresh'' because freshness diminishes with time, e.g., a product kept at 26° F and held for 3 months is not ''fresh.'' These commenters argued that ''fresh'' means ''wholesome'' and that ''fresh'' is not the opposite of ''frozen'' because fresh poultry is characterized by a variety of factors, including appearance, smell, taste, texture, whether the product will spoil relatively quickly, among others. Some opponents charged that FSIS attempted to define ''fresh'' by default, thereby creating a currently non-existent product category, which FSIS proposed to call ''previously frozen,'' and which was not requested by either consumers or industry. These commenters expressed the opinion that consumer expectations do not include changing current free enterprise markets by creating non-market-demanded new product categories that affect both labeling and current practices concerning handling statements.

Quality Issues

A number of the commenters, including chefs, who wrote in support of the proposal, stated that frozen poultry can taste good but that fresh poultry has a better taste and texture. Many consumers remarked that they do not mind paying a premium price for a fresh product, which they perceive to be of high quality; however, they do mind paying a premium price for a product labeled as ''fresh'' that has been frozen for shipment and then thawed for sale. Opponents of the proposal argued that there is no clear and easily discernable quality difference between products brought to different temperature levels. They pointed to the conclusion of the ARS study where an expert taste panel found ''that there was no clear-cut pattern of change in the sensory characteristics over the temperatures tested'' and that ''all shear values were in the 'tender' range.'' The temperatures tested ranged from 0° F to 40° F and included refrozen product. These opponents interpreted the ARS results to show that ''fresh'' cannot be based on,

or solely defined by, a single temperature threshold. In contrast, supporters of the proposal suggested that it would be premature to draw conclusions about the ARS sensory results without further evaluation and peer review of the findings.

Opponents of the proposal were very concerned that it would jeopardize product wholesomeness. They stated that appropriate temperature control is a good manufacturing practice designed to maximize shelf life and minimize growth of microorganisms to ensure consistent high quality and freshness to the consumer. The commenters believed that the proposed rule would not provide for an improved product, but would cause consumers to purchase a product of lesser quality or to pay more for poultry without any change in product quality.

Trade Issues

Numerous opponents, including congressional members, expressed the opinion that the proposed rule would inhibit the interstate shipment of poultry. Many stated that the ''fresh'' issue is not a consumer issue but, rather, a marketing issue in which FSIS should not be involved. They believed that the proposed rule would certainly mean higher prices for local products through a forced reduction in competition and deny free trade in those states enforcing the regulation. On the other hand, supporting commenters believed that it is wrong for producers who compete against truly fresh products to call frozen and thawed poultry ''fresh,'' and characterized such a merchandizing practice as fraudulent. Several commenters asserted that national processors shipping interstate would not be precluded from any markets, and, if they wanted to sell fresh poultry, they could do so successfully. One commenter noted that most of the perishable food consumed in the U.S. is the subject of interstate commerce and that poultry is no more or less perishable than many other items in the American market-basket.

Other opponents argued that the proposed rule was inequitable. For example, a trade association contended that the Food and Drug Administration (FDA) permits the term ''fresh'' to be used so long as ''the term does not suggest or imply that the product is unprocessed or unpreserved,'' as described in the introductory paragraph to 21 CFR 101.95. They suggested that poultry products would be ''fresh'' under FDA's definition because poultry products kept at temperatures below 26° F (i.e., 23° F or 24° F) are not preserved because they will spoil. Similarly, they questioned why poultry chilled below 26° F could not be thawed and sold as ''fresh'' when fresh milk has been pasteurized, fresh bread has been baked, and fresh crab has been cooked and picked.

Many poultry producers and growers were concerned with the potential effect of the proposal on the poultry industry. Some were concerned that it could open the door to opportunism by creating an adverse relationship between the manufacturer and the customer who might claim a product to be ''frozen'' and expect a price adjustment of the bill of lading. Others contended that the proposal could adversely affect small companies or create loss of sales, shortages of product, possible loss of jobs, and decrease the demand for poultry. A number of opponents considered the task of monitoring the proposed rule throughout distribution channels to be monumental. They stated that enforcement would require the expenditure of substantial resources, which is not justified because no food safety issue exists.

FSIS Response

The large volume of comments expressed widely diverse opinions about the meaning of the term ''fresh'' as applied to poultry. FSIS agrees that there can be numerous perceptions associated with the term ''fresh,'' including one of higher quality. However, the comments and information gathered at the public hearings held last summer on the ''fresh'' issue show that neither consumers' expectations about fresh products nor their willingness to pay more for such products is affected by whatever quality differences may exist between poultry products subjected to different temperatures.

FSIS has concluded that the ''fresh'' labeling issue is an important consumer protection issue about false and misleading labeling. FSIS has the authority to regulate the labeling of poultry products based upon the statutory provisions concerning misbranding in the PPIA (21 U.S.C. 453(h)(1)) in order to prevent the distribution of misbranded products in commerce. Under these statutory provisions, an article is misbranded if its labeling is false or misleading in any particular. Because the ''fresh'' issue is a labeling issue, it is not relevant to this rulemaking whether or not the ''fresh'' issue is also a trade or marketing issue as many commenters suggested. Generally, the commenters' concerns about loss of trade opportunities and markets appear to be driven by factors that relate to how products will have to be labeled under the regulations and how FSIS will enforce these regulations. FSIS has addressed these concerns in the sections of this document that pertain to descriptive labeling and compliance procedures.

After evaluating all of the comments and other data in the rulemaking record, FSIS has concluded that consumers equate the term ''fresh'' with a product that has never been chilled until it is hard-to-the-touch. Rather than simply refrigerated, consumers consider such a hard-to-the-touch product to be frozen. Based on the comments, FSIS concludes that use of the term ''fresh'' on the labeling of products that have been chilled to the point where they appear to consumers to be frozen but are presented for sale in a thawed condition without revealing the fact that they had been chilled to a hard-to-the-touch state, is misleading. In addition, the available information suggests that many consumers want to know the history of the poultry product they buy, as related to temperature, so that they can handle the product accordingly if they choose to do so, e.g., with respect to refreezing. FSIS does not believe that ''frozen'' and ''fresh'' are synonymous or that a product which has been chilled until it is hard-to-the-touch is the same as a product which has not been so chilled. A product that has been chilled until it is hard has been processed for purposes of preservation regardless of whether or not all of the water in the product is in a frozen state.

FSIS does not agree with the argument that it defined ''fresh'' by default and created a new product category. The category of product that has been chilled until the product is hard-to-the-touch but not frozen to an internal temperature of 0° F or below has been in existence for many years, during which time it was often labeled as ''fresh,'' when, in fact, it was chilled for preservation. FSIS does not consider fresh milk, fresh bread, or fresh crab to be analogous to fresh poultry because the use of the term ''fresh'' in this context is generally not misleading. On the other hand, the comments and other information in the rulemaking record show that there is confusion among consumers with respect to poultry labeling, and that consumers were not aware that poultry products sold as ''fresh,'' and pliable at retail display, may have once been hard and then thawed. Moreover, an unprocessed, unpreserved form of poultry, which has never been chilled to render the product hard-to-the-touch, is available in the marketplace.

Safety Issues

In its proposed rule, FSIS explained that it does not believe that imposing a temperature requirement for use of the term ''fresh'' on the labeling of poultry products will increase microbiological safety risks as long as the product is held at 40° F or lower. The National Advisory Committee on Microbiological Criteria for Foods was asked to review and comment on this matter. The Committee discussed the issue and concluded that: ''The available scientific data on the microbial characteristics of poultry products and growth of bacterial foodborne pathogens below 40° F were considered in our evaluation. This information leads us to conclude that changing the temperature that defines labeling of poultry as 'fresh' from 0° F to a value less than 28° F should not cause any increased risks to public health. This issue is related to labeling and quality rather than microbiological safety.'' FSIS agrees with the determination of the Committee on this issue.

Accordingly, for the reasons stated above, FSIS concludes that a temperature-related requirement for use of the term ''fresh'' is necessary to preclude misleading consumers about the nature of the poultry products they purchase.

Temperature Threshold

The vast majority of the commenters writing in support of the proposed rule agreed that the minimum temperature for fresh poultry should be set at the proposed temperature of 26° F. Some of these commenters expressed the opinion that 26° F is not an arbitrary number but a temperature below which poultry is hard-to-the-touch and appears frozen to the consumer. Other commenters stated that, since most ice crystal formation occurs within a narrow temperature range between 27° F and 25° F, it makes sense to use 26° F as the dividing line between ''fresh'' and ''frozen'' poultry. A few commenters recommended 32° F or 33° F as the cutoff threshold because 32° F is the freezing point of water. One commenter suggested that any product stored for prolonged periods at or below 32° F will become hard-to-the-touch and, thus, in the customer's view, would be a frozen product.

Many opponents of the proposed rule argued that there was no scientific evidence that poultry products freeze at 26° F. They noted that the freezing of food is a process involving a change in the product's moisture from a liquid to a solid state over a wide temperature range, generally from 28° F to −4° F. Given this range, they argued that the selection of a single temperature cannot be justified. A few commenters requested additional research to determine the freezing point of poultry. Some members of the turkey industry argued that the proposal's analysis of the ''fresh'' versus ''frozen'' issue focused on chicken. They suggested that more research be conducted before the proposal is applied to turkeys, which might possibly freeze at a lower temperature. Some commenters suggested that an attempt to define complex processes by an oversimplified and arbitrary temperature is scientifically unsound and may actually have a negative impact on the application of new technologies, improvement of product quality, and purchasing options for consumers.

Need for a Lower Temperature

Numerous commenters from industry called for a lower and more reasonable temperature than 26° F as the definition for ''fresh'' because colder temperatures provide for a higher quality, better tasting, and safer product. Congressional members also noted that there are other temperatures below 26° F that preserve the ''fresh'' characteristics consumers seek while giving poultry products the longer shelf life necessary for transportation over long distances. Many poultry processors indicated that the proposed limit would force them to process and ship their products at higher temperatures in order to ensure that product labeled as ''fresh'' does not fall below 26° F in order to avoid costly relabeling procedures. They believed that a practice of using higher temperatures would shorten shelf life, increase incidence of spoilage, and adversely affect product quality and/or safety. Industry also expressed the belief that temperatures colder than 26° F provide a safety margin in the distribution chain. In addition, commenters argued that a temperature of 26° F would create extensive operational problems in order to control temperatures, e.g., ensuring that small packages do not go below 26° F while ensuring that large packages receive adequate protection, or achieving a consistent 26° F temperature in very thick products like turkey carcasses.

With respect to lower temperatures, a number of commenters stated that existing research shows that growth of psychrophilic bacteria normally associated with product spoilage begins to approach a state of inactivity at a temperature close to 14° F or 15° F. They argued that a temperature of 14° F or 15° F would recognize that at least part of the distinction between ''fresh'' and ''frozen'' is the difference between continuous bacterial degradation of the product and product in which it has been halted. On the other hand, some supporters of the proposal challenged this suggestion that the point at which spoilage bacteria cease to grow be considered as the dividing line between ''fresh'' and ''frozen'' because spoilage bacteria do not cause foodborne illness.

Industry commenters stated that there is no indication that any consumer defined ''fresh'' as being tied to 26° F, and that they would support 20° F as a practical temperature that would not disrupt commercial practices, which have proven themselves over 25 years of use. One commenter urged FSIS to determine whether there exists any distinguishable palpability or quality differential between poultry chilled at 20° F and that chilled at 26° F, and, if not, requested FSIS to change its temperature standard to 20° F so as to impose the least burden on the regulated community. Other commenters contended that ''fresh'' could easily be product that is 22° F or above, as well as the proposed level of 26° F, considering that FSIS terminology for ''frozen'' is 0° F. Yet others supported a temperature of 23° F, which has been considered by some researchers to be the freezing point of poultry. Commenters also noted that it has been shown that keeping product as low as even 24° F will reduce bacterial growth, thus enhancing the quality of the product. In addition, a few commenters asked whether the upper end temperature limitation of 40° F would be voided should the proposed regulation replace Policy Memo No. 022C.

FSIS Response

FSIS believes there is adequate information on which to limit the use of the term ''fresh'' on the labeling of raw poultry products to product whose internal temperature has never been below 26° F. The effect of various temperatures on the physical and shelf life properties of poultry has been studied extensively since the 1920's. Many reference books on the preservation of foods by freezing and engineering textbooks, such as the 1994 ASHRAE Handbook on Refrigeration, I–P Edition, Chapter 12, Poultry Products, published by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., Atlanta, GA, state that 27° F is the highest temperature at which poultry

begins to freeze.[3] At 27° F, ice crystals begin to form in poultry flesh. Below 26° F, poultry products become hard-to-the-touch because much of the free water is changing to ice. At 25° F, the literature suggests that approximately half of the water in the poultry is frozen. By 23° F, approximately 80 to 85 percent of the free water in the product is frozen, and the product appears to be frozen solid. FSIS notes that one commenter stated that it is very difficult to insert a temperature probe by hand into a product at 22° F.

Pliability of Product

At 26° F, the product is still pliable in that it yields to the thumb. This characteristic is described by various commenters on the proposed rule and participants at the public hearings and last year's court proceedings. A temperature of 26° F as the threshold for product to be labeled as ''fresh'' is also supported by the National Institute of Standards and Technology (NIST). NIST's Handbook 133, ''Checking the Contents of Packaged Goods,'' Supplement 3, October 1992, states in part: ''Fresh Poultry.—For net weight determinations only, fresh poultry is defined as poultry above 26° F. This is product that yields or gives when pushed with a person's thumb.''[4] While NIST defines fresh poultry for the purpose of net weight determinations only, FSIS believes that it is pertinent to this issue that another Federal agency recognizes that poultry is pliable down to a temperature of 26° F. FSIS does not believe that consumers would consider a product to be frozen or in some other state as opposed to ''fresh'' when it is pliable, i.e., when it is not hard-to-the-touch. The recognition by NIST that poultry is pliable down to 26° F lends further support to the selection of 26° F as the temperature threshold for an FSIS labeling definition for ''fresh'' poultry products.

Based on the scientific evidence that most of the free water in raw poultry products freezes over a 4-degree temperature range between 27° F and 23° F, FSIS believes that the selection of 26° F as the lower limit for a product to be called ''fresh'' is reasonable. The selection of 26° F is also supported by the comments and other information and documents in the rulemaking record, as discussed above. A product that has not been held below 26° F should meet consumer expectations that ''fresh'' products have not been chilled until they are hard. Accordingly, FSIS is adopting 26° F as the temperature at or above which a poultry product must have been continually held in order to be labeled as ''fresh.'' FSIS does not believe that it is necessary to incorporate an upper limit of 40° F into the labeling provision because the 40° F internal temperature pertains to chilling and holding requirements as described in 9 CFR 318.66 (b), (c), and (d).

Product Coverage

With respect to comments that turkey should not be covered by this final rule because it might have a different freezing point than chicken, FSIS disagrees that turkey should be exempted while more research is conducted to determine its freezing point. There is an abundance of information on the freezing of turkey products—from reference books on the freezing preservation of foods and engineering textbooks, including the 1994 ASHRAE Handbook on Refrigeration—which shows that turkey freezes over the same temperature range as chicken. In addition, references to scientific studies on the freezing of turkey are cited in FSIS' literature review entitled ''Effects of Temperature on the Microbiological Profile and Quality Characteristics of Raw Poultry,'' which was discussed in its proposed rule, and in the paper entitled ''Superchilling of Poultry Meat'' by W. J. Stadelman.[5]

In FSIS' view, the various studies do not show significant differences between turkey and chicken with respect to the effects of freezing on the products. FSIS notes that the ASHRAE Handbook on Refrigeration refers to 27° F as the point at which poultry starts to freeze. This temperature is not restricted to chicken but, rather, refers to all poultry, including turkey. Moreover, FSIS has not been presented with any evidence from the public hearings, the U.S. District Court proceedings, or comments on its proposed rule that suggests the effect of various temperatures on the physical and shelf life properties of turkey differs from chicken to an extent sufficient to warrant a temperature threshold other than 26° F as an appropriate threshold for the labeling of ''fresh'' turkey. With respect to pliability, FSIS notes that the NIST Handbook 133 refers to ''fresh poultry,'' rather than specifically to ''fresh chicken,'' when defining poultry products for the purpose of net weight determinations as those that are pliable down to 26° F. Therefore, for these reasons, FSIS will not exempt turkey from the requirements of this final rule.

Descriptive Labeling

Those commenters who favored regulating use of the term ''fresh'' on the labeling of poultry products generally supported requiring use of a descriptive term on the labeling of products whose internal temperature has ever been below the 26° F minimum temperature defining ''fresh.'' These commenters also contended that if the labeling says nothing, many consumers will likely assume product in a retail case is ''fresh,'' i.e., has never been frozen, because it is soft-to-the-touch. They argued that consumers should not be subjected to either the affirmative, deceptive verbal representation that a product is ''fresh'' when it has been frozen or the deception implied by the unfrozen condition of a product presented for retail sale that it is ''fresh'' when, in fact, it has been frozen and thawed.

In contrast, many poultry processors and trade associations asserted that industry should not be required to use any descriptive term for product that is not declared to be either ''fresh'' or ''frozen.'' These commenters believed that a regulation governing the use of the term ''fresh'' should be handled in the same manner as other affirmative marketing claims such as nutrient content claims. Specifically, they suggested that FSIS should establish the criteria for the use of the term and allow all manufacturers the option to make the claim or not as they see fit. At the minimum, the commenters stated that descriptive labeling for product between 0° F and 26° F should be optional.

The Term ''Previously Frozen''

A large majority of commenters who supported use of descriptive labeling to describe the nature of the product favored the term ''previously frozen,'' which FSIS proposed to require. They expressed the opinion that the simple phrase ''previously frozen'' was adequate because, in general, consumers only want to distinguish between fresh and thawed poultry. A trade association submitted results of a national telephone survey of consumers, conducted in November 1994, which consisted of a minimum of 1,000 interviews. Results showed that 87 percent of those interviewed said they want a properly descriptive label on poultry that was frozen and then thawed. When the respondents who wanted a descriptive label were asked to rate seven terms on the basis of accuracy to describe such product, the

[3] A copy of Chapter 12 from the 1994 ASHRAE Handbook is available for public inspection in the FSIS Docket Clerk's office.

[4] A copy of the page from the NIST Handbook 133 containing this entry is available for public viewing in the FSIS Docket Clerk's office.

[5] These documents are available for public inspection in the office of the FSIS Docket Clerk.

percentages of those surveyed rating the terms as ''most accurate'' were as follows: 49.7 percent for ''do not refreeze''; 48.4 percent for ''previously frozen''; 35.5 percent for ''previously frozen for your convenience''; 26.9 percent for ''thawed''; 21.6 percent for ''previously thawed for your convenience''; 18.3 percent for ''fresh''; and 10.2 percent for ''chill-pack.'' The commenter interpreted these results as showing that ''previously frozen'' was a preferred choice for a descriptive label.

Without exception, opponents of the proposed rule voiced strong objection to use of the proposed term ''previously frozen'' on the labeling of poultry products brought to temperatures between 0° F and 26° F. They stated that products that have experienced temperatures below 26° F cannot be characterized accurately as ''previously frozen.'' These commenters noted that the proposal was internally inconsistent because it would require products to be identified as ''previously frozen'' when they could never be labeled legally as ''frozen'' based on FSIS' regulations (9 CFR 381.66(f)(2)), which provide that poultry may only be labeled as ''frozen'' if it reaches a temperature of 0° F or below. They argued that, because the shelf life of raw poultry products held below 26° F is not the same as for those held at 0° F or below, the labeling would be very misleading and confusing to the consuming public who have an expectation that frozen product should not spoil and has a long shelf life. These commenters also argued that requiring use of the term ''previously frozen'' would be confusing to facets of the industry because they would handle product labeled as ''previously frozen'' in the same manner as they would handle fresh frozen or frozen product, thereby resulting in increased product mishandling.

Additionally, numerous opponents of the term ''previously frozen'' considered it to be a negative or punitive description that connotates undesirable handling and implies that the products are inferior, although they consider the products to be superior from a shelf life and microbiology standpoint. They expressed concern that the proposed labeling would make it harder to market poultry because consumers would not want to buy a previously frozen product. These commenters contended that the proposal establishes a double standard which could cause consumers to discriminate against certain products. For example, the proposal would require that product reaching temperatures below 26° F be labeled as ''previously frozen,'' while products that are frozen rapidly (within 48 hours after initial chilling) may be labeled as ''fresh frozen'' or ''frozen fresh,'' in accordance with 9 CFR 381.66(f)(1). In their opinion, use of ''previously frozen'' on labeling suggests the product is not ''fresh'' when, in all likelihood, it could be fresher than a fresh frozen product.

Some supporters of the term ''previously frozen'' did not agree that the term might be confusing. They stated that the designation of ''frozen'' for poultry below 0° F is not in conflict with the designation of ''previously frozen'' for product in the temperature range between 0° F and 26° F because the latter is a labeling designation that accurately reflects consumers' perceptions that hard-to-the-touch poultry is frozen poultry. They noted that the freezing regulations describe a process for handling poultry products that allows them to remain in good condition for an extended period of time. They suggested that labeling thawed poultry as ''previously frozen'' would not impede or contradict that important processing requirement, but would alert consumers that the poultry they are buying was once in a short-term frozen state and should not be refrozen at home.

Because the regulatory definition of ''frozen'' describes a condition of the product which makes it suitable for long-term storage and subsequent use and/or for consumer education purposes, some commenters who favored use of the term ''previously frozen'' suggested that the term could be clarified in the regulations to alleviate any possible confusion. For example, one commenter suggested that the term ''previously frozen'' be defined as ''defrosted or thawed raw poultry products which have been chilled (internal temperature has ever been below 26° F) or frozen (internal temperature of 0° F or below).'' Similarly, another commenter suggested that terms could be numerically defined in the regulations such as ''frozen (0° F or below)''; ''previously frozen (1° F to 25° F)''; and ''fresh (26° F to 40° F).''

Alternate Terms

FSIS reviewed numerous comments on the four possible alternate terms discussed in the proposed rule, i.e., ''previously held at _____° F,'' ''thawed for your convenience,'' ''freshly frozen,'' and ''previously freshly frozen.'' FSIS also received numerous comments on the use of a phrase which either does not include the word ''frozen'' or does not include the unqualified word ''frozen,'' as discussed in the notice soliciting comments to reconcile dual use of the word ''frozen.'' Some commenters stated that all the terms convey basically the same information and clearly alert the consumer that the product has not been kept at fresh temperatures. These commenters argued that individual processors should be permitted to select from a group of terms that accurately depict the product in order to accommodate different marketing approaches. A number of commenters who supported descriptive labeling recognized the difficulty of identifying the best terminology.

A few supporters disliked the phrase ''previously held at _____° F'' on the basis that it might not give consumers the information they need because many might not know that poultry freezes below 26° F. A commenter also stated that this particular phrase, if used, should specify a time period in days or weeks, i.e., ''previously held at _____° F for less than (insert time period).''

Some supporters of descriptive labeling opposed the term ''thawed for your convenience'' on the basis that the product is frozen for the convenience of the producer and/or retailer rather than the consumer, or that it is an unnecessarily confusing way of saying ''previously frozen.'' Similarly, some commenters opposed use of the phrase ''previously frozen for your protection'' on the basis that freezing does not make the product safer but, rather, extends its shelf life. Other commenters preferred the phrase ''previously frozen and thawed for your convenience,'' while yet others preferred the simple word ''thawed.'' To avoid confusion over dual use of the word ''frozen,'' a consumer organization also suggested ''thawed,'' but was concerned that some consumers might not understand that the product had been held in a frozen state.

Concerning terms using the word ''freshly,'' some supporters contended that ''freshly frozen'' implies that the poultry is still in the frozen state, which would not likely be the case, and that it might be confused with the term ''fresh frozen,'' which is used for certain poultry frozen to 0° F or below. Others expressed opposition to any language that permits manufacturers to market a product as ''freshly frozen'' or ''previously freshly frozen'' on the basis that ''fresh'' and ''frozen'' are diametrically opposed terms. Some commenters considered the phrase ''previously freshly frozen'' to be little different than ''previously frozen,'' except that it adds an unnecessary word. Generally, commenters indicated that terms that avoided the word ''frozen,'' e.g., ''previously chilled to a semi-solid state,'' or that avoided the unqualified word ''frozen,'' e.g., ''previously semi-frozen,'' were

awkward and would be disregarded by consumers.

Industry commenters and trade associations who objected to the term ''previously frozen'' also objected to the alternative terms discussed in the proposed rule and the notice. They stated that all the alternatives, like ''previously frozen,'' are based on the dichotomy that if a product is not fresh, it must be frozen. The commenters argued further that requiring wholesome product to be labeled with terms such as ''previously partially frozen'' and ''previously chilled to a semi-solid state,'' which FSIS acknowledged will be viewed negatively by consumers, is unprecedented and wholly unnecessary. They alleged that such terms are awkward, unclear, impractical or inaccurate.

In its notice seeking further comments to reconcile the existing definition of ''frozen'' and the proposed use of the term ''previously frozen'' (60 FR 14668), FSIS discussed an option to eliminate the current requirement that poultry products labeled as ''frozen'' must be brought to an internal temperature of 0° F or below and to require use of the term ''frozen'' to identify all products whose internal temperature has ever been below 26° F. This option found no support among commenters whether or not they supported or opposed the intent of the proposal. Commenters stated that, not only would the option require more work for the industry and local governments, it would simply shift the confusion from ''fresh'' to those who understand and rely on the meaning of ''frozen.'' Some noted that the temperature range from above 0° F to 26° F is not ideal for freezing poultry for storage and suggested that time limits should be set on this type of storage.

In the same notice, FSIS also discussed an option to create an additional qualifier for products frozen to 0° F or below, specifically, ''frozen for long-term preservation,'' to distinguish them from chill pack products whose temperatures are often between 20° F and 26° F. This option also found virtually no support among any of the commenters. They stated that the phrases ''frozen for long-term preservation'' or, similarly, ''frozen for long-term storage'' imply a difference between the current labeling for ''frozen'' and proposed labeling for ''long term'' when there is no difference. Others saw no need for ''frozen for long-term . . .'' and did not understand what additional benefit to the consumer this term could provide compared to the current labeling requirement of ''keep frozen.'' As with the preceding options, the commenters contended that requiring such terms only serves to create confusion for existing products and implies the existence of a new product when there has been no change in product quality and safety.

Other Suggested Terms

Some supporting commenters offered other terms to reconcile the definitions of ''frozen'' and the proposed term ''previously frozen.'' Those who found ''previously frozen'' to be confusing suggested that ''defrosted for your convenience'' and ''defrosted'' would be acceptable because, like ''thawed for your convenience'' and ''thawed,'' they have been used on seafood and accepted by grocery store customers. A trade association suggested that use of the term ''fresh, previously frozen'' would sufficiently harmonize the labeling of the products. Poultry processors and other trade associations believed that manufacturers should be able to use any number of optional, meaningful terms such as ''chilled,'' ''very chilled,'' ''iced,'' or ''frosted,'' which, they suggested, meet the physical characteristics of poultry in the semi-frozen state that the consumer could understand. A number of these commenters suggested ''deep chilled'' or a similar term to suggest to the consumer more than adequate chilling analogous to ''deep frozen'' as a method of freezing that was more than adequate. Likewise, a number of these commenters stated that ''hard chilled'' would be an appropriate designation analogous to ''hard frozen.'' In support of such terminology, a poultry farmer submitted a copy of descriptive terms from a 1937 publication, *Marketing Poultry Products*, 3rd. ed., E. Benjamin and H. Pierce, John Wiley & Sons, Inc., New York.[6] The commenter suggested that what we do today has already been done and the terms and accepted practices now under discussion were standard in the past. The chilling descriptions from the publication are: Fresh, dressed—poultry that is cooled but has not been hard chilled or frozen; fresh, hard chilled—fresh, dressed poultry that has been frozen only hard enough to allow it to be carried in good condition to market; and frozen—poultry that has been frozen solid.

FSIS Response

After carefully considering the many comments on the proposed requirement that poultry products whose temperature has ever been below 26° F, but above 0° F, be labeled with a descriptive term, FSIS continues to believe that such a requirement is necessary to prevent consumers from being misled about the nature of the products they purchase. Without such labeling, there is no way for a consumer to know that a product was at some time in a hard condition because once that product has been thawed for presentation in the fresh retail case it may be commingled with product that has never been below 26° F, which may or may not bear a designation of ''fresh.'' As stated previously, FSIS believes that consumers do not equate poultry products that have been chilled to the point where they are hard-to-the-touch with fresh poultry products. Therefore, to present such chilled products to consumers in a thawed state, without alerting them to the fact that the product was at some time in a partly frozen state, misleads those consumers into assuming that the product was always in an unfrozen condition and is a fresh product.

However, after thorough consideration of the volume of comments that expressed concerns with the negative aspects of the proposed term ''previously frozen'' and concerns about confusing consumers into assuming that chill pack products are identical to deep frozen products, i.e., products frozen to internal temperatures of 0° F or below, with which they are long familiar, as well as other information in the rulemaking record, FSIS has decided not to use the proposed descriptive term ''previously frozen.'' FSIS has been persuaded that the proposed term ''previously frozen'' is not the most appropriate term to convey the accurate message about the chill pack products to consumers considering the different qualities that partially and completely frozen products possess across the freezing range. FSIS recognizes that consumers might confuse chill pack products with deep frozen products, i.e., those whose internal temperature has been brought to 0° F or below, and vice versa, under the proposed labeling scheme. Instead, FSIS will require that poultry product whose internal temperature has ever been below 26° F, but above 0° F, be labeled with the descriptive term ''hard chilled.''

Based on information provided in the comments on the proposed rule, the public hearings, the U.S. District Court proceedings, and other information in the rulemaking record, FSIS has concluded that there are differences in poultry products at different internal temperatures. The chill pack products that are brought to the lower 20-degree Fahrenheit range will spoil in a matter

[6] A copy of the page from the publication containing the descriptive terms is available for review in the office of the FSIS Docket Clerk.

of weeks. A product chilled to 14° F to 15° F, where most of the free water is in a frozen state and where bacterial growth has stopped, will develop off-flavors due to chemical oxidation after several months. A product frozen to 0° F or below, where almost all of the free water is in a frozen state, has an expected shelf life of a year or more depending on packaging and storage temperature. Thus, while products with internal temperatures in the lower 20-degree Fahrenheit range and those at about 15° F and at 0° F or below have the same hard physical appearance, they do not have the same attributes in terms of stability for preservation. According to the available information, some poultry processors bring certain products to internal temperatures in the range of 15° F to 20° F, but most do not take product below 20° F due to the cost of refrigeration, unless they take the product to 0° F or below for long-term preservation.

The objective of the labeling requirements adopted in this final rule is to apprise consumers whether certain poultry products may have been partly frozen to a hard-to-the-touch state at some time. FSIS believes that such descriptive labeling should not conflict with the long-established regulatory definition for ''frozen,'' nor should it disparage the high quality, wholesome products that consumers have been purchasing for many years. Having clearly stated the objective of the descriptive labeling and qualifying conditions, FSIS could choose not to require use of any one specific term or terms on an industry-wide basis. Rather, FSIS could require that individual processors select terms or phrases that meet the objective of descriptive labeling. However, the disadvantage of this approach is that not all potential terms convey the message equally well. Use of multiple terms to communicate an identical message could be a source of confusion for consumers. FSIS believes that consumers would be better served by use of a single term that promotes name recognition of the type of chilling process to which the bulk of the products in question have been subjected and their resulting physical condition.

Assessment of Terms

FSIS has reviewed and considered the comments regarding the various descriptive terms to determine how well each conveys the fact that products had at one time been brought to a very hard physical state. FSIS believes that the terms containing the word ''frozen'' pose potential conflicts with the regulatory definition of ''frozen'' and may well imply that products are of a lesser quality or that they had been in a frozen condition for some length of time, e.g., months, after slaughter. In fact, poultry products are typically of high quality and recently slaughtered, e.g., usually within one or two weeks, when presented for sale. Similarly, phrases that use terms like ''semi-frozen,'' ''semi-solid,'' and ''partially frozen'' may be awkward and confusing to consumers and may also imply that the products have been mishandled or are inferior. FSIS considers the terms ''chilled,'' ''very chilled,'' ''chilled pack,'' ''iced,'' and ''frosted'' to convey only ordinary refrigeration, packaging in ice above 26° F, or an ice crust on the surface. The phrase ''previously held at _____° F'' might convey a hard condition because most consumers know that water freezes at 32° F and would assume temperatures in the lower 20-degree Fahrenheit range are freezing temperatures for foods; however, consumers might also assume the products are frozen solid. The terms ''thawed'' and ''defrosted'' are also commonly understood words that convey the message that products were frozen, but FSIS believes that these terms also pose potential conflicts with the Agency's existing definition of ''frozen.''

The Term ''Hard Chilled''

FSIS carefully considered the term ''deep chilled'' because it might convey the notion of exceptional coldness extending to the interior of the product or excessive coldness such as is suggested by terms like ''deep frozen'' or ''deep freeze.'' In addition, according to some commenters, the term ''deep chilled'' is one often used by processors as a trade term to describe poultry that is processed by the chill pack cooling system. FSIS believes that one of the central issues in this rulemaking is selection of a descriptive term that will convey that the subject products had at one time been brought to a very hard physical state, which consumers equate with products that are frozen. FSIS does not believe that the term ''deep chilled'' adequately conveys such information. FSIS does believe, however, that the term ''hard chilled'' is a reasonably precise and understandable term that conveys accurate information about both the physical condition of a product and the chilling process to which it has been subjected. Thus, FSIS has concluded that the term ''hard chilled'' is superior to ''deep chilled,'' and will achieve the objective of accurate, descriptive labeling for use by consumers and industry. FSIS has also determined that the term ''hard chilled'' will promote name recognition of the type of chilling process to which the bulk of the products in question have been subjected and their resulting physical condition.

While FSIS will not require qualification of the term ''hard chilled'' with the word ''previously'' on the labeling of poultry products whose internal temperature has ever been between 0° F and 26° F when that product reaches an internal temperature of 26° F or above prior to sale or during display for sale, this labeling option will be permitted under this final rule. A commenter, who identified himself as a meat cutter for a grocery chain, informed FSIS that, in the commenter's particular situation, the retail walk-in box is maintained typically at about 32° F, while the retail fresh meat case is maintained at about 35° F. These approximate temperatures for retail situations are substantiated by information provided by other commenters and by participants at the public hearings. Because the temperatures of the retail cases are above 27° F, which, as FSIS has previously discussed, is the point at which poultry begins to freeze, FSIS has concluded that most poultry offered for sale in a retail setting will be pliable to the touch.

FSIS does not believe that consumers would be confused by a product labeled as ''hard chilled'' that is no longer hard-to-the-touch. The term ''hard chilled'' simply conveys that the product has been subjected to a cooling process that lowered its temperature below 26° F and became hard-to-the-touch. The term ''hard chilled'' could imply that poultry is still in a hard state, even though the product may no longer be hard when it is offered for sale in a retail setting. Because FSIS does not believe that consumers would be confused by a product labeled as ''hard chilled'' that is no longer hard-to-the-touch, this final rule does not make a regulatory distinction between the terms ''hard chilled'' and ''previously hard chilled'' because both terms describe the cooling process to which the product was subjected. Therefore, FSIS is providing in this final rule that the word ''previously'' may be used on poultry labeling contiguous to the term ''hard chilled'' on an optional basis. This added flexibility allows processors and retailers the option to select either ''hard chilled'' or ''previously hard chilled.''

Based on all the considerations set forth in the preceding discussion, FSIS is revising its proposed provision at 9 CFR 381.129(b)(6)(i). FSIS is providing in this final rule that raw poultry product whose internal temperature has

ever been below 26° F, but above 0° F, must be labeled with the descriptive term ''hard chilled'' or in order to inform consumers and other end users that the product was subjected to a chilling process sufficient to render the product hard-to-the-touch. This final rule also provides for use of the word ''previously'' with the term ''hard chilled'' on an optional basis.

Products Frozen to 0° F

FSIS does not believe that requiring descriptive labeling in the form of ''hard chilled'' on poultry products whose temperature has ever been below 26° F, but above 0° F, conflicts with the long-established regulatory definition of ''frozen.'' Therefore, FSIS has decided that it is not necessary to require an additional qualifier, e.g., ''frozen for long-term preservation,'' for products frozen to 0° F or below. FSIS also agrees with commenters that an additional qualifier on products frozen to 0° F might confuse consumers about the existing products and lead them to believe they are in some way different when, in fact, they are not. In addition, FSIS no longer believes that it is necessary to require use of the term ''previously frozen'' for the same reasons discussed above with respect to use of the word ''previously'' in conjunction with the term ''hard chilled.'' However, FSIS will allow the use of the word ''previously'' with the term ''frozen'' on an optional basis. Accordingly, FSIS is revising the requirement in its proposal by adding a provision that the word ''previously'' may be used contiguous to the term ''frozen'' on an optional basis, and is adopting the requirement that raw poultry product whose internal temperature has ever been at or below 0° F must be labeled with the descriptive term ''frozen,'' except when such labeling duplicates or conflicts with special handling labeling requirements in 9 CFR 381.125.

The requirement to identify that the product is or was ''frozen'' is not negated under any circumstance. Even if the product is frozen to an internal temperature at or below 0° F and thawed by the processor before distribution, the fact that the product was frozen at one time must be revealed by use of the descriptive term ''frozen'' or by appropriate handling statements prescribed in 9 CFR 381.125. The term ''frozen'' may always be qualified with appropriate statements, e.g., ''frozen, thawed for your convenience,'' at the manufacturer's discretion, when frozen product is destined to be thawed prior to sale or during display for sale. However, the product may not be labeled solely with a handling statement of ''keep refrigerated,'' which would not suffice to reveal that the product was once frozen to a temperature at or below 0° F.

Optional Statements

With respect to optional statements used in conjunction with descriptive labeling, FSIS will continue to allow the use of phrases such as ''for your convenience'' or ''to preserve quality.''

Compliance Procedures

In the proposed rule, FSIS stated its belief that processors, transporters, wholesalers, and retailers would establish appropriate controls to ensure that their poultry products comply with FSIS' proposed labeling requirements in designing and following good manufacturing practices. Therefore, FSIS did not believe that it was necessary to propose detailed procedures to be followed by the Agency in monitoring compliance with the rule governing the use of the term ''fresh'' on raw poultry products. FSIS did, however, invite comments regarding such procedures.

Many commenters sought clarification about the procedures for measuring compliance with ''fresh'' labeling requirements. Others requested that specific conditions be incorporated into FSIS compliance instructions. A number of commenters from industry stated that flexibility needs to be provided in enforcement because of the inherent practical problems in maintaining product temperature adequate to ensure its quality. These commenters cited situations where variations in equipment, product, and other factors might cause products unavoidably to fall below 26° F, including the following: (a) typical commercial and retail refrigeration units experience operating variances of 2° F and 4° F, respectively; (b) refrigerated trailers experience fluctuations from 3° F to 10° F from front-to-back and/or top-to-bottom; (c) brief mechanical stops and product spills in a blast chiller can result in product temperatures below 26° F even if the blast is set correctly; (d) temperature variances occur during chilling operations and storage between large and small products due to density, e.g., breasts versus wings or whole birds versus small trays; (e) physical position in a refrigeration unit causes temperature variation, e.g., product closest to the air circulation fans will be measurably colder than product in the middle or on the far side of a pallet; and (f) variation in product temperature occurs during storage due to insertion of product with higher or lower temperature than ambient cooler temperature, relative humidity, or the act of opening and closing a cooler or truck compartment to gain access to product. Many commenters also contended that typical thermometers are only accurate to 2° F.

A trade association, which supported the proposal, countered the arguments that there are difficulties in maintaining a steady temperature in refrigerated trucks. The commenter expressed the opinion that, if poultry is loaded into the cargo cooler at 26° F, air temperature inside the cooler would have to be kept much lower than 26° F for a very long period of time for it to have an effect on the internal temperature of the poultry itself. The commenter further contended that it is not difficult to maintain a steady temperature in a refrigerated truck because thermostats can control temperatures within a range of 1.5 to 2 degrees.

Temperature Tolerances

Numerous commenters called for a temperature tolerance, noting that FSIS has established tolerances in other areas such as net weight determinations. They argued that a tolerance should reflect recognition of the physical realities and limitations of product processing and distribution and represent good manufacturing practices. Some poultry processors suggested that they be permitted to target a 2° F window, i.e., a temperature range of 24° F to 26° F, as opposed to a single temperature of 26° F. Many suggested that product temperature be regulated to allow a 3° F variance on any given check unless there is a consistent pattern of abuse. Other commenters asserted that it would be reasonable to accept a cumulative effective variance of 4° F assuming the more salient variances to be represented by commercial refrigeration units and temperature measuring devices. Still other processors stated that, since neither food safety nor product quality is at risk, a tolerance of 5° F would be practical in commercial operations as long as it can be proven that the raw poultry did reach its optimum temperature for its state, e.g., a fresh condition, before being shipped. In addition, a trade association suggested that the regulatory option which FSIS discussed in the preamble to its proposed rule be used as an alternative compliance system, i.e., a two-step process control system in which temperatures between 23° F and 26° F would be attributed to normal effective variances in refrigeration units and temperature measuring devices; temperatures between 20° F and 23° F would require process control

adjustments; and temperatures below 20° F would require product relabeling. The commenters further suggested that the first step be set at 22° F in recognition of the 4° F cumulative effective variance mentioned previously.

Commenters supporting the proposed rule were divided as to whether FSIS should modify compliance procedures to provide for a temperature tolerance. Some of these commenters contended that FSIS should provide for a minimal range of flexibility throughout processing, storage, and transportation. On the other hand, some supporters of the proposal argued against a rule providing for a tolerance because they saw this as undercutting the proposed rule to establish the 26° F temperature as the most appropriate standard.

Testing and Sampling Procedures

Some commenters said that the proposal did not address the issue regarding which location within a package or container, e.g., the perimeter or center, a sample for testing would be drawn. Commenters also wanted to know at what anatomical location of the product the temperature would be measured. Several commenters stated that products such as chicken wings, which are less dense than other products, should be excluded from temperature measurements. Also, commenters requested that sampling procedures should be more precisely defined to provide for a representative sample. One trade association requested that the intended sampling scheme be modified to monitor the warmest area of a designated ''lot,'' rather than the overall lot average, because products most at risk, i.e., those products furthest away from the cooling elements of a refrigerated chamber, could be plus 4° F higher than the target temperature, i.e., over 30° F.

A professional organization, which agreed that the proposed action would meet consumer expectations, expressed concern about temperature abuse in light of the prevalence of *Salmonella* in broilers and turkeys. The commenter stated that the present practice of chilling poultry to temperatures between 0° F and 26° F provides a greater margin of safety, as compared to poultry transported and stored at temperatures above 26° F, because temperature abuse during storage or transportation might raise the temperature of the poultry to dangerous levels above 40° F. The commenter suggested that, until HACCP systems are implemented throughout the transportation, retail, and food service industries, temperature sensing and indicating devices should be used on poultry packaging that will alert retailers, food service workers, and consumers if temperature abuse has occurred.

Concerns About Responsibility for Compliance

Generally, commenters opposed to the proposed rule objected to the fact that the rule was too narrowly focused on the original processor because the proposed requirements would apply to products in all stages of commerce. Many processors expressed concern that products in compliance at the time of processing could subsequently become misbranded through no fault of their own. Some supporters of the proposal, including congressional members, commented that the vast majority of poultry processors do their own packaging, storing, and shipping, and, therefore, would not lose a ''fresh'' designation through no fault of their own. They contended that one company is responsible for maintaining the temperature of the product at all points. In contrast, a number of processors reported that they shipped on non-company carriers. They stated that the processor, as the producer of the product, assumes liability for that product, yet is unable to ensure against potentially varying product conditions during distribution and sale that would be deemed non-compliant under the proposal. Other processors insisted that once the product is sold and title passes it should be the responsibility of that party (distributor, wholesaler, or retailer), and not the original processor, to ensure proper temperature or, if the product's temperature moves out of compliance, to relabel it. Some commenters suggested that, in order not to disrupt marketing and distribution of products, whether a product is in compliance should be determined at time of shipment.

Relabeling of Product

Trade associations and processors contended that poultry is packaged such that it would be impossible to change labels on a particular product that may inadvertently fall below the temperature designated as ''fresh.'' They stated that, if products are chilled to a temperature below 26° F while in distribution and are deemed ''misbranded'' and unable to proceed in commerce until relabeled, the distributors are not equipped to relabel product. They asserted that under existing regulatory requirements, it would be unlawful to affix new labels different from the labeling affixed at the inspected establishment.

A number of commenters argued that there needs to be an opportunity for relabeling of product at the retail level if a product accurately labeled at the point of packaging has been abused during shipment, storage, and handling after leaving the plant. Others expressed concern that relabeling could result in food safety problems due to the additional handling that would occur. One processor suggested use of a tag on product originating as ''fresh'' which has a tear off that can be removed if product falls below 26° F. Some commenters noted that wholesalers or retailers may freeze product labeled as ''fresh'' due to excessive inventory and would need to repackage and relabel or apply appropriate stickers to products with FSIS-approved labels. These commenters encouraged FSIS not to require prior label approval of such stickers.

FSIS Response

FSIS is confident that processors, transporters, wholesalers, and retailers will be able to maintain the appropriate controls to ensure that their poultry products comply with the requirements of this final rule. FSIS does not intend, therefore, to adopt a temperature tolerance below 26° F, such as 24° F, as was suggested by many commenters. FSIS believes that such a tolerance would allow a significant percentage of poultry products which had fallen below 26° F, and thus rendered hard-to-the-touch, to nevertheless be labeled as ''fresh,'' thereby misleading consumers.

FSIS acknowledges that there may be instances where poultry product labeled as ''fresh'' may fall below the minimum temperature that defines ''fresh'' despite the efforts of manufacturers, distributors, retailers, and others to keep the product in a ''fresh'' condition. FSIS, therefore, intends to design a practical compliance policy that will maintain the integrity of the 26° F standard while providing the flexibility to deal with the problems that occur despite the adoption of good manufacturing practices.

FSIS expects that the primary focus of its compliance efforts will be on products labeled as ''fresh'' or bearing no descriptive term. FSIS resources will be focused on ensuring that such products meet the requirements of this regulation when they leave the FSIS-inspected plant. The policy will also seek to avoid condemnation or relabeling of entire lots of product if only a small number of units within the lot have fallen below the standard. FSIS expects that its compliance policy will take into account the good manufacturing practices that producers

have adopted to maintain compliance with the requirements of this rule. FSIS intends to avoid the prescriptive command-and-control approach as to how companies achieve the performance standards in this final rule.

FSIS shares the concerns of the many commenters about the need for clarification of product testing and sampling procedures and about the need for practical compliance procedures throughout processing, storage, and distribution. To provide instructions to FSIS employees and to assist producers in complying with this rule, FSIS intends to issue an FSIS Directive explaining the compliance policy, including product testing and sampling procedures, as soon as possible. Because of the complexity of the testing and sampling issue, FSIS intends to obtain further public input on this matter prior to issuing the Directive so that its procedures will be both practical and reasonable while ensuring the integrity of the standards contained in this final rule. FSIS is also interested in obtaining input on other aspects of the compliance policy, including the allocation of Agency and industry resources.

Obviously, product in the possession of or under the control of an official establishment remains the responsibility of the establishment. Establishments must, therefore, take reasonable precautions to ensure that their product is maintained in accord with these regulations, even when it is in a transport vehicle or otherwise not physically at the establishment. Generally, the establishment's responsibility for compliance ends when ownership passes; compliance then becomes the responsibility of the buyer. However, any person or firm who causes a product to become misbranded can be held responsible for causing it to become misbranded whether or not they owned the product at that time.

Moreover, any person or entity that produces product or handles product in commerce is responsible for ensuring that products remain properly labeled. If a producer, handler or commercial buyer determines that products covered by these regulations and labeled as ''fresh,'' or bearing no descriptive term, have been chilled to an internal temperature below 26° F, that person will be responsible for ensuring that the product is brought into compliance. Such a producer, handler, or buyer must report the fact to FSIS to ensure that remedial action is taken.

If an Agency official discovers product which is not in compliance with these regulations, the product will be retained or detained. The product would be required to be relabeled or, if not relabeled, the product would be condemned. The Agency would take such additional compliance or enforcement measures as are warranted under the facts and circumstances of each case.

Labeling procedures for product found to require relabeling before it leaves the official establishment are covered under subpart N of the poultry products inspection regulations. Also, existing regulations (9 CFR 381.140) specify procedures for the relabeling of products in commerce found to require relabeling. Generally, such products are relabeled under the supervision of an inspector and FSIS is reimbursed for the cost of that supervision. However, under the ''fresh'' regulations, such an enforcement approach would place a demand on scarce FSIS resources and cause delays in bringing product into compliance. This area is one of considerable concern to many commenters. FSIS anticipates that the circumstances requiring relabeling to correct misbranding where the temperature of the product labeled as ''fresh'' or bearing no descriptive term has dropped below 26° F after leaving the official establishment will be relatively infrequent. Therefore, this final rule will permit an alternative and simple relabeling procedure.

Relabeling Options

The relabeling procedures established by this final rule provide flexibility for relabeling inspected and passed product that was heretofore unavailable under the poultry products inspection regulations when product became misbranded after leaving a federally inspected establishment. Owners of product will now have the option of notifying the Area Office of the FSIS Compliance Program that the product outside an establishment has become misbranded under this rule. The Compliance Program will authorize the movement of the product to an official establishment for relabeling or to a retail entity where it can be relabeled without an inspector's supervision, or to another end user. Relabeling may be accomplished by prominently applying stickers disclosing that the product has been ''hard chilled'' or ''frozen'' to the packages, provided any claim such as ''fresh'' is obliterated, covered or removed. Removal could be accomplished by removal of a hang tag or a tear off from such a tag as suggested by one commenter. At retail, relabeling may also be accomplished by completely removing the inspected establishments's label and applying the retail store's label. The Compliance Program will monitor such product movement and relabeling. The issue of who bears the cost of such relabeling is a contractual matter between buyers and sellers of the product.

Accordingly, FSIS is adding a paragraph at 9 CFR 381.129(b)(6)(iii) to incorporate procedures for the handling and relabeling of products as described above. FSIS is also adding a provision at 9 CFR (b)(6) (i) and (ii) to specify that, if additional labeling containing a descriptive term required under paragraph (b)(6) (i) or (ii) of this section, as appropriate, is used, it shall be prominently affixed thereon with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) as to render it likely to be read and understood by the ordinary person under customary conditions of purchase and use. FSIS has concluded that it would not be possible for such additional labeling to be placed in such fashion to be read and understood by the ordinary person unless the false claim is obliterated, covered or removed.

FSIS also agrees with the commenter who stated that appropriate stickers for relabeling of product that has become misbranded should not require prior label approval. Because these regulations prescribe the exact language of descriptive labeling, this final rule provides that the processor may apply the descriptive labeling, or that the authorized retail entity or other end user may apply the descriptive labeling to approved labels. Furthermore, this rule provides that the descriptive labeling may be approved under the provisions for generic label approval. Such action will minimize loss of product shelf life by eliminating any delay involved in securing prior label approvals. Accordingly, FSIS is adding a paragraph at 9 CFR 381.134 to this effect.

Brand Names

While some commenters stated that FSIS should maintain its current stance of non-restrictive use of the term ''fresh'' in trademarked names, company names, fanciful names, logos, and sensory modifiers, others contended that the proposed rule contained a loophole with respect to such uses. They stated that companies should not be allowed to incorporate the word ''fresh'' within a brand name, etc., on the labeling of frozen poultry products because the term would be inherently misleading. The commenters alleged that producers will continue to use and may even change their brand names so as to indirectly represent their products as ''fresh.'' They noted that FDA's fresh labeling policy does not permit such

allowances for brand names, sensory modifiers, etc., and urged FSIS not to create an inconsistency between the two agencies' labeling regulations without some compelling reason. One commenter stated that if use of the word ''fresh'' is permitted in brand names and sensory modifiers, FSIS should require a specific disclaimer of equal size to the effect that the product had been frozen below 26° F.

FSIS does not agree that use of the word ''fresh'' as part of a brand name, etc., or in sensory modifiers on the labeling of a raw poultry product necessarily suggests or implies that the product has not been processed or preserved. FSIS believes that it should evaluate use of the term ''fresh'' within the context of the entire product labeling to determine if it is used to imply that a product has not been subjected to a chilling or freezing process, i.e., used in a false or misleading manner. If such an implication is made, the product would have to comply with the FSIS definition of ''fresh.'' This final rule on use of the term ''fresh'' on the labeling of poultry products provides for clear descriptive labeling, i.e., ''hard chilled'' or ''frozen'' to alert consumers about the nature of products that have ever been brought to internal temperatures below 26° F. FSIS believes that such labeling will prevent consumers from being misled about whether a product has been processed or preserved.

This policy is consistent with FDA's policy with respect to use of the term ''fresh'' in a brand name or use as a sensory modifier. In the preamble to its final rule entitled ''Food Labeling: Nutrient Content Claims, General Principles, Petitions, Definition of Terms; Definitions of Nutrient Content Claims for the Fat, Fatty Acid, and Cholesterol Content of Food'' published in the **Federal Register** on January 6, 1993 (58 FR 2302), FDA states at 58 FR 2405 that ''[i]f, however, a use of the term ''fresh'' as part of a brand name does not imply or suggest that the food is unprocessed, and the use is not otherwise false and misleading, there is nothing in this final rule that would prevent this use of the term.'' For these reasons, FSIS has not adopted specific regulatory language that governs use of the term ''fresh'' as part of a brand name or as a sensory modifier.

In response to the comment that, if use of the word ''fresh'' is permitted in brand names and sensory modifiers, FSIS should require a specific disclaimer of equal type size to the effect that the product had been frozen below 26° F, FSIS does not agree that a type size requirement is warranted. The special handling statements required at 9 CFR 381.125(a), e.g., ''keep refrigerated'' or ''keep frozen,'' do not have specific type size requirements although they must be prominently displayed on the principal display panel of the label. After many years of use, FSIS has no information that the requirements for special handling statements are not adequate to inform consumers about the products. Therefore, FSIS rejects the suggestion to add a type size requirement for descriptive labeling. However, in order to ensure that the descriptive labeling is clearly visible on packages, FSIS is revising proposed 9 CFR 381.129(b)(6)(i) to provide that the information shall be prominently displayed on the principal display panel of the label. This requirement is consistent with the treatment of special handling label statements for frozen products as provided in 9 CFR 381.125(a).

Economic Impact

Several commenters suggested that FSIS, in assessing the costs and benefits of the proposed rule, should have quantified the benefits of appropriate labeling. In making its cost estimate, FSIS assumed that a price difference might develop between affected chill pack products and ''fresh'' products so that the chill pack products might decrease in price in an amount totaling between $60 to $140 million annually. The commenters asserted that, considering the projected potential cost impact for some producers, there is likely to be a corresponding benefit of the same magnitude or larger to consumers who save money or get better value for their poultry purchases. Another commenter noted that FSIS listed as an unquantified consumer benefit the fact that consumers ''would be assured that the poultry products they purchase would not be labeled in a false or misleading manner.'' The commenter suggested that, because the proposed rule removes no products from the market, requires no changes in products, and leaves the choice among products to consumers, the estimated $60 to $140 million is a ''cost'' neither to the seller nor the buyer, but is a measure of the potential benefit to the consumer should all consumers who previously purchased thawed product shift their preference to fresh product. Additional amounts voluntarily paid by consumers place a monetary value on the exercise of informed choice. The commenter further asserted that the loss of opportunity to commit unlawful business acts such as fraud, deception, and misleading representation should not be accounted for as a cost of regulation.

FSIS believes the latter commenter assumes that the $60 to $140 million cost estimate reflects an increase in the price of fresh product. In making this particular cost estimate, FSIS assumed that the price of fresh product under the proposed rule would remain constant while the affected product, specifically 1.4 billion pounds of long-distance-shipment chill pack product, would be priced down. FSIS made this assumption based on information presented at the public hearings and in the U.S. District Court proceedings which indicated that consumers generally would expect products bearing labeling with terms such as ''frozen'' or ''previously frozen'' to be lower priced. In this case, the theoretical ''cost'' represents loss of current revenues for producers who did not act in an unlawful manner, but in accordance with existing Federal policy. FSIS agrees that a price saving, which could be quantified, would be conferred to consumers who continue to buy the lower priced product as FSIS noted in its discussion of the benefits of the proposed rule.

Some opponents of the proposal suggested that FSIS did not fully address the economic impact on product that may fall between ''fresh'' and ''frozen'' and for which there would not be a premium market. Many contended that the proposed rule, as written, could be devastating to the poultry industry and, especially, to tray pack operations. Some stated that labor costs for applying pressure sensitive stickers, redesigning permanent labels, costs for reapproval of labels, etc., will also have an economic impact. A few commenters asserted that there is a cost factor associated with decreased shelf life of poultry, which could result in increased product waste and/or more frequent deliveries for poultry retailers.

FSIS has fully considered these comments on the economic impact, but, considering the difficulty of predicting future dollar values of future sales, FSIS continues to believe that it has made the most reasonable cost analysis possible with the information available, as is discussed under Executive Order 12866. The commenters provided no data or further information to aid FSIS in a reassessment of the costs and benefits of the rulemaking than were available at the time FSIS developed its proposal. FSIS weighed all commenters' expressed concerns about the economic impact of a final rule and has attempted to mitigate those concerns by providing flexibility through compliance procedures and descriptive labeling.

FSIS believes that changing the requirement for what was perceived as very negative labeling in the form of the term ''previously frozen'' to the term ''hard chilled'' will enable processors to develop marketing strategies that promote the high quality of their products without misleading consumers about the products' history.

FSIS also received a comment regarding the impact of the proposed rule on small entities. The commenter disagreed with FSIS' certification that the proposal would not have a significant impact on a substantial number of small entities. The commenter noted that FSIS stated that most smaller poultry processors use ice or dry ice packs to chill poultry to temperatures between 32° F to 35° F so that the proposed rule will not apply to most small processors. However, the commenter insisted that this assumption ignores about 1,000 small poultry wholesalers and retailers. The commenter contended that, hypothetically, if a poultry shipment leaves the processing plant in a ''fresh'' state, but temperatures subsequently drop below 26° F during shipment, the wholesaler or retailer has several choices as follows: (1) Accept the delivery and risk the sanctions for selling misbranded poultry, (2) accept the delivery and relabel each branded package with a generic label and sell the product at a loss because a brand name commands a higher price, or (3) refuse the shipment and send customers to other retail establishments to purchase poultry.

FSIS disagrees that this rulemaking will have an impact on a substantial number of small wholesalers and retailers. The commenter provided no data to support such an argument but, rather, speculated about possible adverse impacts on this constituent group. Under its discussion on compliance procedures, FSIS has provided guidance and flexibility regarding actions wholesalers and retailers may take in the event that product labeled as ''fresh'' is found upon receipt to be below the minimum temperature defining ''fresh.'' FSIS believes that its guidance and provisions for practical relabeling options for wholesalers and retailers are sufficient to prevent disruption at the wholesale or retail level. In addition, and as noted in response to the preceding comments, the terminology that FSIS is providing in the form of the term ''hard chilled'' for the products in question should minimize potential lost revenues.

Other Issues

1. Cured and Processed Poultry Products

FSIS received only two responses to its request for comments on whether it would be useful and desirable to initiate rulemaking to establish regulatory requirements for all uses of the term ''fresh'' on the labeling of poultry products. One commenter expressed the opinion that it would make sense to incorporate in the regulations the prohibition on use of the term ''fresh'' on the labeling of cured, canned, hermetically sealed shelf stable, dried, or chemically preserved poultry, as described in Policy Memo No. 022C. The commenter contended that the policy is not controversial, and it would be desirable to make the regulatory requirements for use of the term ''fresh'' as comprehensive as possible. Another commenter stated, without further elaboration, that it is not appropriate for FSIS to initiate rulemaking to establish regulatory requirements for all uses of the term ''fresh'' on the labeling of poultry products.

FSIS has concluded that it is not necessary to establish regulatory requirements for all uses of the term ''fresh'' on the labeling of poultry products. FSIS continues to believe that Policy Memo No. 022C and the current poultry products inspection regulations (9 CFR 381.129) are sufficient to preclude the false and misleading use of the term ''fresh'' on poultry products that are processed or preserved by methods other than freezing. For clarity, FSIS is restating its policy on other uses of ''fresh'' on the labeling of poultry products as follows. The term ''fresh'' may not be used on the labeling of poultry products which are cured, canned, hermetically sealed shelf stable, dried, or chemically preserved because such use would be inappropriate and misleading. Chemical treatments include, but are not limited to, use of antioxidants, antimicrobial agents, or preservatives that introduce chemically active substances that remain in or on the product. FSIS notes that, with regard to raw poultry or poultry parts, no substances are permitted to be added by the poultry products inspection regulations for the purpose of shelf life extension.

FSIS will allow raw poultry products to be labeled as ''fresh'' that had been treated with ionizing radiation at an absorbed pasteurization dose of 1.5 to 3.0 kiloGrays as provided for in 9 CFR 381.147(f)(4). The treatment of raw poultry products with low dose irradiation causes no changes in the products that FSIS believes would affect consumer perceptions that they are raw and unprocessed (55 FR 18538, May 2, 1990). In addition, the products are required to be labeled with a unique logo and the statement ''treated with radiation'' or ''treated by irradiation'' in accordance with 9 CFR 381.135, which distinguishes them from non-irradiated products.

Because the term ''fresh'' has acquired acceptance when used to identify further processed products, i.e., products whose chemical composition has been changed by processes such as heating or by the addition of functional ingredients, that are sold in the refrigerated state, FSIS permits the term ''fresh'' to be used on the labeling of such products. Examples of such products are poultry nuggets and dinners sold in the refrigerated state even when they are made from components that are processed by procedures such as curing, canning, etc. as described above. In these instances, the term ''fresh'' is used to describe the final products, i.e., the nuggets and dinners, and to identify that they are refrigerated products. When used in this manner, the term does not imply that the components or ingredients in the final products, e.g., the poultry meat, are themselves unprocessed. Another example of this category of refrigerated product that may be labeled as ''fresh'' while containing ingredients that could not be labeled as ''fresh'' is a poultry salad sold in the refrigerated section of a grocery store. The salad might contain cured or previously frozen chicken or turkey meats but the term ''fresh,'' when used on such products, suggests a freshly made salad and does not imply that the ingredients are unprocessed.

FSIS does not preclude further processed poultry products from bearing the term ''fresh'' on their labeling when they are in sealed packages or containers, which are designed to assure freshness, but are not shelf stable, and which are sold in the refrigerated state. Examples include vacuum packed products, products packaged in modified atmosphere packaging, and products packaged in thermoformed oxygen barrier multi-layer films. Further processed poultry products which themselves do not qualify to be labeled as ''fresh,'' but which are made with fresh ingredients (including non-meat and non-poultry ingredients), may also bear label statements stating this fact provided such statements clearly refer to the ingredients and do not imply that the products themselves are unprocessed. An example is canned gravy made with fresh mushrooms. With respect to ground poultry products sold in the fresh retail case that have

been made from frozen and thawed hand deboned or mechanically deboned poultry, FSIS does not believe that such ground products should bear the term ''fresh'' on their labeling. However, FSIS does not see any need for the labeling of such products to disclose the fact that the products were made from meats that were at one time frozen. FSIS would not object if such products were labeled with the statement ''freshly ground'' when the products had, in fact, been recently ground.

As with products subjected to freezing processes, FSIS believes the word ''fresh,'' when used as part of trademarked names, company names, fanciful names, logos, and sensory modifiers on the labeling of poultry products that are cured, canned, hermetically sealed shelf stable, dried, chemically preserved, or are refrigerated further processed products of the type previously described, does not necessarily suggest or imply that the products have not been processed or preserved. FSIS believes that it should evaluate the term within the context of the entire labeling to determine if it is used to imply that the product has not been subjected to such processes, i.e., used in a false or misleading manner.

2. Other Products

FSIS also received comments on several issues beyond the scope of the proposed rule. Some commenters raised questions about the difference in the meaning of the term ''fresh'' as proposed for poultry products and its meaning for other products. Some commenters asserted that the proposed policy for poultry products highlights a lack of uniformity between the regulations for poultry and those for red meat, and that it would provide a marketing advantage to the red meat industry. Commenters also raised concerns about the apparent inconsistencies the proposed rule would leave between poultry and fish because FDA does not define a specific temperature at which a fish product would be deemed to be frozen. Commenters argued that the ''fresh'' labeling rules for poultry products should also be applied to these other products. Since these issues do not come within the scope of the proposed regulations, they are not addressed in this final rule.

In contrast to the poultry industry's marketing practices addressed by this rule, whole cuts of red meat are not frozen, thawed, and marketed as ''fresh.'' The term ''fresh'' has typically been used to identify those red meat products that are uncured and uncooked or otherwise not thermally processed or made shelf stable. The use of the term ''fresh'' on the labeling of red meat products has not caused consumer confusion. The labeling of fish and fish products is an issue within FDA's jurisdiction and cannot be addressed in this docket.

3. Implementation Date

FSIS did not receive any comments on its proposed rule concerning an effective date or implementation period. However, the provisions of this final rule will require the relabeling of those products currently on the market whose manufacturers elect to chill, store, and ship at internal temperatures below 26° F, but above 0° F. Based on its review of the comments, FSIS realizes that the provisions may cause some processors to make operational changes so they can continue to supply ''fresh'' poultry. Such changes might include alternate methods of chilling dedicated to small trays, close adjustments of temperature controls in coolers and transport vehicles, modification in or purchase of new equipment to more precisely control temperatures, and development of contingency plans for products that fall below 26° F after leaving the processing establishment.

Therefore, FSIS has decided that sufficient time should be allotted for processors and handlers to make any changes necessary to comply with this rule. FSIS believes that processors may need to establish new policies and procedures, formulate methods for compliance, and exhaust label inventories to the extent possible. A survey of meat and poultry companies for FSIS' final rule on nutrition labeling indicated that firms carry an average label inventory of 5 to 6 months. While FSIS will permit use of stickers with descriptive labeling, many firms will likely not want to use that avenue because of the added step of applying the stickers and the chance that they may become dislodged. Therefore, many firms may want to redesign their permanent labels. Providing adequate time to accomplish the operational activities described above and to prevent inventory losses will minimize the impact of the final rule on affected parties. After considering the factors mentioned above and recognizing that product safety is not a concern, FSIS has determined that this final rule will be implemented 12 months from the date of its promulgation.

Executive Order 12866

FSIS has determined that this final rule is significant within the meaning of Executive Order 12866. The final rule requires all poultry processors and handlers to maintain the internal temperature of raw poultry at 26° F or above if the term ''fresh'' is used on the labeling of such products. In addition, the final rule requires that poultry products whose internal temperature has ever been below 26° F be labeled with a descriptive term reflecting this fact.

Regulatory Options

FSIS could have chosen to prohibit the use of the term ''fresh'' on the labeling of raw poultry products whose internal temperature has ever been below 20° F. Many commenters on the proposed rule stated that they would support 20° F as a practical temperature that would not disrupt commercial practices and suggested that temperatures in the lower 20-degree Fahrenheit range were best for the preparation and distribution of the highest quality product. Others favored a two-step process control system in which temperatures between 23° F and 26° F would be attributed to normal effective variances from refrigeration units and temperature measuring devices; temperatures between 20° F and 23° F would require process control adjustments; and temperatures below 20° F would require product relabeling. If FSIS had chosen 20° F as the temperature at or above which product could be labeled as ''fresh,'' the impact on the poultry industry would be minimal because few processors chill products below that temperature due to the cost of refrigeration unless they take the product to 0° F or below for long-term storage. However, poultry is very solid and very hard at 20° F, because much of the free water in the product is in a frozen state. Consumers perceive such products to be frozen rather than fresh, and their expectations for the products would not be met.

Impacts of the Final Rule

In the preamble to its proposed rule, FSIS examined possible sources of market price changes which could result in transferring economic value from producers to consumers if it adopts the proposed rule as a final rule. FSIS stated that Americans consumed approximately 17.9 billion pounds of chicken (retail weight) in 1993, of which approximately 8.9 billion pounds were purchased at retail. Based on a survey of broiler marketing practices, FSIS reported that 27 percent of chicken destined for the retail market was shipped in containers filled with shaved or crushed ice (ice pack) or solid carbon dioxide (dry ice pack); 57 percent was shipped using the chill-pack method of refrigeration; 3 percent was frozen (i.e.,

below 0° F); and 13 percent was marketed in miscellaneous forms.

Because the internal temperature of poultry products that are refrigerated by ice pack or dry ice pack methods ranges from about 32° F to 35° F, FSIS assumed that the final rule will not affect this portion of the market. Also, most smaller processors use ice or dry ice packs because they do not have the production volume or chilling equipment to store and ship poultry products using the chill-pack cooling system. For this reason, the economic impact of a final rule on small poultry processors should be minimal. FSIS believes that the final rule will not affect the 3 percent of chicken that is marketed at retail as frozen (i.e., below 0° F). The final rule might have an economic impact on the 13 percent of chicken that is marketed in miscellaneous refrigerated forms, but FSIS has no information on what such an impact might be.

In its proposed rule, FSIS stated that most turkey is prepared and shipped as product that is frozen to 0° F or below, and, thus, most turkey will be unaffected by the proposal. However, FSIS received a number of comments from the turkey industry indicating that many of their products, e.g., boneless tray-pack turkey products, would be affected by the rule. FSIS also recognizes that, under this final rule, ''whole bagged'' turkeys that are frozen at or below an internal temperature of 0° F can no longer be thawed at the establishment before distribution and be labeled solely with a handling statement of ''keep refrigerated.'' Rather, the labeling on these products must reveal that the products were at one time in a frozen condition by use of an appropriate statement such as ''frozen, thawed for your convenience.'' Therefore, FSIS has examined the market share of turkey compared to chicken as shown by production and per capita consumption data contained in USDA's Agricultural Statistics 1994 published by the U.S. Government Printing Office. Based on that information, FSIS concludes that incorporation of cost estimates for turkey would raise the potential cost estimate for this final rule by approximately 25 percent.

FSIS continues to believe that the final rule could potentially affect a portion of the 57 percent (5.1 billion pounds) of the 8.9 billion pounds of chicken marketed domestically at retail as chill pack product, specifically, chill pack products with internal temperatures ranging from 20° F to 25° F that are destined to be transported long distances. FSIS examined interstate shipping distances for ready-to-cook chicken and estimated that about 72 percent of chill pack products are shipped 800 miles or less. Such trips do not take more than two days. FSIS believes that products shipped 800 miles or less with proper refrigerated transportation could be labeled as ''fresh.'' FSIS does not believe that poultry processors using the chill-pack cooling system would change current procedures for products shipped long distances of over 800 miles. It may well be desirable to chill and ship poultry on long-distance hauls at temperatures in the lower 20-degree Fahrenheit range. FSIS estimates that 28 percent (1.4 billion pounds) of the 5.1 billion pounds of chill pack product sold at retail falls into the long-distance-shipment category and might be affected by this final rule because it could not be labeled as ''fresh.''

Based on information presented at the public hearings and in the U.S. District Court proceedings, and confirmed by commenters on the proposed rule, consumers generally expect frozen products to be lower priced than fresh products. Using a conservative estimate of price difference at 4 cents per pound (based on a difference in price between fresh and frozen turkey) and a less conservative estimate of price difference at 10 cents per pound, FSIS calculated a potential economic transfer of about $60 million to $140 million from producers to consumers. Adding the impacts for potentially affected turkey products to these amounts, the potential economic transfer becomes about $75 million to $175 million. This impact assumes affected product would decrease in price and, as such, this impact represents an extreme scenario.

FSIS is convinced that the extreme scenario presented will not actually develop considering the modifications it has made in this final rule in response to expressed concerns from commenters on the proposal. This final rule provides processors with an appropriate descriptive term in the form of ''hard chilled'' that does not disparage the products, while the term conveys to consumers the temperature history of the products, i.e., relates information about the cooling process to which the products were subjected, as well as their physical state after undergoing that process. Furthermore, FSIS is firmly committed to providing a practical and reasonable compliance strategy. FSIS has also provided for viable options for relabeling of product should that become necessary and for generic approval of such labeling. In addition, FSIS has provided adequate time for processors to come into compliance with the final rule.

Most of the poultry products affected by this rule are branded products that consumers have come to recognize for their high quality. FSIS does not believe that all customers will turn away from the products they have been buying because the quality of the products will remain unchanged. Thus, there is no reason for the products to be priced down to the extent in the extreme scenario.

It can also be argued that, under this rule, producers of fresh product could command even higher prices than they do now or a larger share of the market, which would represent a cost to the buyer. FSIS considers this to be quite speculative and subject to supply and demand and market forces. Such a situation may occur in certain areas, but, in general, there is no basis to assume that all consumers will pay more or are even willing to pay more than they do now for truly fresh product or would choose fresh products over those affected by this final rule.

Under this final rule, affected products will also require relabeling with an appropriate descriptive term. About half of all labels submitted to FSIS each year for approval are for label changes on existing products. Thus, relabeling costs for printed labels arising from the final rule would decrease as companies incorporate the mandated changes with regularly scheduled label redesigns. The average costs of redesigning and printing new labels and inventory losses fall significantly as the implementation period increases. FSIS has provided for a 12 month implementation period so that relabeling costs for printed labels may approach zero taking into consideration that stickers may also be used as needed and generic approval of descriptive labeling is authorized. Stickers could always be used in those cases where label inventory stocks exceed a 1-year supply.

As stated in the proposed rule, FSIS believes relabeling costs can be minimized considerably by use of pressure sensitive stickers until firms make routine label changes for existing products or exhaust label inventories. While this feature may not be of particular interest to processors on a routine basis, it is of interest to processors and retailers when relabeling of product becomes necessary, e.g., when product labeled as ''fresh'' or bearing no descriptive term falls below 26° F in commerce. FSIS estimates the cost of pressure sensitive stickers to be about $0.01 each. Assuming the potentially affected 1.4 billion pounds

of chill pack product were packaged in 2-pound packages, and all required relabeling, FSIS estimates that use of the stickers to bring such product into compliance, whether applied at the plant or retail level, would cost about $7 million, excluding the cost for labor, during any one year period.

Consumers will benefit from the final rule because they would be assured that the poultry products they purchase would not be labeled in a false or misleading manner. Information from the public hearings held by FSIS, the informal survey conducted by the FSIS Meat and Poultry Hotline staff, and many comments on the proposed rule indicate that consumers place considerable value on knowing how poultry products were handled prior to being offered for sale. The quality of the products offered for sale would not be changed because their shelf life would not be adversely affected. However, consumers would not be led to pay a higher price for products that have been chilled to temperatures below 26° F because the informative labeling would advise them of that fact. Any price decreases that might occur for products that were so chilled would result in a savings for consumers who purchase those products. Thus, if a price differential results in an impact on the industry of $75 to $175 million, as discussed under the impact estimate, it is viewed as a transfer to consumers from producers.

If products chilled below 26° F do not suffer a loss in price or market share, it is possible that ''fresh'' products could command increased prices and revenues for producers of fresh poultry, who will be benefitted as a result of the final rule. Consumers would benefit because they expressed a willingness to pay more for truly fresh poultry that was accurately labeled as ''fresh.'' With or without an increased price for fresh products, consumers would be assured that products they buy would meet their expectations even if they elect to exercise their choice by paying more for the products. Truthful labeling information about the nature of poultry products would improve consumer knowledge about the products and aid them in purchasing decisions. FSIS believes that the benefits of labeling that is not false or misleading would be greater than actual costs associated with the final rule considering the reality of the marketplace. The labeling strategy then offers consumers a true purchasing option that accurately reflects their expressed expectations.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted under section 23 of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 467E) from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected poultry products that are in addition to, or different than, those imposed under the PPIA. States and local jurisdictions may, however, consistent with requirements of the PPIA, exercise concurrent jurisdiction over poultry products that are outside official establishments for the purpose of preventing the distribution of poultry products that are misbranded or adulterated under the PPIA, or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. Under the PPIA, states that maintain poultry inspection programs must impose requirements that are at least equal to those required under the PPIA. The states may, however, impose more stringent requirements on such state inspected products and establishments.

No retroactive effect will be given to this rule. The administrative procedures specified in 9 CFR 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this final rule, if the challenge involves any decision of an inspector relating to inspection services provided under the PPIA. The administrative procedures specified in 9 CFR part 381, subpart W, must be exhausted prior to any judicial challenge of the application of the provisions of this final rule with respect to labeling decisions.

Effect on Small Entities

The Administrator has determined that this final rule will not have a significant effect on small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The small entities that could be affected by the final rule would be small processors of raw poultry. However, the economic impact of the final rule on such poultry processors (small plants operating single-inspector processing lines) should be minimal because such processors currently ship poultry in ice pack or dry ice pack containers. The internal temperature of products refrigerated by these methods does not fall below 26° F, and products handled in this manner could be labeled as ''fresh'' according to the regulatory requirements. FSIS is aware that there are approximately 1,000 small wholesalers and retailers who potentially could be affected by this final rule. However, FSIS does not believe they will be impacted because this final rule provides realistic relabeling options for this group as discussed in the section of this document dealing with compliance procedures.

Paperwork Requirements

The final rule specifies the regulations permitting the use of the term ''fresh'' on the labeling of raw poultry products. The final rule requires many manufacturers to revise their labeling and submit such labeling to FSIS for approval. However, this final rule also provides that descriptive labeling may be approved under the provisions for generic label approval so as to minimize paperwork requirements. Paperwork requirements contained in this final rule were approved by the Office of Management and Budget under control number 0583–0102.

List of Subjects in 9 CFR Part 381

Food labeling, Poultry and poultry products.

Final Rule

For the reasons set forth in the preamble, FSIS is amending 9 CFR part 381 as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

2. Section 381.66 is amended by adding a sentence at the end of paragraph (f)(2) to read as follows:

§ 381.66 Temperatures and chilling and freezing procedures.

* * * * *

(f) * * *

(2) * * * Such procedures shall not apply to raw poultry product described in § 381.129(b)(6)(i) of this subchapter.

3. Section 381.129 is amended by adding a new paragraph (b)(6) to read as follows:

§ 381.129 False or misleading labeling or containers.

* * * * *

(b) * * *

(6)(i) Raw poultry product whose internal temperature has ever been below 26° F, but above 0° F, may not bear a label declaration of ''fresh'' and must be labeled with the descriptive term ''hard chilled.'' The word ''previously'' may be used contiguous to the term ''hard chilled'' on an optional

basis. The descriptive term shall be prominently displayed on the principal display panel of the label. If additional labeling containing the descriptive term is affixed to the label, it shall be prominently affixed thereon with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. Product as described in this paragraph is not subject to the freezing procedures required in § 381.66(f)(2) of this subchapter.

(ii) Raw poultry product whose internal temperature has ever been at or below 0° F may not bear a label declaration of ''fresh'' and must be labeled with the descriptive term ''frozen'' except when such labeling duplicates or conflicts with the labeling requirements in § 381.125 of this subchapter. The word ''previously'' may be used contiguous to the term ''frozen'' on an optional basis. The descriptive term shall be prominently displayed on the principal display panel of the label. If additional labeling containing the descriptive term is affixed to the label, it shall be prominently affixed thereon with such conspicuousness (as compared with other words, statements, designs or devices in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. Product as described in this paragraph is subject to the freezing procedures required in § 381.66(f)(2) of this subchapter.

(iii) Handling and relabeling of products. (A) Except as provided under paragraph (b)(6)(iii)(C) of this section, when any inspected and passed product has become misbranded under this subpart after it has been transported from an official establishment, such product may be transported in commerce to an official establishment after oral permission is obtained from the Area Supervisor of the area in which that official establishment is located. The transportation of the product may be to the official establishment from which it had been transported or to another official establishment designated by the person desiring to handle the product. The transportation shall be authorized only for the purpose of the relabeling of the product. The Area Supervisor shall record the authorization and other information necessary to identify the product and shall provide a copy of the record to the inspector at the establishment receiving the product. The shipper shall be furnished a copy of the authorization record upon request.

(B) Upon the arrival of the shipment at the official establishment, a careful inspection shall be made of the product by the inspector, and if it is found that the product is not adulterated, it may be received into the establishment; but if the product is found to be adulterated, it shall at once be condemned and disposed of in accordance with § 381.95 of this subchapter. Wholesome product will be relabeled in accordance with paragraph (b)(6) (i) or (ii) of this section, as appropriate.

(C) When any inspected and passed product has become misbranded under this subpart after it has been transported from an official establishment, the owner may transport the product in commerce to a retail entity for relabeling in accordance with paragraph (b)(6) (i) or (ii) of this section, as appropriate, or to other end users, such as hotels, restaurants or similar institutions; or, relabel the product in accordance with paragraph (b)(6) (i) or (ii) of this section, as appropriate if the product is already at a retail entity. A hotel, restaurant or similar institution is not required to relabel product misbranded under this subpart; *Provided*, That the product is prepared in meals or as entrees only for sale or service directly to individual consumers at such institutions, and that the mark of inspection is removed or obliterated. Oral permission shall be obtained from the Area Officer-in-Charge of the Compliance Program for the area in which the product is located prior to such transportation or relabeling. The Area Officer-in-Charge shall record the authorization and other information necessary to identify the product, and shall furnish a copy of the authorization record upon request. Before being offered for sale at a retail entity, such product shall be relabeled.

4. Section 381.134 is amended by adding a new paragraph (b)(15) to read as follows:

§ 381.134 Generically approved labeling.

* * * * *

(b) * * *

(15) The addition of a descriptive term as required by § 381.129(b)(6) of this subchapter.

* * * * *

Done at Washington, DC, on: August 21, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

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