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June 10, 1997

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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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ACE–25]

Amendment to Class E Airspace, Sioux City, IA

AGENCY: Federal Aviation Administration [FAA] DOT.

ACTION: Direct final rule; removal.

SUMMARY: This action removes the direct final rule published on January 27, 1997 (62 FR 3786) regarding the Class E airspace area at Sioux City, IA. The direct final rule is being removed because the airspace was previously published in the **Federal Register** on August 6, 1996 (61 FR 40719), as Docket Number 96–ACE–11, effective January 30, 1997.

EFFECTIVE DATE: The removal is effective June 10, 1997.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division Operations Branch, ACE–530C, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106; telephone (816) 426–3408.

SUPPLEMENTARY INFORMATION:

The Rule

On January 27, 1997, a direct final rule; request for comments was published in the **Federal Register** to change the Class E4 and E5 airspace area at Sioux City, IA. The Class E4 and E5 airspace was published in the **Federal Register**, August 6, 1996 (61 FR 40719), as Docket Number 96–ACE–11 and was effective January 30, 1997.

Conclusion

In consideration of the aforementioned publication in the **Federal Register**, action is being taken to remove this amendment as described in Docket Number 96–ACE–25.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Removal of the Rule

Accordingly, pursuant to the authority delegated to me, Airspace Docket Number 96–ACE–25, as published in the **Federal Register** on January 27, 1997 (62 FR 3786), is hereby removed.

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

Issued in Kansas City, MO, on May 9, 1997.

Jack L. Skelton,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 97–14983 Filed 6–9–97; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Alternative Method of Compliance With Requirements for Delivery and Retention of Monthly, Confirmation and Purchase-and-Sale Statements

AGENCY: Commodity Futures Trading Commission.

ACTION: Advisory; alternative method of compliance.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is issuing guidance concerning compliance with the requirements of Commission Rules 1.33 and 1.46 for the delivery of confirmation, purchase-and-sale and monthly statements, and Commission rule 1.31 for related recordkeeping requirements. A futures commission merchant (''FCM'') may deliver such statements to any customer solely by means of electronic media, once the FCM obtains the revocable consent of the customer to receipt of electronic delivery. An FCM also may maintain related records either pursuant to Rule 1.31 or as allowed by Securities and Exchange Commission (''SEC'') regulations.

EFFECTIVE DATE: June 10, 1997.

FOR FURTHER INFORMATION CONTACT: Susan C. Ervin, Deputy Director/Chief Counsel; Lawrence B. Patent, Associate Chief Counsel; or Natalie A. Markman, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21 St. Street, NW., Washington, DC 20581. Telephone: (202) 418–5450.

SUPPLEMENTARY INFORMATION:

I. Introduction

By this release, the Commission is issuing guidance to FCMs concerning alternative methods of compliance by FCMs with requirements pertaining to the delivery of specified customer account documents and related recordkeeping requirements. Commission Rules 1.33 and 1.46 require an FCM to provide certain statements to customers in connection with their accounts.[1] Specifically, rule 1.33(a) requires an FCM to furnish promptly to each customer a written monthly account statement, or a quarterly statement where an account has no open positions at the end of the statement period and there have been no changes to the account balance since the prior statement period.[2] rule 1.33(b) requires an FCM to provide to each customer a

[1] Commission rules referred to herein are found at 17 CFR Ch. I (1996).

[2] Commission Rule 1.33(a) states, among other things, that each FCM must promptly furnish in writing to each commodity, option, foreign futures and foreign options customer, as of the close of the last business day of each month or as of any regular monthly date selected, except for accounts in which there are neither open positions at the end of the statement period nor any changes to the account balance since the prior statement period, but in any event not less frequently than once every three months, a statement that clearly shows:

(1) For each commodity customer and foreign futures customer—(i) The open contracts with prices at which acquired; (ii) The net unrealized profits or losses in all open contracts marked to the market; . . . (iii) Any customer funds carried with the [FCM]; and (iv) A detailed accounting of all financial charges and credits to such customer accounts during the monthly reporting period * * * and

(2) For each option customer and foreign options customer—(i) All commodity options and foreign options purchased, sold, exercised, or expired during the monthly reporting period, identified by underlying futures contract or underlying physical, strike price, transaction date, and expiration date; (ii) The open commodity option and foreign option positions carried for such customer as of the end of the monthly reporting period identified by underlying futures contract or underlying physical, strike price, transactions date, and expiration date; (iii) All open commodity option and foreign option positions marked to the market and the amount each position is in the money, if any; (iv) Any customer funds carried in such customer's account(s); and (v) A detailed accounting of all financial charges and credits to such customer's account(s) during the monthly reporting period * * *.

written conformation of each commodity interest transaction executed on the customer's behalf not later than the business day following the transaction.[3] Rule 1.46(a) requires an FCM to furnish promptly to each customer a purchase-and-sale statement when commodity interest contracts are closed out by an offsetting transaction.[4] Rule 1.31, the Commission's general recordkeeping rule, requires an FCM to retain copies of these statements for a period of five years.

On May 2, 1996, the Division of Trading and Markets (''Division'') issued Advisory 22–96 to provide guidance to registered FCMs concerning the delivery of daily confirmation statements by facsimile transmission.[5] The Division stated that FCMs were permitted to fulfill their obligations under Rule 1.33(b) by sending daily confirmation statements solely by means of facsimile transmission to customers who were either: (1) ''eligible swap participants,'' as defined by Commission Rule 35.1(b)(2);[6] or (2) ''institutional customers,'' as defined by Federal Reserve Board (''FRB'') Rule 225.2(g).[7] The relief was subject to the following conditions: (1) FCMs were required to obtain the written, hard copy, revocable consent of eligible customers to receipt of confirmation statements solely by facsimile transmission; and (2) FMCs were required to continue to furnish monthly account statements to such customers in hard copy form and to maintain the confirmation statements in accordance with the standards set forth in Commission Rule 1.31.[8]

In response to recent requests from the Futures Industry Association (''FIA''),[9] the Commission is issuing this Advisory to facilitate further the use by FCMs of electronic media to deliver confirmation, purchase-and-sale and monthly statements (collectively, ''Statements'') to customers, and to provide guidance concerning FCMs' recordkeeping obligations with respect to such Statements. For purposes of this release, the term ''electronic'' media encompasses facsimiles, electronic mail, Internet World Wide Web sites and computer networks (*e.g.*, local area networks and commercial on-line

[3] Commission Rule 1.33(b) states, among other things, that each FCM must, not later than the next business day after any commodity futures or commodity option transaction, including any foreign futures or foreign options transactions, furnish;

(1) To each commodity customer, a written confirmation of each commodity futures transaction caused to be executed by it for the customer [;]

(2) To each option customer, a written conformation of each commodity option transaction, containing [certain] information [; and]

(3) To each option customer, upon the expiration or exercise of any commodity option, a written confirmation statement thereof, which statement shall include the date of such occurrence, a description of the option involved, and, in the case of exercise, the details of the futures or physical position which resulted therefrom including, if applicable, the final trading date of the contract for future delivery underlying the option. Notwithstanding the above provisions of Rule 1.33(b) (1)–(3), a commodity futures or commodity option transaction that is caused to be executed for a commodity pool need be confirmed only to the operator of the commodity pool.

[4] Commission Rule 1.46(a) states that, except with respect to purchases or sales that are for omnibus accounts, any FCM who, on or subject to the rules of a contract market:

(1) Purchases any commodity for future delivery for the account of any customer when the account of such customer at the time of such purchase has a short position in the same future of the same commodity on the same market;

(2) Sells any commodity for future delivery for the account of any customer when the account of such customer at the time of such sale has a long position in the same future of the same commodity on the same market;

(3) Purchases a put or call option for the account of any option customer when the account of such option customer at the time of such purchase has a short put or call option position with the same underlying futures contract or same underlying physical, strike price, expiration date and contract market as that purchased; or

(4) Sells a put or call option for the account of any option customer when the account of such option customer at the time of such sale has a long put or call option position with the same underlying futures contract or same underlying physical, strike price, expiration date and contract market as that sold—shall on the same day apply such purchase or sale against such previously held short or long futures or option position, as the case may be, and shall, for futures transactions, promptly furnish such customer a statement showing the financial result of the transactions involved and, if applicable, that the account was introduced to the [FCM] by an introducing broker [(''IB'')] and the names of the [FCM] and [IB]. Commission rules 1.46 (c), (d) and (e) provided for certain exceptions to this requirement.

[5] CFTC Advisory No. 22–96, [1994–1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,679 (May 2, 1996). Previously, on February 28, 1996, the Division has issued a no-action letter permitting an FCM to deliver confirmation statements by facsimile transmission to institutional customers without mailing such statements in hard copy form, subject to certain conditions. CFTC Interpretative Letter No. 96–18, [1994–1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,630 (February 28, 1996).

[6] The following are eligible swap participants under Commission Rule 35.1(b)(2):

(1) a bank or trust company (acting on its own behalf or on behalf of another eligible swap participant);

(2) a savings association or credit union;

(3) an insurance company;

(4) an investment company subject to regulation under the Investment Company Act of 1940 (''ICA'') or a foreign person performing a similar role or function subject as such to foreign regulation;

(5) a commodity pool, formed and operated by a person subject to regulation under the Commodity Exchange Act (''Act'') or a foreign person performing a similar role or function subject as such to foreign regulation, that has assets exceeding $5,000,000;

(6) a corporation, partnership, proprietorship, organization, trust or other entity (a) with assets exceeding $10,000,000, (b) with a net worth of $1,000,000 that enters into the swap agreement in connection with its business, or (c) whose obligations under the swap agreements are guaranteed by another eligible swap participant listed above or under item (8) below;

(7) an employee benefit plan subject to the Employee Retirement Income Security Act of 1974 or a foreign person performing a similar role or function subject as such to foreign regulation, with assets exceeding $5,000,000, or whose investment decisions are made by a bank, trust company or insurance company, or investment adviser or commodity trading advisor (''CTA'') subject to regulation;

(8) any governmental entity or political subdivision thereof, or any multinational or supranational entity, or any instrumentality, agency or department of any of the foregoing;

(9) a broker-dealer subject to regulation under the Securities Exchange Act of 1934 (''SEA'') or a foreign person performing a similar role or function subject as such to foreign regulation;

(10) an FCM, floor broker or floor trader subject to regulation under the Act or a foreign person performing a similar role or function subject as such to foreign regulation; or

(11) a natural person with assets exceeding $10,000,000.

An investment company, commodity pool or other entity is not an eligible swap participant if it is formed solely for the purpose of constituting an eligible swap participant. A broker-dealer, FCM, floor broker or floor trader that is a natural person or proprietorship also must meet the requirements of either item (6) or (11).

[7] 12 CFR 225.2(g) (1996). The following are institutional customers under this FRB rule:

(1) a bank (acting in an individual or fiduciary capacity), savings and loan association, insurance company, investment company registered under the ICA, or corporation, partnership, proprietorship, organization or institutional entity with a net worth exceeding $1,000,000;

(2) an employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, insurance company or investment adviser registered under the Investment Advisers Act of 1940;

(3) a natural person whose net worth (or joint net worth with a spouse) exceeds $1,000,000;

(4) a broker-dealer or option trader registered under the SEA, or other securities, investment or banking professional; or

(5) an entity whose equity owners are institutional customers.

[8] In Advisory 22–96, the Division also confirmed that FCMs would be permitted to fulfill their obligations under Rule 1.33(d) with respect to furnishing confirmation and purchase-and-sale statements to account controllers by transmitting such statements solely by facsimile, irrespective of whether the customer met the criteria for eligible swap participants or institutional customers or had elected to receive confirmation statements by facsimile. This aspect of the relief was subject to the following conditions. (1) FCMs were required to continue to furnish monthly account statements to the account controllers in hard copy form and obtain the account controllers' written, hard copy, revocable consent to receive confirmation and purchase-and-sale statements solely by facsimile transmission; and (2) account controllers were required to maintain the confirmation and purchase-and-sale statements in accordance with the standards set forth in Commission Rule 1.31. The Division noted, however, that the relief granted under Rule 1.33(d) with regard to account controllers did not affect FMCs' obligations to provide confirmation and purchase-and-sale statements to their customers under Rule 1.33(b).

[9] The FIA is a trade association whose membership consists primarily of FCMs.

services). FCMs who choose to provide Statements electronically should consider several factors in determining whether a particular electronic medium is appropriate: (1) The medium should convey the same information and achieve the same objectives as a paper-based medium; [10] (2) the customer should have adequate notice that Statements are available electronically; [11] (3) delivery should not be unduly burdensome to customers; and (4) the accessibility of Statements should be comparable to that of documents in hard copy form, which can be read and re-read.

The Commission believes that the alternative method of compliance discussed herein will benefit both customers and FCMs by providing for more expeditious receipt of the Statements by customers and more cost-effective methods of transmission and storage for FCMs.[12] This action constitutes the latest in a series of measures the Commission has taken to recognize advances in computers and related electronic media technology and to facilitate the use of such technology where adequate measures exist to safeguard customer interests.[13]

II. Delivery of Statements

Under this Advisory, a registered FCM is permitted to fulfill its obligations under Rules 1.33 and 1.46 by sending Statements solely by means of electronic media to any customer who consents to delivery by that method, subject to certain conditions. In order for a customer to receive Statements (or some types of Statements) electronically, the customer must consent to transmission of Statements through such electronic media and the consent must reflect sufficient information about the manner and costs of delivery to constitute informed consent. Disclosures relevant to determining whether the consent obtained was sufficiently informed would include: (1) The electronic medium or source through which the Statements will be delivered; (2) the period during which the consent will be effective (which can be until further notice); (3) the information that will be delivered using such means (a customer might, for example, request that only daily confirmations and purchase-and-sale statements be delivered electronically and still wish to receive a monthly statement by mail); (4) the costs, if any, that will be charged to the customer specific to electronic delivery of the Statements; and (5) the customer's right to revoke at any time the consent to receive statements solely by means of electronic medium.[14]

For customers who constitute ''eligible customers,'' as defined herein, the FCM may obtain the customer's informed consent orally, by means of electronic media or through hard copy documentation including the customer's signature. Such documentation also could be incorporated in the customer account agreement. If the customer consents orally or by electronic media to electronic delivery of Statements, the FCM should document the customer's consent by written confirmation in paper or electronic form of the customer's informed consent and retain this confirmation as part of its records.[15] Absent subsequent action by the customer to revoke or to dispute the confirmation, the confirmation evidences that the customer received an explanation of the right to elect electronic delivery of the Statements and of the information pertinent to that election and has elected to receive the Statements (or some categories of Statements) electronically. Eligible customers, for purposes of this Advisory, include any person who:

(1) is an ''eligible swap participant,'' as defined by Commission Rule 35.1(b)(2);

(2) is an ''institutional customer,'' as currently defined by FRB Rule 225.2(g); or

(3) is a Commission registrant.[16]

For a person who is not an eligible customer, the FCM must obtain the customer's *signed*, hard copy, revocable consent prior to the transmission of any Statement by means of electronic media.[17] This consent could be obtained as part of the customer account agreement or in a subsequently executed document. Once the FCM assures itself that the customer has agreed to electronic delivery on an informed basis, the FCM may begin to send Statements (or some categories of Statements) to the customer by means of the agreed-upon electronic medium. Documentation of the customer's consent should clearly indicate whether the customer has agreed to electronic delivery of a Statement in lieu of hard copy or in addition to hard copy.

Under this Advisory, any customer or potential customer may consent to electronic delivery of Statements. The Commission envisions that this consent generally would be communicated in person when an account is opened or by subsequent telephone, facsimile or electronic communication. With respect

[10] Statements delivered electronically must satisfy the requirements of Commission Rules 1.33 and 1.46.

[11] Unlike postal mail to a business or residential address, which accomplishes delivery and notice of delivery simultaneously, electronic delivery of a document may result in availability of a document to a particular recipient in a medium that the recipient must take affirmative steps to access in order to receive notice that the document is available and to view or download the document. Consequently, in establishing procedures for electronic delivery and obtaining the customer's consent to electronic delivery, firms must assure that customers understand and consent to the particular electronic delivery procedure to be used, *e.g.*, electronic mail delivered on a specified schedule.

[12] According to the FIA, FCMs already are supplying Statements electronically in response to customer demand for rapid dissemination of information. In order to comply with Commission regulations, however, the FCMs also are mailing duplicate Statements in hard copy form. The Commission notes that some customers may wish to receive Statements (or some categories of Statements) by means of electronic delivery *and* in hard copy form. In such instances, FCMs must deliver Statements in hard copy form and may choose to enter into an agreement to provide Statements by means of electronic media as well.

[13] *See, e.g.*, 62 FR 18265 (April 15, 1997) (adopting a program for commodity pool operators (''CPOs'') and CTAs to file Disclosure Documents with the Commission electronically on a voluntary basis); 62 FR 10441 (March 7, 1997) (providing for the use of personal identification numbers by FCMs and IBs in making attestations in financial reports that are permitted to be filed with the Commission electronically); 62 FR 7675 (February 20, 1997) (permitting the use of electronic records of customer orders generated through electronic order-routing systems); 61 FR 42146 (August 14, 1996) (publishing Commission views with respect to the use of electronic media for the transmission and delivery of Disclosure Documents, reports and other information by CPOs, CTAs and associated persons thereof).

[14] *See* 61 FR 24643, 24647 and n.23 (May 15, 1996) (SEC release discussing use of electronic media by securities broker-dealers, transfer agents and investment advisers for delivery of information).

[15] Consistent with the Act and Commission regulations, FCMs maintain procedures to assure that consents obtained from customers are duly authorized.

[16] This category likely includes a majority of account controllers. Although the account controller is not the customer for purposes of Rule 1.33, the Commission believes that an FCM may fulfill its obligations under Rule 1.33(d) with respect to furnishing Statements to registered account controllers via electronic media without first obtaining written and signed consent in hard copy form. With respect to unregistered account controllers who do not otherwise satisfy the above ''eligible customer'' definition, the FCM must obtain written, signed, hard copy, revocable consent from the unregistered account controller prior to the electronic transmission of nay Statement. Such unregistered account controllers could include CTAs who are not required to register as such under Section 4m(1) of the Act because they provide advice to 15 or fewer persons and do not hold themselves out generally to the public as CTAs. *See* 7 U.S.C. § 6m(1) (1994). Unregistered account controllers also could include, for example, CPOs who are exempt from registration under Rule 4.13(a). The Division notes that the relief granted under Rule 1.33(d) with regard to account controllers does not affect FCMs' obligations to provide Statements to their customers under Rules 1.33(a), 1.33(b) and 1.46(a).

[17] In order to effectuate electronic delivery of Statements more quickly, the customer may transmit the signed consent by facsimile transmission.

to ''eligible customers,'' as defined above, the FCM may rely upon its own contemporaneous confirming letter to the customer (which could itself be transmitted electronically) as evidence of the customer's consent, describing the method of electronic transmission of the Statements, the information to be transmitted, the effective period of the consent, any costs to the customer for such transmissions and a statement that such consent is revocable at any time. In order to employ electronic media to deliver Statements to persons who do not constitute eligible customers, the FCM must receive a signed authorization from the account owner before beginning electronic transmission of Statements.

Since an FCM may only deliver Statements electronically upon receipt of customer consent,[18] it need not obtain and retain evidence that the customer actually received the Statements, such as by an electronic mail return-receipt or by confirmation that the information was accessed, downloaded or printed. However, to ensure that Statements are delivered as intended, and FCM providing Statements using either electronic or paper media should take reasonable precautions to ensure the integrity and security of the Statements.[19] In this regard, the FCM has a duty to supervise firm personnel [20] to assure compliance with applicable requirements and prevent wrongdoing and should implement supervisory systems and procedures necessary to assure timely and appropriate delivery of Statements and to deter or detect misconduct in connection with the delivery of Statements. The FCM also has an obligation to maintain the confidentiality of customer orders [21] and should take reasonable precautions tailored to the particular electronic medium being used to ensure the confidentiality of personal financial information. Self-regulatory organizations (''SROs'') [22] whose member FCMs intend to deliver Statements solely by electronic means to customers so requesting should enhance their audit programs to review the procedures and precautions employed by FCMs in making such deliveries.

[18] The FCM must retain evidence of the customer's consent as a record, in accordance with the recordkeeping requirements discussed *infra*.

[19] *See* 61 FR at 24647.

[20] *See* 17 CFR 166.3 (1996).

[21] *See* 17 CFR 155.3(b)(1) (1996).

[22] *See* 17 CFR 1.63(a)(1) (1996).

III. Maintenance of Records

Copies of Statements generally must be maintained in accordance with the standards set forth in Rule 1.31 which, among other things, requires that records be retained for a period of five years and be readily accessible during the first two years of the five-year period. Rule 1.31(b) provides that copies may be retained on microfilm, microfiche, or optical disk but must be maintained in accordance with the standards set forth in Rule 1.31 (c) and (d).[23]

Concerning the storage and maintenance of records of Statements, the Commission understands that it may be difficult or impossible as a technical matter to store certain data in exactly the format in which it is transmitted to customers. The FCM must be able to store and maintain records of Statements in order that, upon request of any representative of the Commission or the United States Department of Justice, the FCM can reproduce the Statements in substantially the same form[24] and containing the same account and trading information as was transmitted to customers.[25] If the FCM provides continual, real-time updates to customers of activity throughout the day, the FCM would generate several different intraday ''screens'' as trades were placed and available to customers. For record retention purposes, an FCM need only retain the daily confirmation statement as of the end of the trading session, provided it reflects all trades made during the trading session. This would be consistent with the record provided to a customer and retained using a paper-based medium.

To facilitate FCMs' efforts to use electronic media when possible and to avoid imposing duplicative or inconsistent requirements on broker-dealer firms, the Commission hereby permits an FCM to use guidelines recently set forth by the SEC in its recent rulemaking in connection with recordkeeping requirements for broker-dealers.[26] Accordingly, an FCM may maintain Statements pursuant to Commission Rule 1.31 or as allowed by SEC regulations.[27]

Issued in Washington, DC on June 4, 1997 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–15071 Filed 6–9–97; 8:45 am]

BILLING CODE 6351–01–M

[23] Rule 1.31(d) states, among other things, that all records preserved on optical media pursuant to Rule 1.31(b) must be preserved on non-rewritable, write once read many (''WORM'') media. In addition, the technology must have write-verify capabilities that continuously and automatically verify the quality and accuracy of the information stored and automatically correct quality and accuracy defects. Rule 1.31(d)(1) states that the optical storage system must: (i) Use removable disks; (ii) serialize the disks; (iii) time-date all files of information placed on the disks, reflecting the computer run time of the file of information and using a permanent and non-erasable time-date; and (iv) write files in ASCII or EBCDIC format. As the Commission has noted, the ASCII and EBCDIC formats ''generally do not allow storage of paper records or electronic images, such as webpages, since such records images are normally not written in ASCII or EBCDIC format. Therefore, these records would be required to be retained in hard [] copy form.'' 61 FR at 42162.

[24] For example, FCM logos can be deleted.

[25] As mentioned *supra*, statements delivered electronically must satisfy the requirements of Commission Rules 1.33 and 1.46.

[26] 62 FR 6469 (February 12, 1997). The SEC amended its Rule 17a–4(f) to provide for the production or reproduction of records by means of electronic storage media, with the limited exception of those records required for penny stocks. Rather than specify particular electronic storage media, the SEC provided that the particular medium chosen must meet certain criteria:

(A) Preserve the records exclusively in a non-rewrit [] able, non-erasable format;

(B) Verify automatically the quality and accuracy of the storage media recording process;

(C) Serialize the original and, if applicable, duplicate units of storage media, and time-date for the required period of retention the information placed on such electronic storage media; and

(D) Have the capacity to readily download indexes and records preserved on the electronic storage media to any medium acceptable under [Rule 17a–4(f)] as required by the [SEC] or the [SROs] of which the member, broker, or dealer is a member.

17 CFR 240.17a4(f)(ii) (1997). If a broker-dealer chooses to use electronic storage media, it must notify its designated examining authority prior to using such media and, if the broker-dealer uses media other than optical disk technology or CD–ROM, it must provide notice of at least 90 days. The SEC also set forth, among other things, the following requirements: maintenance of duplicates of records, which can be stored on any medium satisfying the above criteria; organizing and indexing of both original and duplicate records; an audit system that can record both the entry and modification of records; a third-party download provider, whose name is provided to the SRO and who agrees to promptly furnish to the SEC and SRO(s) information necessary to access and download records; and, where a broker-dealer uses an outside service bureau to preserve records, and escrow agent who keeps a current copy of the information necessary to access and download records.

[27] As of March 31, 1997, 113 of 236 FCMs were registered with the SEC as broker-dealers. Therefore, the Commission has attempted, where possible, to coordinate its regulatory efforts with SEC requirements. For instance, Rule 1.10(h) permits and FCM to file reports concerning its financial condition by submitting a copy of its Financial and Operational Combined Uniform Single report filed with the SEC in lieu of the Commission's Form 1–FR–FCM, and Rules 1.14 and 1.15, the Commission's risk assessment rules, attempt to avoid duplication of similar SEC rules with regard to recordkeeping and reporting.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 92F–0279]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of *N,N*-bis(2-hydroxyethyl)dodecanamide as an antistatic agent in polypropylene food-packaging films. This action responds to a petition filed by Toho Chemical Industry Co., Ltd., c/o Parexel International Corp.

DATES: Effective June 10, 1997. Written objections and requests for a hearing by July 10, 1997.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mitchell A. Cheeseman, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3083.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 7, 1992 (57 FR 34937), FDA announced that a food additive petition (FAP 2B4308) had been filed by Toho Chemical Industry Co., Ltd., c/o Parexel International Corp., 195 West St., Waltham, MA 02154. The petition proposed to amend the food additive regulations in § 178.3130 *Antistatic and/or antifogging agents in food-packaging materials* (21 CFR 178.3130) to provide for the safe use of *N,N*-bis(2-hydroxyethyl)dodecanamide as an antistatic agent in polypropylene food-packaging films.

FDA has evaluated data in the petition and other relevant material. The agency concludes that: (1) The proposed use of the food additive is safe, (2) the additive will achieve its intended technical effect, and (3) the regulations in § 178.3130 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before July 10, 1997, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.3130 is amended in the table in paragraph (b) by revising the entry for ''*N,N*-Bis(2-hydroxyethyl) dodecanamide * * *'' to read as follows:

§ 178.3130 Antistatic and/or antifogging agents in food-packaging materials.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * *
N,N-Bis(2-hydroxyethyl)dodecanamide produced when diethanolamine is made to react with methyl laurate such that the finished product: Has a minimum melting point of 36 °C; has a minimum amide assay of 90 percent; contains no more than 2 percent by weight of free diethanolamine; and contains no more than 0.5 percent by weight of *N,N*, bis(2-hydroxyethyl)piperazine, as determined by paper chromatography method.	For use only: 1. As an antistatic agent at levels not to exceed 0.5 percent by weight of molded or extruded polyethylene containers intended for contact with honey, chocolate syrup, liquid sweeteners, condiments, flavor extracts and liquid flavor concentrates, grated cheese, light and heavy cream, yogurt, and foods of Type VIII as described in Table 1 of § 176.170(c) of this chapter. 2. As an antistatic agent at levels not to exceed 0.2 percent by weight in polypropylene films complying with § 177.1520 of this chapter, and used in contact with food of Types I, II, III, IV, V, VI–B, VII, VIII, and IX described in Table 1 of § 176.170(c) of this chapter, and under conditions of use B through H described in Table 2 of § 176.170(c) of this chapter. The average thickness of such polypropylene film shall not exceed 0.001 inches (30 micrometers).
* * *	* * *

Dated: May 23, 1997.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–15011 Filed 6–9–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 872

[Docket No. 95N–0033]

Dental Devices; Endodontic Dry Heat Sterilizer; Corrections and Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; corrections and technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of January 21, 1997 (62 FR 2900). The document issued a final rule to require the filing of a premarket approval application or a notice of completion of a product development protocol for the endodontic dry heat sterilizer, a medical device. The document was published with some errors. This document corrects those errors.

EFFECTIVE DATE: January 21, 1997.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–215), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–827–2974.

The Corrections

In FR Doc. 97–1336, beginning on page 2900 in the **Federal Register** of Tuesday, January 21, 1997, the following corrections are made:

1. On page 2900, in the third column, in the second full paragraph, in the thirty-first line, ''September 5, 1995'' is corrected to read ''June 22, 1995'' and on that same page, in the third column, in the second full paragraph, in the thirty-second line, ''August 7, 1995'' is corrected to read ''September 5, 1995''.

2. On page 2902, in the second column, in the second paragraph, in the fourth line, and on that same page, in the second column, in the third paragraph, in the twenty-second line, ''September 5, 1995'' is corrected to read ''April 21, 1997''.

3. On page 2902, in the second column, in the third paragraph, in the twenty-eighth line, ''August 7, 1995'' is corrected to read ''March 21, 1997.''

The Technical Amendment

§ 872.6730 [Amended]

4. Section 872.6730 *Endodontic dry heat sterilizer* is amended in paragraph (c) by removing ''September 5, 1995'' each time it appears and adding in its place ''April 21, 1997''.

Dated: May 27, 1997.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiologica Health.

[FR Doc. 97–15013 Filed 6–9–97; 8:45 am]

BILLING CODE 4160–01–F

POSTAL SERVICE

39 CFR Part 111

Special Services Reform; Implementation Standards

AGENCY: Postal Service.

ACTION: Supplementary final rule.

SUMMARY: This supplementary final rule sets forth the remaining Domestic Mail Manual (DMM) standards adopted by the Postal Service to implement the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Special Services and Fees, Docket No. MC96–3. These standards constitute only minor changes or refinements to internal operational procedures that have been made since publication of the final rule in the **Federal Register** on May 12, 1997 (62 FR 26086–26099).

The standards in this supplementary final rule do not, in any way, affect the fees or attributes of the special services as they were published in the final rule for post office box service and caller service, certified mail, insurance (insured mail and Express Mail), parcel airlift, registered mail, return receipt service, return receipt for merchandise service, and stamped cards (formerly named postal cards). Although no substantive changes have been made to the final rule, this supplementary final rule does respond to comments that the Postal Service had sought with publication of the final rule.

EFFECTIVE DATE: June 8, 1997.

FOR FURTHER INFORMATION CONTACT: Neil Berger, (202) 268–2859.

SUPPLEMENTARY INFORMATION: On June 7, 1996, pursuant to its authority under 39 U.S.C. 3621, et seq., the Postal Service filed with the Postal Rate Commission (PRC) a request for a recommended decision on several special service reform proposals. The PRC designated the filing as Docket No. MC96–3. The PRC published a notice of the filing, with a description of the Postal Service's proposals, on June 21, 1996, in the **Federal Register** (61 FR 31968–31979).

Pursuant to 39 U.S.C. 3624, on April 2, 1997, the PRC issued its

Recommended Decision on the Postal Service's Request to the Governors of the Postal Service. The PRC's Recommended Decision made revisions to some of the restructuring of the post office box fees requested by the Postal Service. In other areas, the PRC's Recommended Decision generally followed the requests made by the Postal Service to increase the fee for certified mail, merge the two options for return receipt service, merge the two options for return receipt for merchandise, increase the maximum available indemnity for insured mail to $5,000, add optional insurance to $5,000 for Express Mail and refine the current available indemnity structure, simplify the fee schedule for registered mail, and eliminate special delivery. Although the PRC did not recommend a fee for postal cards (renamed stamped cards), it did suggest that the Postal Service remove costs unique to stamped cards from total stamped cards and postcards subclass costs to support any proposed fee in addition to the face value of the cards.

To implement the Governors' decision, the Postal Service published a final rule containing the DMM standards adopted by the Postal Service in the May 12, 1997, **Federal Register** (62 FR 26086–26099). The revised DMM standards took effect June 8, 1997. As explained in that final rule, because the PRC's Recommended Decision, as approved by the Governors, established standards that were not previously published for public comment in a proposed rule, the Postal Service solicited comments from customers in three areas involving implementation of the PRC's Recommended Decision and the Governors' Decision. Comments were solicited on the following standards:

1. Standards for post office box service as provided in DMM D910, including eligibility for box service in offices that offer no form of carrier delivery.

2. Standards for indemnity as provided in DMM S010, S500, and S913.

3. Standards for return receipt service and return receipt service for merchandise in DMM S915 and S917, including the merger of the options currently available.

After considering the potential effects of these provisions, the Postal Service determined to allow 15 days for public comment through May 27, 1997. Although a longer comment period is usually provided, the Postal Service concluded that a 15-day comment period was warranted in this case for two reasons:

1. First, the list of provisions on which comment was sought was short and straightforward. Customers and mailers would have little difficulty evaluating the effect of these provisions on their personal or commercial mailing requirements.

2. Second, the Postal Service wanted to ensure that customers and mailers had sufficient time after the close of the comment period and publication of any possible revisions to the final rule to make the necessary changes to their operations before the June 8, 1997, implementation date.

Part A of this supplementary final rule provides an analysis of comments received and the Postal Service responses. Part B describes the minor operational changes and clarifying amendments made to certain DMM standards as originally published in the final rule for post office box service and caller service. The affected text of the revised DMM standards that have been subsequently amended are published at the end of this supplementary final rule.

A. Summary of Comments

The Postal Service received only two pieces of correspondence offering comments on the three identified aspects of the final rule. Both commenters were individual customers.

Of those aspects on which comment was sought, one commenter wrote on issues relevant to all three aspects, whereas the second commenter wrote on only return receipt service. Some of the comments did not directly address the issues as requested in the final rule; instead, they touched on minor areas not within the scope of the final rule—for example, the use of special services stamps.

Although comment was sought on only three specific aspects of the final rule, one commenter submitted comments on one other issue as discussed in section 4.

1. Post Office Box Service

a. Physical Address

One commenter stated that the requirement in DMM D910.2.4 that a post office box applicant or current box customer must identify his or her physical address would preclude those customers who operate from a mobile home from obtaining a post office box. Furthermore, this commenter believed that any such requirement should be limited to those customers who obtain a box at the Group D or Group E fees.

The Postal Service has not imposed a new requirement with the final rule. This requirement was included in the final rule for completeness and to provide readers the context for those standards that were changed by the final rule. The current box application form (PS Form 1093, Application for Post Office Box or Caller Service) requires applicants, including those who operate from a mobile home, to provide a physical address (such as that of a mobile home park). The Postal Service believes that customers already have to identify a physical address for postal as well as many nonpostal purposes, and they should be able to identify such an address when applying for a post office box.

b. Box Termination

One commenter stated that the regulation in DMM D910.8.2 that allows post office box service to be terminated if a box customer conducts himself or herself in a violent, threatening, or otherwise abusive manner on postal property is too subjective and should not apply only to box customers.

The final rule merely codifies existing practices and policies. This regulation stems from problems that the Postal Service has experienced with box customers in particular and responds to those particular problems. Any customer whose box service is terminated on such grounds has a right of appeal as provided under DMM D910.8.3. Moreover, this basis for terminating box service has already been upheld by the Judicial Officer Department of the Postal Service, so inclusion of the language simply serves to identify all the applicable grounds for termination of box service.

2. Indemnity Standards

One commenter stated that the lower bound in the first value increment for insured registered mail in DMM Exhibit R900.16.0 should be changed from $0.00 to $0.01 because the commenter asserted that insurance cannot be purchased for articles having no value.

The lower bound in the first increment in the insured registry fee schedule begins at $0.00 for simplicity and parallel structure with the uninsured registry fee option. The Postal Service doubts, moreover, that customers mailing articles of no value will pay the marginally higher fee for insured registry because the option of purchasing registry without insurance will be available for a slightly lower fee. Retail postal clerks can assist customers in selecting the service option that best meets the needs of those customers.

3. Return Receipt Services

Both commenters suggested that the Postal Service modify the green return receipt postcard (PS Form 3811,

Domestic Return Receipt) to enable the delivery employee to indicate on the card whether the addressee's delivery address matches the delivery address printed on the mailpiece. Currently, the delivery employee does not mark the address block on the card if the address of delivery matches the address on the mailpiece. The commenters emphasized that redesigning the card with a checkbox would provide further confirmation to the sender that the delivery address on the piece was correct.

The Postal Service believes that this proposal merits adoption. This measure would provide further confirmation to the sender of the correctness of the addressee's address. The Postal Service is in the process of redesigning the return receipt card. Owing to large inventories of the current card, the Postal Service will not begin to introduce a new card until later this year.

4. Other

One commenter requested that the Postal Service permit customers to use previously issued special delivery stamps for any purpose. The last special delivery stamp was issued 26 years ago in May 1971 and withdrawn from general sale in 1974. The commenter also requested that other special services stamps (certified mail, registered mail, and special handling) be valid for the particular service and that the old newspaper stamps and parcel post stamps be permitted for any use.

Under DMM P022.2.2, certified mail stamps (last issued in 1955), special delivery stamps (last issued in 1974), and special handling stamps (last issued in 1955) are ''not valid to pay postage for U.S. domestic or U.S.-originated international mail.'' Although registry stamps are not listed in that regulation, they were issued on December 11, 1911, and were withdrawn from general sale on May 28, 1913. It is unlikely that customers would use these stamps to pay registry fees because these stamps have much higher value as philatelic items. Parcel post stamps, last issued in 1913, have been valid for any domestic postal purpose since July 1, 1913.

Newspaper stamps were first issued in 1865 for bulk mailings of newspapers and periodicals. Starting in 1875, the stamps were affixed to special cards, canceled, and kept by the postmaster as a record of proper payment. The Post Office Department discontinued issuing these stamps on July 1, 1898. Newspaper stamps were a precursor to the current required use of advance deposit accounts to pay Periodicals postage. Currently, Periodicals mail, unlike any other class of mail, may not be paid with adhesive stamps, postage meter stamps, or permit imprint indicia.

When the Post Office Department introduced many of its special services, it issued distinctive stamps to enable customers to pay the fees for the particular special service as well as serve as a means of endorsement. As a customer convenience and a cost-saving measure for the Postal Service, issuance of new special services stamps was discontinued and customers were permitted to use ordinary postage stamps to pay the postage and the applicable special service fees. To ensure proper handling, the Postal Service has required the use of endorsements to indicate the purchase of services. Since 1994, the Postal Service has required customers to use special labels for most of these special services. This policy ensures that the mail is properly handled according to the service purchased.

To avoid confusion, the Postal Service does not intend to change its policy of disallowing the use of special delivery stamps. Customers who possess special delivery stamps may use them to pay the special delivery fee for international special delivery mail. Section 373 of the International Mail Manual clearly provides that the sender ''may pay the special delivery fee with special delivery stamps, postage stamps, postage validation imprinter (PVI) labels, or postage meter stamps. However, special delivery stamps may only be used for the payment of the special delivery fee.''

B. Summary of DMM Changes

1. Post Office Box Service

The scope of the amendments to the final rule on post office box service under DMM D910.5.0 covers clarifying definitions to the administrative and delivery boundaries of post offices that provide delivery to other offices. Additionally, the ambiguous term ''smallest available size'' in reference to no-fee boxes available to certain customers was specified as ''the smallest box currently vacant'' rather than the smallest box installed in the particular postal facility.

Further, the amended language notes that boxes at Group E fees are also available as provided under the rules for post offices without any carrier delivery. Eligibility for Group E fees was additionally defined with the exclusion of customers who receive mail at single-point delivery stops such as hotels, colleges, military installations, and transient trailer parks.

Finally, McLean, VA 22103 is deleted from DMM Exhibit D910.5.3, Facilities Assigned Location-Based Box Fees, with the relocation in 1992 of that ZIP Code from a Group B location to a Group C postal facility. Customers receiving service at that ZIP Code are to be charged Group C fees.

2. Caller Service

Postmasters in Group D post offices are given the option under new DMM D920.4.8 of synchronizing customer payments for caller service to April 1 and October 1 if the office has fewer than 500 post office boxes. This option was already available for post office box fees in Group D offices, but it was not available for caller service because, before the June 8 implementation of the final rule, caller service was not offered at Group D offices.

Finally, McLean, VA 22103 is moved from Group B to Group C in DMM Exhibit D920.4.1, Caller Service Groups, with the relocation of that ZIP Code in 1992 from a Group B location to a Group C postal facility. Caller service customers receiving service at that ZIP Code are to be charged Group C fees.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. In view of the foregoing, amend the following sections of Domestic Mail Manual Issue 51 as set forth below:

D DEPOSIT, COLLECTION, AND DELIVERY

* * * * *

D900 Other Delivery Services

D910 Post Office Box Service

* * * * *

5.0 FEE GROUP ASSIGNMENTS

5.1 Post Offices

For purposes of fee group assignment, and as defined in 4.3, a post office includes all subordinate facilities or units administered by that post office, such as classified stations, classified branches, and contractor-operated facilities. Additionally, the type of carrier delivery service available at any one facility administered by a post office determines the fee group applicable to all facilities of that post office as follows:

[Amend 5.1a by replacing ''boundaries of any delivery area ZIP Code'' with ''delivery ZIP Code boundaries''; by

adding ''(i.e., the smallest box currently vacant)'' after ''smallest available size''; and by adding ''Boxes at Group E fees are also available as provided under 5.1c.'' to the end of the section to read as follows:]

a. *Post Office With City Delivery.* A post office that provides city carrier delivery at any of its administered facilities applies Group C fees, except as provided in 5.3. A customer whose physical residence or business location is within the geographic delivery ZIP Code boundaries administered by that city delivery post office, who is ineligible for any form of carrier delivery service from that post office and who does not receive carrier delivery via an out-of-bounds delivery receptacle, may obtain one box of the smallest available size (i.e., the smallest box currently vacant) at the Group E fee (no fee). Boxes at Group E fees are also available as provided under 5.1c.

b. *Post Office With Only Rural or Highway Contract Carrier Delivery.* A post office that does not provide city carrier delivery but provides only rural carrier or highway contract carrier delivery at any of its administered facilities applies Group D fees, except as provided in 5.3, with two exceptions:

[Amend 5.1b(1) by replacing ''boundaries of any delivery area ZIP Code'' with ''delivery ZIP Code boundaries''; by adding ''(i.e., the smallest box currently vacant)'' after ''smallest available size''; and by adding ''Boxes at Group E fees are also available as provided under 5.1c.'' to the end of the section to read as follows:]

(1) A customer whose physical residence or business location is within the geographic delivery ZIP Code boundaries administered by that non-city delivery post office, who is ineligible for any form of carrier delivery service, who does not receive carrier delivery via an out-of-bounds delivery receptacle, and who resides outside the immediate vicinity of the post office as specified in *Postal Operations Manual 653,* may obtain one box of the smallest available size (i.e., the smallest box currently vacant) at the Group E fee (no fee). Boxes at Group E fees are also available as provided under 5.1c.

(2) A customer whose ineligibility for carrier service arises from residing in the immediate vicinity of the post office as specified in Postal Operations Manual 653 is afforded continued access to general delivery service.

[Amend 5.1c by replacing ''boundaries of other post offices'' with ''ZIP Code boundaries of another post office'' to read as follows:]

c. *Post Office Without Any Carrier Delivery.* A post office that does not provide any form of carrier delivery (i.e., a nondelivery post office) exists within the geographic delivery ZIP Code boundaries of another post office. A nondelivery post office applies Group D fees or Group E fees (no fees), based on the box customer's physical residence or business location relative to the geographic boundaries of the post office containing the nondelivery office, as follows:

[Amend 5.1c(1) by replacing in the first sentence ''inside the geographic ZIP Code boundaries'' with ''within the geographic delivery ZIP Code boundaries''; by replacing in the second sentence ''a box at either the nondelivery office or the containing delivery office'' with ''a box of any size at the nondelivery office or the smallest vacant box at the containing delivery office'' to read as follows:]

(1) If the box customer's physical residence or business location is within the geographic delivery ZIP Code boundaries of the post office containing the nondelivery office, and the customer is eligible for carrier delivery service, a box at the nondelivery office is provided at the Group D fee. If the customer is not eligible for carrier delivery service and does not receive carrier delivery via an out-of-bounds delivery receptacle, a box of any size at the nondelivery office or the smallest vacant box at the containing delivery office is provided at the Group E fee (no fee).

[Amend 5.1c(2) by replacing ''geographic ZIP Code boundaries'' with ''geographic delivery ZIP Code boundaries'' to read as follows:]

(2) If the box customer's physical residence or business location is outside the geographic delivery ZIP Code boundaries of the post office containing the nondelivery office, a box is provided at the Group D fee.

[Add new 5.1d to read as follows:]

d. Single-Point Delivery. Eligibility for Group E fees does not extend to individual tenants, contractors, employees, or other individuals receiving or eligible to receive single-point delivery such as delivery to a hotel, college, military installation, or transient trailer park.

[Amend 5.2 by adding ''and not under the administration of a post office'' after ''post office boxes'' to read as follows:]

5.2 Mail Processing Facilities

Mail processing facilities with post office boxes and not under the administration of a post office apply Group C fees to post office boxes, except as provided in 5.3.

[Amend 5.3 by removing ''McLean, VA 22103'' in Exhibit 5.3 to read as follows:]

5.3 Facilities Assigned Location-Based Box Fees

The facilities defined by the ZIP Codes in Exhibit 5.3 constitute exceptions to the fee groupings described in 5.1 and 5.2. Group A or B fees apply as identified.

FACILITIES ASSIGNED LOCATION-BASED BOX FEES—EXHIBIT 5.3

Group	Location	ZIP Codes
A	New York, NY	10001–10299
B	Boston, MA	02113, 02115, 02117, 02128, 02134, 02135, 02139, 02140, 02142, 02146, 02158–02162, 02164–02168, 02178, 02179, 02181, 02205, 02214–02216, 02218, 02238
	Staten Island, NY	10301–10399
	Long Island City, NY	11101–11199
	Brooklyn, NY	11201–11299
	Queens (Flushing), NY	11301–11399
	Queens (Jamaica), NY	11401–11499
	Queens (Far Rockaway), NY	11601–11699
	Philadelphia, PA	19101–19104, 19105, 19107
	Washington, DC	20004–20009, 20013, 20026, 20033, 20035, 20036, 20037, 20038, 20043, 20044, 20050, 20056
	Bethesda, MD	20813, 20824, 20825, 20827
	Arlington, VA	22202, 22209, 22210, 22216

FACILITIES ASSIGNED LOCATION-BASED BOX FEES—EXHIBIT 5.3—Continued

Group	Location	ZIP Codes
	Chicago, IL 60606, 60610, 60611, 60654, 60664, 60680, 60681, 60684, 60690.	
	Los Angeles, CA	90019, 90024, 90025, 90034, 90035, 90048, 90049, 90064, 90067, 90069
	Beverly Hills, CA	90210–90212
	Santa Monica, CA	90401–90405
	San Francisco, CA	94101, 94107, 94108, 94126, 94133, 94147, 94159, 94164
	Honolulu, HI	96801–96815, 96830

* * * * *

D920 Caller Service

* * * * *

4.0 BASIS OF FEES AND PAYMENT

[Amend 4.1 by removing ''McLean, VA 22103'' from Exhibit 4.1 to read as follows:]

4.1 Basic Caller Fee

The caller service fee groups are shown in Exhibit 4.1 and are charged per semiannual (6-month) period. The fee must be paid for each caller number or separation used, with two exceptions:

* * * * *

CALLER SERVICE GROUPS—EXHIBIT 4.1

Group	Location	ZIP Codes
A	New York, NY	10001–10299
B	Boston, MA	02113, 02115, 02117, 02128, 02134, 02135, 02139, 02140, 02142, 02146, 02158–02162, 02164–02168, 02178, 02179, 02181, 02205, 02214–02216, 02218, 02238
	Staten Island, NY	10301–10399
	Long Island City, NY	11101–11199
	Brooklyn, NY	11201–11299
	Queens (Flushing), NY	11301–11399
	Queens (Jamaica), NY	11401–11499
	Queens (Far Rockaway), NY	11601–11699
	Philadelphia, PA	19101–19104, 19105, 19107
	Washington, DC	20004–20009, 20013, 20026, 20033, 20035, 20036, 20037, 20038, 20043, 20044, 20050, 20056
	Bethesda, MD	20813, 20824, 20825, 20827
	Arlington, VA	22202, 22209, 22210, 22216
	Chicago, IL	60606, 60610, 60611, 60654, 60664, 60680, 60681, 60684, 60690
	Los Angeles, CA	90019, 90024, 90025, 90034, 90035, 90048, 90049, 90064, 90067, 90069
	Beverly Hills, CA	90210–90212
	Santa Monica, CA	90401–90405
	San Francisco, CA	94101, 94107, 94108, 94126, 94133, 94147, 94159, 94164
	Honolulu, HI	96801–96815, 96830
C	All post offices with city delivery and all nondelivery mail processing facilities not listed in Group A or B.	
D	All post offices with no city delivery but with only rural or highway contract delivery and not listed in Group A or B.	

* * * * *

[Add new 4.8 to read as follows:]

4.8 Exception for Group D Offices

Postmasters at Group D offices with fewer than 500 post office boxes may set April 1 and October 1 as the beginning of payment periods for caller service customers in their offices. Payment periods beginning other than April 1 or October 1 are brought into alignment with these respective dates by adjusting fees as follows:

a. New service, one-sixth of the semiannual fee is charged for each remaining month between the beginning of the new payment period and the next April 1 or October 1.

b. Existing service, one-sixth of the semiannual fee is charged for each remaining month between the end of all currently paid periods and the next April 1 or October 1.

c. Next one or two semiannual payment periods, an adjustment may be accepted in addition to fees.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 97–15125 Filed 6–9–97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–5838–6]

Clean Air Act Final Interim Approval of Operating Permits Program; Commonwealth of Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is granting final interim approval, pursuant to Title V of the Clean Air Act, of the Operating Permits Program which the Commonwealth of Virginia submitted for the purpose of complying with

Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: July 10, 1997.

ADDRESSES: Copies of the Commonwealth's submittal and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: U.S. EPA Region III; Air, Radiation, & Toxics Division; 841 Chestnut Building; Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: Ray Chalmers, 3AT23; U.S. EPA Region III; Air, Radiation, & Toxics Division; 841 Chestnut Building; Philadelphia, PA 19107. Phone: (215) 566–2061.

SUPPLEMENTARY INFORMATION:

I. Background

States are directed by the 1990 Clean Air Act (''the Act''), 42 U.S.C. 7401, *et seq.* to develop and submit operating permits programs to EPA by November 15, 1993. The requirements for approval of State operating permits programs are found at sections 501 through 506 of the Act, and at 40 CFR part 70. These requirements encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards. EPA is required to approve or disapprove each program within 1 year after receiving the submittal. Where a program substantially, but not fully, meets the requirements of 40 CFR part 70, EPA may grant the program interim approval for a period of up to 2 years.

II. EPA Action and Implications

EPA proposed to grant approval of the Commonwealth of Virginia's 40 CFR part 70 operating permits program, and its program for receiving delegation of 112 standards, in a **Federal Register** document published on March 18, 1997. See 62 FR 12778. EPA hereby incorporates by reference the discussion and rationale contained in the March 18, 1997 proposed interim approval notice. That notice may be consulted for a detailed description of the Commonwealth's submittals and for an explanation of why EPA believes interim approval is appropriate, and why EPA is not able at this time to grant full approval to Virginia's program. After consideration of public comments received on the proposal, EPA is granting final interim approval to the Commonwealth's operating permits program. The Commonwealth's approved program consists of Title V operating permit and fee program regulations submitted on September 10, 1996, operating permit regulations for acid rain sources submitted on September 12, 1996, and the non-regulatory portions of operating permit program submittals from the Commonwealth dated November 12, 1993, January 14, 1994, January 9, 1995, May 17, 1995, February 6, 1997, and February 27, 1997. In addition, the EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the Commonwealth's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the 40 CFR part 70 program.

The Commonwealth of Virginia's 40 CFR part 70 program approved in this document applies to all 40 CFR part 70 sources (as defined in the approved program) within the Commonwealth. This interim approval extends until July 12, 1999. As described below, during this interim approval period the Commonwealth of Virginia is protected from sanctions, and EPA is not obligated to administer and enforce a Federal operating permits program promulgated at 40 CFR part 71 in the Commonwealth. Permits issued under a program with interim approval have full standing with respect to 40 CFR part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

On July 1, 1996, EPA promulgated regulations at 40 CFR Part 71 which govern EPA's implementation of a Federal operating permits program. See 61 FR 34202. On July 31, 1996, EPA published a document at 61 FR 39877 listing states, including Virginia, whose 40 CFR part 70 operating permits programs had not been approved by EPA and where a 40 CFR part 71 Federal operating permits program was effective as of that date. Today's action cancels the applicability of the 40 CFR part 71 Federal operating permits program in Virginia. Upon the effective date of today's approval, the 40 CFR part 71 application deadline will be superseded by Virginia's 40 CFR part 70 application deadlines.

III. Public Comments and EPA's Response

EPA received two comments, both from corporations, in response to its proposal to grant interim approval to Virginia's Title V operating permits program. One company supported the proposed interim approval. The other company, which treats contaminated soil using a thermal desorption technology, argued that EPA should withdraw the proposed interim approval of Virginia's Title V program because the company believes Virginia had shown that it was unable or unwilling to appropriately permit sources. The evidence the company cited was that in 1993 Virginia had issued a construction permit to one of the commenter's competitors (which treats contaminated soil using an alternative bio-remediation process), and had not required the competing company to install emission controls which the commenter considered appropriate.

40 CFR part 70 establishes the criteria that EPA must use to evaluate the approvability of a State's Title V program. EPA has determined that Virginia's Title V program meets the requirements for interim approval set forth at 40 CFR 70.4(d). 40 CFR part 70 also requires that, upon interim approval of its Title V operating permit program, Virginia will be obligated to implement and enforce the program in accordance with the requirements of Title V and 40 CFR part 70 and all agreements between the Commonwealth and EPA concerning the operation of the program. See 40 CFR 70.10(b). EPA will be reviewing permits and permit revisions Virginia proposes to issue, pursuant to its authority under 40 CFR 70.8, and will object to the issuance of any proposed permit or permit revision that EPA determines does not assure compliance with all applicable requirements or otherwise conform to the requirements of Title V and 40 CFR part 70. If EPA should determine, based on its review of the Commonwealth's proposed permits or permit revisions, or on other relevant information, that Virginia is not adequately administering and/or enforcing its Title V program, EPA could act to: (1) Withdraw approval of the program or portions thereof; (2) apply the sanctions set forth in section 179(b) of the Act; and/or (3) administer and enforce the Federal program under Title V of the Act and 40 CFR part 71. See 40 CFR 70.10(c)(1) (ii) and (iii).

Given that EPA has the authority to take appropriate action should Virginia fail to adequately administer and enforce its operating permits program, and that EPA has the authority to review and object to the issuance of individual Title V operating permits proposed by Virginia, EPA believes that it is appropriate to grant interim approval to Virginia's program, based on the Agency's review of Virginia's submitted program. Consequently, EPA disagrees with the commenter's assertion that

Virginia is not eligible for Title V program approval.

IV. Interim Approval Items

EPA cannot fully approve Virginia's Title V operating permits program until Virginia corrects the six program deficiencies which EPA discussed in detail in its notice proposing interim approval of Virginia's program. The required corrections are summarized below:

A. Reduce the Level of CO Emissions Considered Insignificant

Virginia must change its designation of which emission units emitting carbon monoxide (CO) are insignificant. Virginia defines any emissions unit emitting less than 100 TPY of carbon CO as insignificant, and EPA has determined that the 100 TPY emissions level is unreasonably high. Virginia must significantly reduce this emissions level to a level consistent with EPA policy and consistent with what EPA has approved in other State programs. For further discussion of this issue, see EPA's proposed interim approval notice at 62 FR 12782.

B. Require Sources to Include in Their Permit Applications Sufficient Information Regarding Insignificant Emission Units To Enable Applicable Requirements for Those Units To Be Identified

Virginia must, in accordance with 40 CFR 70.5(c), require sources to include in their Title V permit applications all information for insignificant emission units which is required to identify any applicable requirements for those units. Virginia does currently require sources to submit emissions information for insignificant emission units, which can be used to identify many applicable requirements for those units, but it fails to require sources to submit any additional information which might be required. For further discussion of this issue, see EPA's proposed interim approval notice at 62 FR 12782.

C. Require Applicable Requirements for Insignificant Emission Units To Be Included in Permits

Virginia must require all applicable requirements to be included in permits, with no exceptions for insignificant emissions units, in accordance with 40 CFR 70.6. Virginia's regulations currently require all applicable requirements for all emission units in the source to be included in permits, except for applicable requirements for insignificant emissions units. Virginia must delete the exception for insignificant units. For further discussion of this issue, see EPA's proposed interim approval notice at 62 FR 12782–12783.

D. Correctly Define Which Emergency or Standby Compressors, Pumps, and/or Generators Are Insignificant

Virginia must clarify its provision designating emergency or standby compressors, pumps, and/or generators as insignificant emissions units, and must reduce the horsepower size cut-off levels for such units sufficiently to exclude any unit which would be likely to trigger an applicable requirement or to emit air pollutants in major amounts, in accordance with 40 CFR 70.5(c). For further discussion of this issue, see EPA's proposed interim approval notice at 62 FR 12783.

E. Prohibit ''Off Permit'' Changes Pertaining to Requirements of the Acid Rain Provisions of Title IV of the CAA

Virginia must modify its Title V provisions pertaining to ''off permit'' changes (changes not addressed or prohibited by the permit) to exclude from eligibility changes involving the requirements of the acid rain provisions of Title IV of the Act, in accordance with 40 CFR 70.4(b)(15). For further discussion of this issue, see EPA's proposed interim approval notice at 62 FR 12783.

F. Correct Affirmative Defense Provisions

Virginia must allow the legal defense of malfunction only for those malfunctions which are timely reported to the Commonwealth, in accordance with the requirements at 40 CFR 70.6(g). Virginia's current affirmative defense provision is inadequate in that it allows the defense of malfunction for malfunctions not timely reported to the Commonwealth if those malfunctions lasted less than one hour. For further discussion of this issue, see EPA's proposed interim approval notice at 62 FR 12783–12784.

V. Sanctions Lifted

In the notice proposing interim approval of the Virginia Title V operating permits program EPA made an interim final determination that the Commonwealth had corrected the deficiencies prompting the original disapproval of the Virginia Title V operating permits program. The interim final determination stayed and deferred the implementation of sanctions unless and until either the proposed interim approval was finalized or withdrawn.

EPA sought comments on this interim final determination as well as on EPA's proposed approval of the Commonwealth's submittal. EPA received no comments on its interim final determination. In this notice EPA is granting final interim approval to Virginia's Title V submittal. EPA is making a final determination that the Commonwealth has corrected the deficiencies prompting the original disapproval of the Virginia Title V operating permits program. EPA was required to apply the first sanction on July 5, 1996, and the second sanction on January 5, 1997, unless by those dates EPA had determined that Virginia had corrected each of the deficiencies that prompted EPA's original disapproval. EPA interprets the CAA to require the Administrator to select by rulemaking which sanction to apply first, before mandatory sanctions may actually be imposed. These sanctions have not been applied in Virginia because EPA has not yet published such a rule covering deficiencies under Title V.

Section 502(g) provides that for the period of any interim approval, the sanctions provisions of section 502(d)(2) of the Act shall be suspended. See also, *Update to Sanctions Policy for State Title V Operating Permits Programs,* John S. Seitz, Director Office of Air Quality Planning and Standards (March 28, 1995). Therefore, EPA has determined that sanctions applicable to the Commonwealth as a result of EPA's December 5, 1994 disapproval of Virginia's Title V operating permits program are lifted.

VI. Federal Oversight and Potential Sanctions

If the Commonwealth of Virginia fails to submit a complete corrective program for full approval by January 11, 1999, EPA will start an 18-month clock for mandatory sanctions. If the Commonwealth then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that the Commonwealth has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of the Commonwealth, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determined that the Commonwealth had come into compliance. In any case, if, six months after application of the first sanction, the Commonwealth still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves the Commonwealth's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the Commonwealth has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of the Commonwealth, both sanctions under section 179(b) shall apply after the expiration of the 18-month period until the Administrator determines that the Commonwealth has come into compliance. In all cases, if, six months after EPA applies the first sanction, the Commonwealth has not submitted a revised program that EPA has determined corrects the deficiencies, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the Commonwealth has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the Commonwealth's program by the expiration of this interim approval, EPA must administer and enforce the Federal permits program for the Commonwealth, under 40 CFR part 71, upon expiration of interim approval.

VII. Administrative Requirements

A. Official File

Copies of the Commonwealth's submittal and other information relied upon for the final interim approval, including public comments on the proposal, are contained in the official file maintained at the EPA Regional Office. The file is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The official file is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether its regulatory actions are ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines a significant regulatory action ''as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small environmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this interim approval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedure Act, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule approving interim final approval of Virginia's Title V program and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Dated: May 29, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

Part 70, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by revising paragraph (a) in the entry for Virginia to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Virginia

(a) The Commonwealth of Virginia's Title V operating permit and fee program regulations submitted on September 10, 1996, the acid rain operating permit regulations submitted on September 12, 1996, and the non-regulatory operating permit program provisions submitted on November 12, 1993, January 14, 1994, January 9, 1995, May 17, 1995, February 6, 1997, and February 27, 1997; interim

approval effective on July 10, 1997; interim approval expires July 12, 1999.

* * * * *

[FR Doc. 97–15090 Filed 6–9–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7666]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Executive Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Executive Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/Location	Community No.	Effective date of Eligibility	Current Effective map date	Date Certain Federal Assistance no longer Available in Special Flood Hazard Areas
Region II				
New Jersey: Bridgewater, township of, Somerset County.	340432	Nov. 26, 1971, Emerg.; Dec. 1, 1978, Reg.; June 5, 1997, Susp.	June 5, 1997	June 5, 1997.
Region III				
Pennsylvania: East Cocalico, township of, Lancaster County.	420547	Apr. 24, 1974, Emerg.; Mar. 16, 1981, Reg.; June 5, 1997, Susp.	Do	Do.
Region VI				
Texas:				
Orange, city of, Orange County.	480512	Jan. 15, 1974, Emerg.; Jan. 6, 1983, Reg.; June 5, 1997, Susp.	Do	Do.
Orange County, unincorporated areas.	480510	Nov. 6, 1970, Emerg.; January 6, 1983, Reg.; June 5, 1997, Susp.	Do	Do.
Rowlett, city of, Dallas and Rockwall Counties.	480185	June 10, 1975, Emerg.; Sept. 1, 1978, Reg.; June 5, 1997, Susp.	Do	Do.
Region IX				
Arizona: Navajo County, unincorporated areas.	040066	Jan. 30, 1975, Emerg.; June 1, 1982, Reg.; June 5, 1997, Susp.	Do	Do.
California:				
Lompoc, city of, Santa Barbara County.	060334	Nov. 22, 1974, Emerg.; Dec. 18, 1984, Reg.; June 5, 1997, Susp.	Do	Do.
Mono County, unincorporated areas.	060194	Sept. 5, 1975, Emerg.; Aug. 19, 1985, Reg.; June 5, 1997, Susp.	Do	Do.
Sonoma, city of, Sonoma County.	060383	May 22, 1975, Emerg.; Jan. 17, 1979, Reg.; June 5, 1997, Susp.	Do	Do.
Nevada: Douglas County, unincorporated areas.	320008	Feb. 12, 1974, Emerg.; Mar. 28, 1980, Reg.; June 5, 1997, Susp.	Do	Do.
Region X				
Oregon: Aurora, city of, Marion County.	410156	Aug. 11, 1975, Emerg.; June 30, 1976, Reg.; June 5, 1997, Susp.	Do	Do.
Region X				
Oregon: Marion County, unincorporated areas.	410154	Dec. 10, 1971, Emerg.; Aug. 15, 1979, Reg.; June 19, 1997, Susp.	June 19, 1997	June 19, 1997.
Washington: Okanogan County, unincorporated areas.	530117	Apr. 30, 1974, Emerg.; Mar. 15, 1979, Reg.; June 19, 1997, Susp.	Do	Do.

Code for reading third column: Emerg.;—Emergency; Reg.;—Regular; Rein.—Reinstatement; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Issued: May 30, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97–15022 Filed 6–9–97; 8:45 am]

BILLING CODE 6718–05–P

NATIONAL SCIENCE FOUNDATION

45 CFR Part 675

Medical Screening for NSF-Sponsored Personnel Traveling to Antarctica

AGENCY: National Science Foundation.

ACTION: Final Rule with request for comments.

SUMMARY: The National Science Foundation (NSF), as operator and manager of the United States Antarctic Program (USAP), is assuming from the Department of the Navy the responsibility for medical screening of all persons who travel to Antarctica under the auspices of the USAP. This rule sets forth the procedures, patterned on the current Navy procedures, that the USAP will use in performing the medical screening.

DATES: This rule is effective July 10, 1997. Comments, however, are welcome at any time and will be considered in making future revisions or modifications to the rule.

ADDRESSES: All comments should be addressed to: Harry Mahar, Safety and Health Officer, at Office of Polar Programs, Room 755, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

FOR FURTHER INFORMATION CONTACT: Harry Mahar by telephone at (703) 306–1032 (not a toll-free number) or by electronic mail at hmahar@nsf.gov through the INTERNET.

SUPPLEMENTARY INFORMATION: Presidential Memorandum no. 6646 (February 5, 1982) sets forth the National Science Foundation's overall management responsibilities for the entire United States national program in Antarctica. That Memorandum instructed the NSF to maintain the United States Antarctic Program (USAP) as an active and influential presence in Antarctica designed to support the range of U.S. antarctic interests. It directed the NSF to draw upon the capabilities of other government agencies, on a cost-reimbursable basis, and commercial support entities in meeting its managerial role in a cost-effective manner.

The NSF has utilized the Department of the Navy, as the Executive Agent of the Department of Defense, to provide operational and logistic support to the USAP, as described in an interagency

Memorandum of Agreement dated October 3, 1985. That Memorandum of Agreement stipulated that the Navy would, among other services, medically screen all USAP personnel for travel to Antarctica and provide medical and dental services to USAP participants while deployed there.

In conducting medical screening, the USAP uses criteria set forth in the U.S. Navy's Manual of the Medical Department/Bureau of Medicine and Surgery (Article 15–64), a Navy regulation, which was established over its forty year presence in Antarctica. The criteria reflect the demands of the harsh Antarctic environment. Depending on assignment, personnel may be working at terrestrial elevations as high as 12,000 feet (3,600 meters) and at temperatures as low as −123°F (−86°C) and may be isolated for up to nine months. Moreover, medical facilities in Antarctica are limited, and may be distant or inaccessible from working or research sites. In medical emergencies, timely evacuation to more comprehensive medical facilities off the Antarctic continent may be impossible depending upon the location and time of deployment. Rigorous screening criteria are therefore necessary to identify individuals who are physically qualified and psychologically adapted for assignment or travel to Antarctica.

Over the last several years, the Navy's involvement with the USAP has been reduced by mutual agreement, and many of the functions historically provided by the Navy are being transferred to other governmental and private sector entities. The medical care function, including the medical screening of USAP participants, will be transferred from the Navy to civilian contract support on October 1, 1997. During the transition, the NSF will continue to utilize the same screening criteria previously established for the USAP.

The NSF is publishing this final rule to prevent any discontinuity in the medical screening process during the transition period. Because this rule preserves the status quo and has no effect on any individual beyond those already covered by the existing Navy regulation, it is being issued in final form.

Determinations

I have determined under the criteria set forth in Executive Order 12866 that this rule is not a significant regulatory action requiring review by the Office of Information and Regulatory Affairs. In addition, this rule is excepted from the Administrative Procedure Act, 5 U.S.C. 553(a)(2), because it ''relat[es] to loans, grants [or] benefits,'' and is related to NSF's internal management of the USAP. Therefore, the APA does not require publication of a proposed rule for public comment. The Regulatory Flexibility Act also does not apply to this regulation because this regulation was not required to be promulgated as a proposed rule by the Administrative Procedure Act (APA), 5 U.S.C. 553, or by any other law. Consequently, no Regulatory Flexibility Analysis has been or will be prepared. I have reviewed this rule in light of Section 2 of Executive Order 12778 and certify for the National Science Foundation that this rule meets the applicable standards provided in sections 2(a) and 2(b) of that order. Finally, I have determined that this rule does not require Congressional review before taking effect pursuant to 5 U.S.C. 804(3)(B) because it involves NSF's internal management of the USAP.

Dated: May 13, 1997.

Lawrence Rudolph,

General Counsel.

List of Subjects in 45 CFR Part 675

Antarctica, Government employees, Health and safety, Scientists.

For the reasons set forth in the preamble, 45 CFR Chapter VI is amended by adding part 675 to read as follows:

PART 675—MEDICAL CLEARANCE PROCESS FOR DEPLOYMENT TO ANTARCTICA

Sec.
675.1 Purpose and authority.
675.2 Medical examinations.
675.3 Medical clearance criteria.
675.4 Waiver process.

Authority: 42 U.S.C. 1870.

§ 675.1 Purpose and authority.

(a) This part sets forth the procedures for medical screening to determine whether candidates for participation in the United States Antarctic Program (USAP) are physically qualified and psychologically adapted for assignment or travel to Antarctica. Medical screening examinations are necessary to determine the presence of any physical or psychological conditions that would threaten the health or safety of the candidate or other USAP participants or that could not be effectively treated by the limited medical care capabilities in Antarctica.

(b) Presidential Memorandum No. 6646 (February 5, 1982) (available from the National Science Foundation, Office of Polar Programs, Room 755, 4201 Wilson Blvd., Arlington, VA 22230) sets forth the National Science Foundation's overall management responsibilities for the entire United States national program in Antarctica.

§ 675.2 Medical examinations.

(a) Any individual seeking to travel to Antarctica under sponsorship of the United States Antarctic Program must undergo a medical and dental examination to determine whether the individual is physically qualified for deployment to Antarctica.

(b) The medical and dental examinations may be conducted by a qualified licensed physician or dentist of the candidate's choosing, or designated by the employing organization, following instructions provided by the USAP. The medical examinations shall include a medical history, physical examination and appropriate clinical tests which address major organ systems for medical conditions inconsistent with safe deployment to Antarctica.

(c) The candidate's physician/dentist will submit the required medical information on the appropriate USAP-provided forms to a USAP-designated physician who will determine whether the individual is qualified for deployment to Antarctica based upon Medical Clearance Criteria established by the USAP. All information requested on the forms shall be provided.

(d) Candidates who anticipate spending the austral winter in Antarctica (when evacuation may be impossible) are subject to additional evaluation, including a determination of psychological adaptability for such an isolated assignment. Psychological evaluations of ''winter-over'' candidates shall be performed by a qualified team of USAP-designated physicians/clinical psychologists.

§ 675.3 Medical clearance criteria.

(a) The USAP shall establish Medical Clearance Criteria for determining eligibility for deployment to Antarctica. (See Medical Standards for Antarctic Deployment available from the National Science Foundation, Office of Polar Programs, Room 755.09 4201 Wilson Blvd., Arlington, VA 22230).

The criteria will include examination of the following major organ systems:

(1) Lungs and chest wall.
(2) Heart and vascular system.
(3) Abdominal organs and gastrointestinal system.
(4) Endocrine or metabolic system.
(5) Genitalia and urinary system.
(6) Musculoskeletal.
(7) Skin and cellular tissues.
(8) Neurological Disorders.
(9) Psychiatric or psychological.
(10) Dental.

(b) The USAP may review and revise the Medical Clearance Criteria periodically as appropriate.

§ 675.4 Waiver process.

(a) If an individual is found not physically qualified for deployment to Antarctica, the USAP's contractor will inform the individual of the determination and of the administrative waiver process, and will provide a waiver application package to the individual upon request.

(b) The waiver applicant should send the completed waiver application package to the USAP's contractor which will forward the package to NSF's Office of Polar Programs for review and a determination on the appropriateness of a waiver. In making the waiver determination, the Office of Polar Programs may consult with other qualified medical personnel and may require waiver applicants to take further medical examinations or to furnish additional medical documentation in support of the waiver application.

(c) The Director, Office of Polar Programs (or designee) will make a final determination, in the exercise of his or her discretion, on the appropriateness of a waiver on a case-by-case basis.

(d) Individuals for whom a waiver is determined to be appropriate are eligible for deployment to Antarctica subject to any necessary limitations/restrictions identified by the Director, Office of Polar Programs, or designee.

[FR Doc. 97–14700 Filed 6–9–97; 8:45 am]

BILLING CODE 7555–01–M

Proposed Rules

Federal Register
Vol. 62, No. 111
Tuesday, June 10, 1997

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 ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–90–201]

RIN 1904–AA76

Energy Conservation Program for Consumer Products: Notice of Public Workshop on Residential Water Heater Energy Efficiency Standards Rulemaking

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

ACTION: Notice of public workshop.

SUMMARY: The Department of Energy (the Department or DOE) today gives notice that it will convene a public workshop to discuss the proposed analytical framework for evaluating possible revisions to the water heater energy efficiency standards. The objective of the workshop will be to discuss the methodology and approaches to be utilized throughout the water heater standards rulemaking process.

DATES: The public workshop will be held on Tuesday, June 24, 1997, from 9:00 a.m. to 4:00 p.m.

ADDRESSES: The workshop will be held at the U.S. Department of Energy, Room 1E–245, 1000 Independence Avenue, SW., Washington, DC 20585.

Copies of the transcript of the public workshop, public comments received, and this notice may be read at the DOE Freedom of Information Reading Room, U.S. DOE, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6020, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–43, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–0371.

Ms. Sandy Beall, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, Mail Station EE–43, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–7574.

SUPPLEMENTARY INFORMATION: In the preamble to the Department's final rule on procedures for consideration of new or revised energy conservation standards for consumer products published on July 15, 1996, DOE committed to revise the analysis of energy efficiency standards for water heaters and to issue a revised notice of proposed rulemaking. 61 FR 36973 (July 15, 1996). The water heater standards rulemaking has been designated a high priority by DOE as addressed in the Department's Regulatory Plan and the Unified Agenda. 61 FR 62043 and 62460 (November 29, 1996).

In continuing the work on possible revisions to energy efficiency standards on water heaters, the Department is convening a workshop to present and receive public comments on the proposed analytical approach for evaluating the water heaters standards. At this workshop the following will be discussed:

The Rulemaking Schedule

The Analytical Framework (including the major components of the methodology and the relationships among the components)

Issues for Analysis

Analytical Methods and Tools (including the selection of engineering and economic analytical tools to be used on issues such as engineering analysis, national benefits forecast, manufacturer impact, and utility impacts)

Data Requirements and Data Collection Methods

Industry Characterization (including input on the present and past industry structure and market characteristics)

Identification of Experts and Other Interested Parties (who can provide expert review of the results of the engineering and economic analyses)

Identification of Qualifications for Contractors

The workshop will be held on Tuesday, June 24, 1997, at the U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0121 in Room 1E–245 from 9:00 a.m. to 4:00 p.m. Further background on the approach to be followed in evaluating these standards is found in Appendix A of Subpart C of 10 Code of Federal Regulations (CFR) Part 430, see 61 FR 36973 (July 15, 1996) which outlines the planning and prioritization process, data collection and analysis, and decision making criteria.

The Department also welcomes written comments or recommendations on the process and the tools to be used for the water heater rulemaking. Written comments or recommendations should be submitted to Sandy Beall at the above listed address.

Copies of this notice, the workshop transcript, and any written comments will be available in the DOE Freedom of Information Reading Room.

Please notify Sandy Beall or Bryan Berringer at the above listed address if you intend to attend the workshop, if you wish to receive material prepared for the workshop, or if you wish to be added to the DOE mailing list for receipt of future notices and information concerning water heater matters relating to energy efficiency.

Issued in Washington, DC, on June 3, 1997.

Joseph J. Romm,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–15105 Filed 6–9–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 451

[Docket No. EE–NOI–97–301]

Renewable Energy Production Incentive Program

AGENCY: Department of Energy.

ACTION: Notice of Inquiry and public meeting and request for public comment.

SUMMARY: The Department of Energy (DOE) is publishing this Notice of Inquiry (NOI) to obtain information on possible changes to the Renewable Energy Production Incentive (REPI) program that will improve its

effectiveness as a financial incentive for the development of new qualifying renewable energy generation facilities.

DATES: Written comments (7 copies) will be considered if received at the address provided below no later than July 31, 1997. A public meeting will be held on July 15, 1997, beginning at 9:30 a.m., at the address listed below. Requests to speak must by received by the Department on or before July 11, 1997.

ADDRESSES: All written comments (7 copies) as well as requests to speak at the public meeting are to be submitted to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–10, Docket No. EE–NOI–97–301, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–3012. FAX comments will not be accepted. The comment and the envelope in which the required number of copies is mailed should be marked ''Notice of Inquiry, Docket EE–NOI–97–301.'' The public meeting will be held at U.S. Department of Energy, Forrestal Building, Room 1E–245, 1000 Independence Avenue, SW., Washington, DC 20585. Copies of the transcript of the public meeting and public comments received may be read at 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: Robert H. Brewer, Office of Energy Efficiency and Renewable Energy, EE–10, U.S. Department of Energy, 1000 Independence Avenue, SW., Room 5H–021, Washington, DC 20585, (202) 586–2206. For information concerning the public meeting and submission of comments, contact Andi Kasarsky, (202) 586–3012.

SUPPLEMENTARY INFORMATION:

Background

In this NOI, the DOE requests information on possible changes to the REPI program to improve its incentive value. The REPI program, which was established by the Energy Policy Act of 1992, is designed to provide a 10-year production incentive payment of 1.5 cents per kilowatt-hour (kWh), adjusted for inflation and subject to the availability of annual appropriations, to States or subdivisions of States or non-profit electric cooperatives, herein referred to as public power organizations, that own new or newly converted qualifying renewable energy generation facilities. Since the incentive payments depend on the availability of annual appropriations, potential owners of qualifying renewable energy facilities are uncertain that future production incentive payments will be made. This uncertainty reduces the incentive value of the production incentive payments when decisions are being made concerning development of new renewable energy generation facilities.

To implement the REPI program, the Department issued a proposed rule on May 13, 1994 (59 FR 24982), and published a final rule on July 19, 1995 (60 FR 36959). This process has resulted in regulations codified at 10 CFR Part 451 (1997), which govern the implementation of the REPI program. In accordance with these regulations, the Department makes determinations on the eligibility of owners and facilities concerning incentive payments. The Department also reviews qualified applicants' annual submissions of net electricity produced from qualified facilities. Annual payments are made for this electric production, subject to the availability of annual appropriations. If there are insufficient appropriations to make full incentive payments, some or all applicants may receive either no payment or payment for only a portion of the net electricity produced by their facility, with the remainder designated as (unpaid) accrued energy. An applicant may submit a request for payment based on accrued energy in subsequent years within the allowed ten-fiscal year period for that facility.

Congressional appropriations have been sufficient to fully pay production incentives for net electricity produced by qualified facilities in fiscal year 1994 (payments of $693,120) and in fiscal year 1995 (payments of $2,398,472). Based on a review of applications for net electricity produced in fiscal year 1996, appropriations are insufficient to fully pay all qualifying applicants for the net electricity that their facility produced ($2,490,893 is available for these payments). When appropriated funds are insufficient to fully pay all qualified applicants, a two-tier payment process, as described in 10 CFR Section 451.9(e) (1997), is used. Applications for payment have grown from seven for fiscal year 1994 production to eleven for fiscal year 1995 production to eighteen for fiscal year 1996 production.

The intended purpose of the REPI program is to provide a 10-year production incentive payment to public power organizations that would be fully considered in their decision to potentially select an eligible type of renewable energy generation system. However, public comment and subsequent stakeholder feedback reveal that the REPI production incentive payments are either not valued or are undervalued during the decision-making process, since they are dependent upon annual appropriations. The following excerpt is from the discussion of comments in the final rule for the REPI program: ''Several of the commenters who recommended a 10-year escrow account argued that potential investors in new renewable energy facilities are unlikely to take account of payments under this program in assessing an investment without assurances, at the time of investment, that the full schedule of payments would be made. DOE believes this argument has merit. However, additional work by DOE and its stakeholders is needed to develop a payout approach that will maximize the effectiveness of the program as an incentive for promoting incremental investment in new renewable energy facilities. DOE intends to publish a notice in the near future that invites suggestions from interested persons regarding possible program modifications, including possible statutory or regulatory changes, that can increase the incentive value of this effort.'' 60 FR 36963 (1995). This NOI is that notice.

Representatives of public power organizations have stated that an effective REPI program can become the single most important incentive mechanism available to them for encouraging investment in new renewable energy generation facilities. Various commenters have suggested a few options that they believe would lead to the full valuation of the 10-year REPI production incentive payments in the decisions by public power organizations to acquire and operate new renewable energy generation facilities. These suggested changes would require either regulatory or statutory change. One suggestion, which would require changing the existing regulations, is the use of annual REPI appropriations to establish a ''10-year escrow account'' to fully fund the incentive payments for the estimated amount of net generation over the eligible ten-year period. Because of the ten-year commitment, fewer qualified facilities would receive funding for a given year's appropriation, which might necessitate a prioritization procedure to fully fund qualified facilities. Possible priority procedures for funding qualified facilities could be based on either the facility startup date or the date an application for the facility is received. Another suggestion, which would require statutory change, is the

establishment of a trust fund account for REPI payments that would be funded by accelerated appropriations, other revenue sources (such as a line charge or wire charge), or a combination of both. The third suggestion, which would also require statutory change, is to allow public power entities to pass on the incentive payment over the 10-year payment period as a tax credit to customers who agree to purchase, potentially under a separate rate schedule, the electricity from a qualified renewable energy facility. In this NOI, DOE seeks comment on these options and other appropriate options that may improve the incentive value of the REPI program.

Issues for Public Comment

With respect to potential changes to the REPI program that would enhance the incentive effect of REPI payments in the decision-making of public power organizations concerning development of new renewable energy generation facilities, DOE seeks the following information:

(1) Recommendations regarding changes to the REPI program that would enhance the value of the production incentive payments in development decisions. Please specify what regulatory or statutory changes, if any, would be required for each recommendation.

(2) Discussion of how these changes would enhance the value of production incentive payments in development decisions.

(3) To the extent meaningful information can be provided, estimates of the amount of additional renewable energy generation (in megawatts capacity installed) that might begin operation by September 30, 2003, if these recommended changes are implemented.

Opportunities for Public Comment

A. Written Comment Procedures

Interested persons are invited to respond to this notice by submitting their ideas and views concerning options for modifying the REPI program so that the full value of its 10-year production incentive payments is considered in the decisions by public power organizations to acquire and operate new renewable energy generation facilities. Seven copies of each comment should be submitted to the Office of Energy Efficiency and Renewable Energy in compliance with the instructions set forth above in the **DATES** and **ADDRESSES** section of this notice.

B. Public Meeting

A public meeting on the NOI will be held at the time and place indicated in the **DATES** and **ADDRESSES** Section of this notice. To request an opportunity to speak at the public meeting, please use the phone number indicated at the beginning of this notice. The person should provide a phone number where he or she may be reached during the day. Each potential speaker will be notified by DOE as to the approximate time they will be speaking. Seven copies of the speaker's statement should be submitted at the beginning of the meeting. In the event any person wishing to speak cannot meet this requirement, alternative arrangements can be made in advance with DOE.

A transcript of the meeting will be made by DOE. 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 meeting, 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 meeting date may be canceled in the event no member of the public requests the opportunity to make an oral presentation.

Issued in Washington, DC, on June 4, 1997.

Joseph J. Romm,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–15106 Filed 6–9–97; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 261

[Docket No. R–0975]

Rules Regarding Availability of Information

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) hereby proposes to amend its Rules Regarding Availability of Information (Rules) to reflect recent changes in the Freedom of Information Act (FOIA) as a result of the Electronic Freedom of Information Act Amendments (EFOIA). In order to account for future amendments to the Rules, the sections have been renumbered.

The review of the Board's Rules that produced this proposal was conducted in accordance with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. In this regard, the amendments to the Rules clarify certain provisions and simplify the processing of requests for access to information in certain circumstances. For example, the amendments conform the language of the Rules to changes in the law.

DATES: Comments must be submitted on or before July 25, 1997.

ADDRESSES: Comments, which should refer to Docket No. R–0975, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. The mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boutilier, Senior Counsel, (202/452–2418), Legal Division; or Susanne K. Mitchell, Manager, Freedom of Information Office (202/452–2407). For the hearing impaired *only,* contact Diane Jenkins, Telecommunications Device for the Deaf (TDD)(202/452–3544), Board of Governors of the Federal Reserve System, 20th and Constitution, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Last year, Congress passed the Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231, which amends the Freedom of Information Act, 5 U.S.C. 552. Among other things, EFOIA requires agencies to promulgate regulations that provide for expedited processing of requests for records, and permits agencies to promulgate regulations that provide for multitrack processing of requests. In addition to proposing appropriate amendments to its Rules to comply with EFOIA, the Board has taken this opportunity, in accordance with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, to review and streamline those Rules.[1]

In addition, the Board is proposing to amend the Rules to take account of various statutes that have been enacted since the Rules were last revised in

[1] The regulatory citations contained in this proposed rule refer to the proposed regulation herein, rather than to the existing regulation. As noted above, the sections have been renumbered.

1988.[2] Section 913 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) and section 2547 of the Bank Fraud Act (codified at 12 U.S.C. 1818(u)), for example, require the Board to ''publish and make available to the public'' enforcement orders, including any modifications or terminations thereof, and certain other enforceable written actions. Such documents were previously included under the definition of ''confidential supervisory information,'' the disclosure of which is restricted under language in the Board's Rules.

In 1996, the Board published for comment proposed amendments to the Rules (61 FR 7436, February 28, 1996). These proposed changes primarily concerned Subpart C of the Rules and the definitions in Subpart A of terms that are used in Subpart C. In addition to those proposed changes, the Board proposed changes to certain portions of Subpart B and Subpart D to clarify the Board's procedures in processing FOIA requests. The proposed changes to Subparts A, B and D are being republished herein, and comments received on those previously proposed changes are discussed in this Supplementary Information. Subpart C is not being republished, and comments received on the previously published changes are still under consideration.

Subpart A

Subpart A contains the General Provisions, describing the authority, purpose and scope, listing the definitions applicable to this part, and explaining the responsibilities of the Secretary of the Board as custodian of the Board's records. The proposed changes to this subpart are made primarily in the ''Authority'' section to clarify the ability of the Board to provide exempt records to certain entities outside of the FOIA process in specific circumstances. In addition, certain definitions that have been included in the section on FOIA fees and fee waivers would be moved forward to the ''Definitions'' section.

Section 261.3 has been amended to clarify that authority delegated to the General Counsel and other officers of the Board may be subdelegated. An additional change to § 261.3(c) states that the Secretary of the Board is the Board's agent for service of all process, and that the Board will not accept process on behalf of employees in connection with purely private matters except as specifically provided by law.

Subpart B

Changes are proposed in Subpart B to comply with the EFOIA requirements for expedited processing. The Board also is proposing to implement multitrack processing. In addition, the Board is proposing changes to the section on fees and fee waivers; and portions of this Subpart have been reorganized and streamlined.

Section 261.10 lists the information that the Board publishes on a regular or intermittent basis. The proposed changes are intended merely to streamline and simplify the language. No substantive changes are intended.

Section 261.11 describes the information that is made available for inspection or copying, either in the Board's reading room or over the Internet, as required by EFOIA. The Board notes that the records provided over the Internet cover a much smaller scope than those available in the Board's reading room, because the requirement to provide records over the Internet covers only records created by the Board after November 1, 1996.

Section 261.12 describes the procedures for requesting records that are not published or available for inspection. This section includes the requirement that FOIA requests not be combined with any other requests to the Board except requests under the Privacy Act, which was in the 1996 proposed rule. This requirement is intended to ensure that FOIA requests are delivered promptly to the Board's Freedom of Information Office (FOI Office) when they are received, which may not occur if the FOIA request is included in a request for other action by the Board. When this amendment was proposed in 1996 (61 FR 7436, February 28, 1996), one commenter opposed it on grounds that it would prohibit a requester from combining a FOIA request with comments submitted in connection with an application under the Bank Holding Company Act of 1956 (BHCA), 12 U.S.C. 1841 *et seq.* The commenter believes that combining a FOIA request with substantive comments regarding an application may be necessary when a requester is unable to obtain non-confidential portions of an application prior to the closing of the comment period. A separate, clearly identified FOIA request delivered directly to the Secretary insures a faster FOIA response, however, because comment letters are not routinely sent to the FOIA office for action.

Section 261.13 describes the Board's procedures for processing FOIA requests. This section has been extensively revised to reflect the changes required by EFOIA. The proposed rule provides for multitrack processing. Fast-track processing will apply to records that are easily identifiable by the FOI Office staff and that have already been cleared for release to the public. Fast-track requests will be handled as expeditiously as possible, in the order in which they are received.

All information requests that do not meet the fast-track processing standards will be handled under regular processing procedures. A requester who desires fast-track processing but whose request does not meet those standards may contact the FOI Office staff to narrow the request so that it will qualify for fast-track processing. The statutory time limit for regular-track processing would be extended to twenty business days, from the previous ten business days.

Expedited processing may be provided where a requester has demonstrated a compelling need for the records, or where the Board has determined to expedite the response. The time limit for expedited processing is set at ten business days, with expedited procedures for an appeal of the Secretary's determination not to provide expedited processing. Under EFOIA, there are only two types of circumstances that can meet the compelling need standard: Where failure to obtain the records expeditiously could pose an imminent threat to the life or physical safety of a person, or where the requester is a person primarily engaged in disseminating information and there is an urgency to inform the public concerning actual or alleged agency activity. For ease of administration and consistency, the proposal uses the term ''representative of the news media,'' to describe a person primarily engaged in disseminating information, because this term is used for the FOIA fee schedule, and thus, is known to those familiar with FOIA and the Board's Rules. To demonstrate a compelling need, a requester must submit a certified statement, a sample of which may be obtained from the FOI Office.

Section 261.14 lists the exemptions from disclosure under FOIA. This section has been reorganized and streamlined, but no substantive changes are proposed.

Sections 261.15 and 261.16, which were previously located in Subpart D, have been moved to Subpart B for clarity, since they apply only to FOIA requests. Accordingly, a separate Subpart D will no longer be necessary.

[2] The Board's Rules have been implemented in a manner consistent with these and other changes described in this proposal.

These provisions implement Executive Order 12,600, June 23, 1987, by establishing certain predisclosure notification procedures for confidential business or financial information that may be exempt under (b)(4) of the FOIA, 5 U.S.C. 552(b)(4).[3]

Section 261.15 sets forth the procedures for requesting confidential treatment. The Board wishes to emphasize that failure to properly segregate confidential material from other material may result in the release of that material without prior notice to the submitter. This is particularly important in light of the Board's intention, in connection with processing BHCA applications, to provide, upon request, the public portion of an application within three business days of the request. In order to meet this deadline, the Board's and Reserve Bank's staff must rely on the applicant to properly designate the material submitted. A careful review of the material designated as ''Confidential'' will be made and any information improperly labelled as ''Confidential'' will be provided to requesters immediately upon identification as publicly available.

Section 261.16 sets forth the procedures for responding to a FOIA request for information that has been designated by the submitter as confidential. It provides for notice to the submitter that permits the submitter to provide written objections to the release of the confidential information. Section 261.16(e) describes the information that a submitter should include in its written submission objecting to the release of the documents, including whether the information was provided voluntarily under the standards set by the court case, *Critical Mass Energy Project* v. *NRC*, 975 F. 2d. 871 (D.C. Cir. 1992). If the information was not provided voluntarily, the submitter is to provide detailed facts and arguments showing either the likelihood of substantial competitive harm resulting from release of the information, or that release would impair the Board's ability to obtain necessary information in the future.

[3] These provisions are intended only to address matters of the kind covered by Executive Order 12,600, June 23, 1987. This language in this section, however, does not preclude the Board or its staff from giving notice to submitters in other situations such as, for example, where documents obtained pursuant to a confidentiality commitment are subpoenaed in civil litigation. The Board exercises its discretion in such cases consistent with applicable law. The Board does not disclose its receipt of federal grand jury subpoenas, however, except in accordance with law following consultation with appropriate law enforcement authorities.

Section 261.17 contains the FOIA fee schedules and the standards for waiver of fees. The fee schedule provisions have been revised to clarify that the processing time of a FOIA request does not begin in cases where advance payment is required until payment is received, or where a person has requested a waiver of the fees and has not agreed to pay the fees if the waiver request is denied. When similar amendments were proposed in 1996, one commenter objected to the suspension of processing where a waiver is requested and the requester has not indicated in writing that he or she will pay the applicable fees if the waiver request is denied. The commenter believes that this procedure will unnecessarily delay requests for information that also contain a fee waiver request, and accordingly, asks the Board to ensure that non-profit community and consumers' groups, particularly those representing the interests of low and moderate income or minority people, have access to public information at reduced or waived fees. The Board reviews each fee waiver request pursuant to the standards set forth in the Act and its Rules. The fact that a requester is a non-profit community group, by itself, does not justify a waiver of the fees under the terms of the Act. If, however, the non-profit community group demonstrates in its request for a waiver of fees that the information will be distributed to the community and will contribute significantly to the public understanding of the activities of the Board, then the requester should qualify under the Act and the Board's Rules for a waiver of the fees. This justification must be made, however, on each request for which a fee waiver is sought.

Additionally, the standards under which the Secretary may grant a request for waiver of fees have been modified to reflect the development of case law in this area. The rule provides for administrative appeal of a denial of a waiver request, which formalizes the Board's current procedure of permitting such administrative appeals.

Subpart C

The sections in Subpart C have been renumbered to be consistent with the renumbering of Subparts A and B in this proposal. No substantive changes are proposed at this time. Proposed changes to this Subpart were published in 1996 (61 FR 7436, February 28, 1996), and the comments received on these changes are still under consideration.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board certifies that the proposed amendments will not have a significant economic impact on a substantial number of small entities. These amendments simplify some of the procedures regarding release of information and require disclosure of information in certain instances in accordance with law. The requirements to disclose apply to the Board, therefore they should not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Analysis

In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. Comments on the collections of information in this proposed regulation should be sent to the Office of Management and Budget, Paperwork Reduction Act Project (7100–0281), Washington, DC 20503, with copies of such comments to be sent to Mary McLaughlin, Chief, Financial Reports Section, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551.

The collection of information requirements in this proposed regulation are found in §§ 261.12, 261.13, 216.16 and 261.17. (The hour burden for requests for confidential treatment made under § 261.15 would be included in the hour burden associated with the information collections for which the respondent desires confidential treatment.) The respondents may include small for-profit institutions. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to this information collection request unless it displays a currently valid OMB control number. The OMB control number is 7100–0281.

It is estimated that there would be 5,000 annual respondents for requests and appeals made under 12 CFR 261.12 and 261.13, including approximately 100 that include requests made under 12 CFR 261.17 to waive fees. The burden per response for these requests ranges from 15 to 60 minutes, with an average of 30 minutes. It is estimated that there would be 30 written objections by submitters of exempt information made under 12 CFR 261.16, with an average burden per response of 2 hours. The estimated total annual

burden is 2,560 hours. Based on hourly cost of $20 for the requests and appeals and $75 for the written objections, the annual cost to the public is estimated to be $54,500. Generally, requests made under 12 CFR 261.12, 261.13, 261.16, and 261.17 are not exempt from disclosure under the Freedom of Information Act.

Comments are invited on: a. whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility; b. the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the cost of compliance; c. ways to enhance the quality, utility, and clarity of the information to be collected; and d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

List of Subjects in 12 CFR Part 261

Confidential business information, Federal Reserve System, Freedom of Information, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 261 as follows:

PART 261—RULES REGARDING AVAILABILITY OF INFORMATION:

1. The authority citation for part 261 is revised to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 248(i) and (k), 321 *et seq.*, 611 *et seq.*, 1442, 1817(a)(2)(A), 1817(a)(8), 1818(u) and (v), 1821(o), 1821(t), 1830, 1844, 1951 *et seq.*, 2601, 2801 *et seq.*, 2901 *et seq.*, 3101 *et seq.*, 3401 *et seq.*,; 15 U.S.C. 77uu(b), 78q(c)(3); 29 U.S.C. 1204; 31 U.S.C. 5301 *et seq.*; 42 U.S.C. 3601; 44 U.S.C. 3510.

Subpart D—[Removed]

2. Subpart D—consisting of §§ 261.15 through 261.17, is removed.

§§ 261.11—261.14 [Redesignated as §§ 261.20—261.23]

3. Sections 261.11 through 261.14 in subpart C are redesignated as §§ 261.20 through 261.23, respectively, in subpart C.

4. Subparts A and B are revised to read as follows: Subpart A—General Provisions

Sec.
261.1 Authority, purpose, and scope.
261.2 Definitions.
261.3 Custodian of records; certification; service; alternative authority.

Subpart B—Published Information and Records Available to Public; Procedures for Requests

261.10 Published information.
261.11 Records available for public inspection and copying.
261.12 Records available to public upon request.
261.13 Processing requests.
261.14 Exemptions from disclosure.
261.15 Request for confidential treatment.
261.16 Request for access to confidential commercial or financial information.
261.17 Fee schedules; waiver of fees.

Subpart A—General Provisions

§ 261.1 Authority, purpose, and scope.

(a) *Authority*. (1) This part is issued by the Board of Governors of the Federal Reserve System (the Board) pursuant to the Freedom of Information Act, 5 U.S.C. 552; Sections 9, 11, and 25A of the Federal Reserve Act, 12 U.S.C. 248(i) and (k), 321 *et seq.*, (including 326), 611 *et seq.*; Section 22 of the Federal Home Loan Bank Act, 12 U.S.C 1442; the Federal Deposit Insurance Act, 12 U.S.C. 1817(a)(2)(A), 1817(a)(8), 1818(u) and (v), 1821(o); section 5 of the Bank Holding Company Act, 12 U.S.C. 1844; the Bank Secrecy Act, 12 U.S.C. 1951 *et seq.* and Chapter 53 of Title 31; the Home Mortgage Disclosure Act, 12 U.S.C. 2801 *et seq.*; the Community Reinvestment Act, 12 U.S.C. 2901 *et seq.*; the International Banking Act, 12 U.S.C. 3101 *et seq.*; the Right to Financial Privacy Act, 12 U.S.C. 3401 *et seq.*; the Securities and Exchange Act, 15 U.S.C. 77uuu(b), 78q(c)(3); the Employee Retirement Income Security Act, 29 U.S.C. 1204; the Money Laundering Suppression Act, 31 U.S.C. 5301, the Fair Housing Act, 42 U.S.C. 3601; the Paperwork Reduction Act, 44 U.S.C. 3510; and any other applicable law that establishes a basis for the exercise of governmental authority by the Board.

(2) This part establishes mechanisms for carrying out the Board's statutory responsibilities under all of the statutes in paragraph (a)(1) of this section to the extent those responsibilities require the disclosure, production, or withholding of information. In this regard, the Board has determined that the Board, or its delegees, may disclose exempt information of the Board, in accordance with the procedures set forth in this part, whenever it is necessary or appropriate to do so in the exercise of any of the Board's supervisory or regulatory authorities, including but not limited to, authority granted to the Board in the Federal Reserve Act, 12 U.S.C. 221 *et seq.*, the Bank Holding Company Act, 12 U.S.C. 1841 *et seq.*, and the International Banking Act, 12 U.S.C. 3101 *et seq.* The Board has determined that all such disclosures, made in accordance with the rules and procedures specified in this part, are authorized by law.

(3) The Board has also determined that it is authorized by law to disclose information to a law enforcement or other federal or state government agency that has the authority to request and receive such information in carrying out its own statutory responsibilities, or in response to a valid order of a court of competent jurisdiction or of a duly constituted administrative tribunal.

(b) *Purpose*. This part sets forth the categories of information made available to the public, the procedures for obtaining documents and records, the procedures for limited release of exempt and confidential supervisory information, and the procedures for protecting confidential business information.

(c) *Scope*. (1) This subpart A contains general provisions and definitions of terms used in this part.

(2) Subpart B of this part implements the Freedom of Information Act (FOIA) (5 U.S.C. 552).

(3) Subpart C of this part sets forth:

(i) The kinds of exempt information made available to supervised institutions, supervisory agencies, law enforcement agencies, and others in certain circumstances;

(ii) The procedures for disclosure; and

(iii) The procedures with respect to subpoenas, orders compelling production, and other process.

§ 261.2 Definitions.

For purposes of this part:

(a) *Board's official files* means the Board's central records.

(b) *Commercial use request* refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made.

(c)(1) *Confidential supervisory information* means:

(i) Exempt information consisting of reports of examination, inspection and visitation, confidential operating and condition reports, and any information derived from, related to, or contained in such reports;

(ii) Information gathered by the Board in the course of any investigation, suspicious activity report, cease-and-desist orders, civil money penalty enforcement orders, suspension, removal or prohibition orders, or other orders or actions under the Financial Institutions Supervisory Act of 1966, the Bank Holding Company Act of 1956, the

Federal Reserve Act, the International Banking Act of 1978, and the International Lending Supervision Act of 1983; except

(A) Such final orders, amendments, or modifications of final orders, or other actions or documents that are specifically required to be published or made available to the public pursuant to 12 U.S.C. 1818(u), or other applicable law, including the record of litigated proceedings; and

(B) The public section of Community Reinvestment Act examination reports, pursuant to 12 U.S.C. 2906(b); and

(iii) Any documents prepared by, on behalf of, or for the use of the Board, a Federal Reserve Bank, a Federal or State financial institutions supervisory agency, or a bank or bank holding company or other supervised financial institution.

(2) *Confidential supervisory information* does not include documents prepared by a supervised financial institution for its own business purposes and that are in its possession.

(d) *Direct costs* mean those expenditures that the Board actually incurs in searching for, reviewing, and duplicating documents in response to a request made under § 261.12.

(e) *Duplication* refers to the process of making a copy of a document in response to a request for disclosure of records or for inspection of original records that contain exempt material or that otherwise cannot be inspected directly. Among others, such copies may take the form of paper, microform, audiovisual materials, or machine-readable documentation (*e.g.*, magnetic tape or disk).

(f) *Educational institution* refers to a preschool, a public or private elementary or secondary school, or an institution of undergraduate higher education, graduate higher education, professional education, or an institution of vocational education, which operates a program of scholarly research.

(g) *Exempt information* means information that is exempt from disclosure under § 261.14.

(h) *Noncommercial scientific institution* refers to an institution that is not operated on a ''commercial'' basis (as that term is used in this section) and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(i)(1) *Records of the Board* include:

(i) In written form, or in nonwritten or machine-readable form; all information coming into the possession and under the control of the Board, any Board member, any Federal Reserve Bank, or any officer, employee, or agent of the Board or of any Federal Reserve Bank, in the performance of functions for or on behalf of the Board that constitute part of the Board's official files; or

(ii) That are maintained for administrative reasons in the regular course of business in official files in any division or office of the Board or any Federal Reserve Bank in connection with the transaction of any official business.

(2) *Records of the Board* does not include handwritten notes; personal files of Board members and employees; tangible exhibits, formulas, designs, or other items of valuable intellectual property; extra copies of documents and library and museum materials kept solely for reference or exhibition purposes; unaltered publications otherwise available to the public in Board publications, libraries, or established distribution systems.

(j) *Report of examination* means the report prepared by the Board, or other federal or state financial institution supervisory agency, concerning the examination of a financial institution, and includes reports of inspection and reports of examination of U.S. branches or agencies of foreign banks and representative offices of foreign organizations, and other institutions examined by the Federal Reserve System.

(k) *Report of inspection* means the report prepared by the Board concerning its inspection of a bank holding company and its bank and nonbank subsidiaries.

(l) *Representative of the news media* refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public.

(1) The term ''news'' means information that is about current events or that would be of current interest to the public.

(2) Examples of news media entities include, but are not limited to, television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of ''news'') who make their products available for purchase or subscription by the general public.

(3) ''Freelance'' journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it.

(m)(1) *Review* refers to the process of examining documents, located in response to a request for access, to determine whether any portion of a document is exempt information. It includes doing all that is necessary to excise the documents and otherwise to prepare them for release.

(2) *Review* does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(n)(1) *Search* means a reasonable search, by manual or automated means, of the Board's official files and any other files containing Board records as seem reasonably likely in the particular circumstances to contain documents of the kind requested. For purposes of computing fees under § 261.17, search time includes all time spent looking for material that is responsive to a request, including line-by-line identification of material within documents. Such activity is distinct from ''review'' of material to determine whether the material is exempt from disclosure.

(2) *Search* does not mean or include research, creation of any document, or extensive modification of an existing program or system that would significantly interfere with the operation of the Board's automated information system.

(o) *Supervised financial institution* includes a bank, bank holding company (including subsidiaries), U.S. branch or agency of a foreign bank, or any other institution that is supervised by the Board.

§ 261.3 Custodian of records; certification; service; alternative authority.

(a) *Custodian of records.* The Secretary of the Board (Secretary) is the official custodian of all Board records, including all records that are in the possession or control of the Board, any Federal Reserve Bank, or any Board or Reserve Bank employee.

(b) *Certification of record.* The Secretary may certify the authenticity of any Board record, or any copy of such record, for any purpose, and for or before any duly constituted Federal or State court, tribunal, or agency.

(c) *Service of subpoenas or other process.* Subpoenas or other judicial or administrative process, demanding access to any Board records or making any claim against the Board, shall be addressed to and served upon the Secretary of the Board at the Board's office at 20th and C Streets, N.W., Washington, D.C. 20551. Neither the Board nor the Secretary are agents for service of process on behalf of any employee in respect of purely private legal disputes, except as specifically provided by law.

(d) *Alternative authority.* Any action or determination required or permitted

by this part to be done by the Secretary, the General Counsel, or the Director of any Division may be done by any employee who has been duly designated for this purpose by the Secretary, General Counsel, or the appropriate Director.

Subpart B—Published Information and Records Available to Public; Procedures for Requests

§ 261.10 Published information.

(a) **Federal Register**. The Board publishes in the **Federal Register** for the guidance of the public:

(1) Descriptions of the Board's central and field organization;

(2) Statements of the general course and method by which the Board's functions are channeled and determined, including the nature and requirements of procedures;

(3) Rules of procedure, descriptions of forms available and the place where they may be obtained, and instructions on the scope and contents of all papers, reports, and examinations;

(4) Substantive rules, interpretations of general applicability, and statements of general policy;

(5) Every amendment, revision, or repeal of the foregoing;

(6) Notices of proposed rulemaking;

(7) Notices of applications received under the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) and the Change in Bank Control Act (12 U.S.C. 1817);

(8) Notices of all Board meetings, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b);

(9) Notices identifying the Board's systems of records, pursuant to the Privacy Act of 1974 (5 U.S.C. 552a); and

(10) Notices of agency data collection forms being reviewed under the Paperwork Reduction Act (5 U.S.C. 3501 *et seq.*).

(b) *Board's Reports to Congress.* The Board's annual report to Congress pursuant to the Federal Reserve Act (12 U.S.C. 247), which is made public upon its submission to Congress, contains a full account of the Board's operations during the year, the policy actions by the Federal Open Market Committee, an economic review of the year, and legislative recommendations to Congress. The Board also makes periodic reports to Congress under certain statutes, including but not limited to the Freedom of Information Act (5 U.S.C. 552); the Government in the Sunshine Act (5 U.S.C. 552b); the Full Employment and Balanced Growth Act of 1978 (12 U.S.C. 225a); and the Privacy Act (5 U.S.C. 552a).

(c) *Federal Reserve Bulletin.* This publication is issued monthly and contains economic and statistical information, articles relating to the economy or Board activities, and descriptions of recent actions by the Board.

(d) *Other published information.* Among other things, the Board publishes the following information.

(1) *Weekly publications.* The Board issues the following publications weekly:

(i) A statement showing the condition of each Federal Reserve Bank and a consolidated statement of the condition of all Federal Reserve Banks, pursuant to 12 U.S.C. 248(a);

(ii) An index of applications received and the actions taken on the applications, as well as other matters issued, adopted, or promulgated by the Board; and

(iii) A statement showing changes in the structure of the banking industry resulting from mergers and the establishment of branches.

(2) *Press releases.* The Board frequently issues statements to the press and public regarding monetary and credit actions, regulatory actions, actions taken on certain types of applications, and other matters.

(3) *Call Report and other data.* Certain data from Reports of Condition and Income submitted to the Board are available through the National Technical Information Service and may be obtained by the procedure described in § 261.11(c)(2)(iii).

(4) *Federal Reserve Regulatory Service.* This is a multivolume looseleaf service published by the Board, containing statutes, regulations, interpretations, rulings, staff opinions, and procedural rules under which the Board operates. Portions of the service are also published as separate looseleaf handbooks relating to consumer and community affairs, monetary policy and reserve requirements, payments systems, and securities credit transactions. The service and each handbook contain subject and citation indexes, are updated monthly, and may be subscribed to on a yearly basis.

(e) *Index to Board actions.* The Board's Freedom of Information Office maintains an index to Board actions, which is updated weekly and provides identifying information about any matters issued, adopted, and promulgated by the Board since July 4, 1967. Copies of the index may be obtained upon request to the Freedom of Information Office subject to the current schedule of fees in § 261.17.

(f) *Obtaining Board publications.* The Publications Services Section maintains a list of Board publications that are available to the public. In addition, a partial list of publications is published in the *Federal Reserve Bulletin*. All publications issued by the Board, including available back issues, may be obtained from the Publications Services of the Federal Reserve Board, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551 (pedestrian entrance is on C Street, N.W.). Subscription or other charges may apply to some publications.

§ 261.11 Records available for public inspection and copying.

(a) *Types of records made available.* Unless they were published promptly and made available for sale or without charge, the following records shall be made available for inspection and copying at the Freedom of Information Office:

(1) Final opinions, including concurring and dissenting opinions, as well as final orders and written agreements, made in the adjudication of cases;

(2) Statements of policy and interpretations adopted by the Board that are not published in the **Federal Register**;

(3) Administrative staff manuals and instructions to staff that affect the public;

(4) Copies of all records released to any person under § 261.12 that, because of the nature of their subject matter, the Board has determined are likely to be requested again;

(5) A general index of the records referred to in paragraph (a)(4) of this section; and

(6) The public section of Community Reinvestment Act examination reports.

(b) *Reading room procedures.* (1) Information available under this section is available for inspection and copying, from 9:00 a.m. to 5:00 p.m. weekdays, at the Freedom of Information Office of the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551 (the pedestrian entrance is on C Street, N.W.).

(2) The Board may determine that certain classes of publicly available filings shall be made available for inspection and copying only at the Federal Reserve Bank where those records are filed.

(c) *Electronic records.* (1) Except as set forth in paragraph (c)(2) of this section, information available under this section that was created on or after November 1, 1996, shall also be available on the Board's website, found at http://www.bog.frb.fed.us.

(2) *NTIS.* The publicly available portions of Reports of Condition and Income of individual banks, as well as

certain other data files produced by the Board, are distributed by the National Technical Information Service. Requests for these public reports should be addressed to: Sales Office, National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, (703) 487–4650.

(3) *Privacy protection.* The Board may delete identifying details from any record to prevent a clearly unwarranted invasion of personal privacy.

§ 261.12 Records available to public upon request.

(a) *Types of records made available.* All records of the Board that are not available under §§ 261.10 and 261.11 shall be made available upon request, pursuant to the procedures and exceptions in this subpart B.

(b) *Procedures for requesting records.* (1) A request for identifiable records shall reasonably describe the records in a way that enables the Board's staff to identify and produce the records with reasonable effort and without unduly burdening or significantly interfering with any of the Board's operations.

(2) The request shall be submitted in writing to the Freedom of Information Office, Board of Governors of the Federal Reserve System, 20th & C Street, N.W., Washington, D.C. 20551; or sent by facsimile to the Freedom of Information Office, (202) 872–7562 or 7565. The request shall be clearly marked Freedom of Information Act Request.

(3) A request may not be combined with any other request to the Board except for a request under 12 CFR 261a.3(a) (Rules Regarding Access to and Review of Personal Information under the Privacy Act of 1974) and a request made under § 261.23(b)(1)(ii).

(c) *Contents of request.* The request shall contain the following information:

(1) The name and address of the requester, and the telephone number at which the requester can be reached during normal business hours;

(2) Whether the requested information is intended for commercial use, and whether the requester is an educational or noncommercial scientific institution, or news media representative;

(3) A statement agreeing to pay the applicable fees, or a statement identifying any fee limitation desired, or a request for a waiver or reduction of fees that satisfies § 261.17(h); and

(4) If the request is being made in connection with on-going litigation, a statement indicating whether the requester will seek discretionary release of exempt information from the General Counsel upon denial of the request by the Secretary. A requester who intends to make such a request to the General Counsel may also address the factors set forth in § 261.23(b).

(d) *Defective requests.* The Board need not accept or process a request that does not reasonably describe the records requested or that does not otherwise comply with the requirements of this section. The Board may return a defective request, specifying the deficiency. The requester may submit a corrected request, which will be treated as a new request.

(e) *Oral requests.* The Freedom of Information Office may honor an oral request for records, but if the requester is dissatisfied with the Board's response and wishes to seek review, the requester must submit a written request, which shall be treated as an initial request.

§ 261.13 Processing requests.

(a) *Receipt of requests.* Upon receipt of any request that satisfies § 261.12(b), the Freedom of Information Office shall assign the request to the appropriate processing schedule, pursuant to paragraph (b) of this section. The date of receipt for any request, including one that is addressed incorrectly or that is referred to the Board by another agency or by a Federal Reserve Bank, is the date the Freedom of Information Office actually receives the request.

(b) *Multitrack processing.* (1) The Board provides different levels of processing for categories of requests under this section. Requests for records that are readily identifiable by the Freedom of Information Office and that have already been cleared for public release may qualify for fast-track processing. All other requests shall be handled under normal processing procedures, unless expedited processing has been granted pursuant to paragraph (c)(2) of this section.

(2) The Freedom of Information Office will make the determination whether a request qualifies for fast-track processing. A requester may contact the Freedom of Information Office to learn whether a particular request has been assigned to fast-track processing. If the request has not qualified for fast-track processing, the requester will be given an opportunity to limit in order to qualify for fast-track processing. Limitations of requests must be in writing.

(c) *Expedited processing.* Where a person requesting expedited access to records has demonstrated a compelling need for the records, or where the Board has determined to expedite the response, the Board shall process the request as soon as practicable.

(1) To demonstrate a compelling need for expedited processing, the requester shall provide a certified statement, a sample of which may be obtained from the Freedom of Information Office. The statement, certified to be true and correct to the best of the requester's knowledge and belief, shall demonstrate that:

(i) The failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) The requester is a representative of the news media, as defined in § 261.2, and there is urgency to inform the public concerning actual or alleged Board activity.

(2) In response to a request for expedited processing, the Secretary shall notify a requester of the determination within ten working days of receipt of the request. If the Secretary denies a request for expedited processing, the requester may file an appeal pursuant to the procedures set forth in paragraph (i) of this section, and the Board shall respond to the appeal within ten working days after the appeal was received by the Board.

(d) *Priority of responses.* The Freedom of Information Office shall normally process requests in the order they are received in the separate processing tracks. However, in the Secretary's discretion, or upon a court order in a matter to which the Board is a party, a particular request may be processed out of turn.

(e) *Time limits.* The time for response to requests shall be 20 working days, except:

(1) In the case of expedited treatment under paragraph (c) of this section;

(2) Where the running of such time is suspended for payment of fees pursuant to § 261.17(b)(2);

(3) In unusual circumstances, as defined in 5 U.S.C. 552(a)(6)(B). In such circumstances, the time limit may be extended for a period of time not to exceed:

(i) 10 working days as provided by written notice to the requester, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched; or

(ii) Such alternative time period as mutually agreed to by the Freedom of Information Office and the requester when the Freedom of Information Office notifies the requester that the request cannot be processed in the specified time limit.

(f) *Response to request.* In response to a request that satisfies § 261.12(b), an appropriate search shall be conducted of records of the Board in existence on the

date of receipt of the request, and a review made of any responsive information located. The Secretary shall notify the requester of:

(1) The Board's determination of the request;

(2) The reasons for the determination;

(3) The amount of information withheld;

(4) The right of the requester to appeal to the Board any denial or partial denial, as specified in paragraph (i) of this section; and

(5) In the case of a denial of a request, the name and title or position of the person responsible for the denial.

(g) *Referral to another agency.* To the extent a request covers documents that were created by, obtained from, or classified by another agency, the Board may refer the request to that agency for a response and inform the requester promptly of the referral.

(h) *Providing responsive records.* (1) Copies of requested records shall be sent to the requester by regular U.S. mail to the address indicated in the request, unless the requester elects to take delivery of the documents at the Freedom of Information Office or makes other acceptable arrangements, or the Board deems it appropriate to send the documents by another means.

(2) The Board shall provide a copy of the record in any form or format requested if the record is readily reproducible by the Board in that form or format, but the Board need not provide more than one copy of any record to a requester.

(i) *Appeal of denial of request.* Any person denied access to Board records requested under § 261.12 may file a written appeal with the Board, as follows:

(1) The appeal shall prominently display the phrase Freedom of Information Act Appeal on the first page, and shall be addressed to the Freedom of Information Office, Board of Governors of the Federal Reserve System, 20th & C Street, N.W., Washington, D.C. 20551; or sent by facsimile to the Freedom of Information Office, (202)872–7562 or 7565.

(2) An initial request for records may not be combined in the same letter with an appeal.

(3) The appeal shall be filed within 10 working days of the date on which the denial was issued, or the date on which documents in partial response to the request were transmitted to the requester, whichever is later. The Board may consider an untimely appeal if:

(i) It is accompanied by a written request for leave to file an untimely appeal; and

(ii) The Board determines, in its discretion and for good and substantial cause shown, that the appeal should be considered.

(4) The Board shall make a determination regarding any appeal within 20 working days of actual receipt of the appeal by the Freedom of Information Office, and the determination letter shall notify the appealing party of the right to seek judicial review.

(5) The Secretary may reconsider a denial being appealed if intervening circumstances or additional facts not known at the time of denial come to the attention of the Secretary while an appeal is pending.

§ 261.14 Exemptions from disclosure.

(a) *Types of records exempt from disclosure.* Pursuant to 5 U.S.C. 552(b), the following records of the Board are exempt from disclosure under this part:

(1) *National defense.* Any information that is specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and is in fact properly classified pursuant to the Executive Order.

(2) *Internal personnel rules and practices.* Any information related solely to the internal personnel rules and practices of the Board.

(3) *Statutory exemption.* Any information specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), if the statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) *Trade secrets; commercial or financial information.* Any matter that is a trade secret or that constitutes commercial or financial information obtained from a person and that is privileged or confidential.

(5) *Inter- or intra-agency memorandums.* Information contained in inter- or intra-agency memorandums or letters that would not be available by law to a party (other than an agency) in litigation with an agency, including, but not limited to:

(i) Memorandums;

(ii) Reports;

(iii) Other documents prepared by the staffs of the Board or Federal Reserve Banks; and

(iv) Records of deliberations of the Board and of discussions at meetings of the Board, any Board committee, or Board staff, that are not subject to 5 U.S.C. 552b (the Government in the Sunshine Act).

(6) *Personnel and medical files.* Any information contained in personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) *Information compiled for law enforcement purposes.* Any records or information compiled for law enforcement purposes, to the extent permitted under 5 U.S.C. 552(b)(7); including information relating to administrative enforcement proceedings of the Board.

(8) *Examination, inspection, operating, or condition reports, and confidential supervisory information.* Any matter that is contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, including a state financial institution supervisory agency.

(b) *Segregation of nonexempt information.* The Board shall provide any reasonably segregable portion of a record that is requested after deleting those portions that are exempt under this section.

(c) *Discretionary release.* (1) Except where disclosure is expressly prohibited by statute, regulation, or order, the Board may release records that are exempt from mandatory disclosure whenever the Board or designated Board members, the Secretary of the Board, the General Counsel of the Board, the Director of the Division of Banking Supervision and Regulation, or the appropriate Federal Reserve Bank, acting pursuant to this part or 12 CFR part 265, determines that such disclosure would be in the public interest.

(2) The Board may make any exempt information furnished in connection with an application for Board approval of a transaction available to the public in accordance with § 261.12, and without prior notice and to the extent it deems necessary, may comment on such information in any opinion or statement issued to the public in connection with a Board action to which such information pertains.

(d) *Delayed release.* Publication in the **Federal Register** or availability to the public of certain information may be delayed if immediate disclosure would likely:

(1) Interfere with accomplishing the objectives of the Board in the discharge of its statutory functions;

(2) Interfere with the orderly conduct of the foreign affairs of the United States;

(3) Permit speculators or others to gain unfair profits or other unfair advantages by speculative trading in securities or otherwise;

(4) Result in unnecessary or unwarranted disturbances in the securities markets;

(5) Interfere with the orderly execution of the objectives or policies of other government agencies; or

(6) Impair the ability to negotiate any contract or otherwise harm the commercial or financial interest of the United States, the Board, any Federal Reserve Bank, or any department or agency of the United States.

(e) *Prohibition against disclosure.* Except as provided in this part, no officer, employee, or agent of the Board or any Federal Reserve Bank shall disclose or permit the disclosure of any unpublished information of the Board to any person (other than Board or Reserve Bank officers, employees, or agents properly entitled to such information for the performance of official duties).

§ 261.15 Request for confidential treatment.

(a) *Submission of request.* Any submitter of information to the Board who desires confidential treatment pursuant to 5 U.S.C. 552(b)(4) and § 261.14(a)(4) shall file a request for confidential treatment with the Board (or in the case of documents filed with a Federal Reserve Bank, with that Federal Reserve Bank) at the time the information is submitted or a reasonable time after submission.

(b) *Form of request.* Each request for confidential treatment shall state in reasonable detail the facts supporting the request and its legal justification. Conclusory statements that release of the information would cause competitive harm generally will not be considered sufficient to justify confidential treatment.

(c) *Designation and separation of confidential material.* All information considered confidential by a submitter shall be clearly designated *CONFIDENTIAL* in the submission and separated from information for which confidential treatment is not requested. Failure to segregate confidential information from other material may result in release of the nonsegregated material to the public without notice to the submitter.

(d) *Exceptions.* This section does not apply to:

(1) Data collected on forms that are approved pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and are deemed confidential by the Board. Any such form deemed confidential by the Board shall so indicate on the face of the form or in its instructions. The data may, however, be disclosed in aggregate form in such a manner that individual company data is not disclosed or derivable.

(2) Any comments submitted by a member of the public on applications and regulatory proposals being considered by the Board, unless the Board or the Secretary determines that confidential treatment is warranted.

(3) A determination by the Board to comment upon information submitted to the Board in any opinion or statement issued to the public as described in § 261.14(c).

(e) *Special procedures.* The Board may establish special procedures for particular documents, filings, or types of information by express provisions in this part or by instructions on particular forms that are approved by the Board. These special procedures shall take precedence over this section.

§ 261.16 Request for access to confidential commercial or financial information.

(a) *Request for confidential information.* A request by a submitter for confidential treatment of any information shall be considered in connection with a request for access to that information. At their discretion, appropriate Board or staff members (including Federal Reserve Bank staff) may act on the request for confidentiality prior to any request for access to the documents.

(b) *Notice to the submitter.* When a request for access is received pursuant to the Freedom of Information Act (5 U.S.C. 552):

(1) The Secretary shall notify a submitter of the request, if:

(i) The submitter requested confidential treatment of that information pursuant to 5 U.S.C. 552(b)(4); and

(ii) The request by the submitter for confidential treatment was made within 10 years preceding the date of the request for access.

(2) Absent a request for confidential treatment, the Secretary may notify a submitter of a request for access to information provided by the submitter if the Secretary reasonably believes that disclosure of the information may cause substantial competitive harm to the submitter.

(3) The notice given to the submitter shall:

(i) Be given as soon as practicable after receipt of the request for access;

(ii) Describe the request; and

(iii) Give the submitter a reasonable opportunity, not to exceed ten working days from the date of notice, to submit written objections to disclosure of the information.

(c) *Exceptions to notice to submitter.* Notice to the submitter need not be given if:

(1) The Secretary determines that the request for access should be denied;

(2) The requested information lawfully has been made available to the public;

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552); or

(4) The submitter's claim of confidentiality under 5 U.S.C. 552(b)(4) appears obviously frivolous or has already been denied by the Secretary, except that in this last instance the Secretary shall give the submitter written notice of the determination to disclose the information at least five working days prior to disclosure.

(d) *Notice to requester.* At the same time the Secretary notifies the submitter, the Secretary shall also notify the requester that the request is subject to the provisions of this section.

(e) *Written objections by submitter.* Upon receipt of notice of a request for access to its information, the submitter may provide written objections to release of the information. Such objections shall state whether the information was provided voluntarily or involuntarily to the Board.

(1) If the information was voluntarily provided to the Board, the submitter shall provide detailed facts showing that the information is customarily withheld from the public.

(2) If the information was not provided voluntarily to the Board, the submitter shall provide detailed facts and arguments showing:

(i) The likelihood of substantial harm that would be caused to the submitter's competitive position; or

(ii) That release of the information would impair the Board's ability to obtain necessary information in the future.

(f) *Determination by Secretary.* The Secretary's determination whether or not to disclose any information for which confidential treatment has been requested pursuant to this section shall be communicated to the submitter and the requester immediately. If the Secretary determines to disclose the information and the submitter has objected to such disclosure pursuant to paragraph (e) of this section, the Secretary shall provide the submitter with the reasons for disclosure, and shall delay disclosure for ten working days from the date of the determination.

(g) *Notice of lawsuit.* (1) The Secretary shall promptly notify any submitter of information covered by this section of

the filing of any suit against the Board to compel disclosure of such information.

(2) The Secretary shall promptly notify the requester of any suit filed against the Board to enjoin the disclosure of any documents requested by the requester.

§ 261.17 Fee schedules; waiver of fees.

(a) *Fee schedules.* The fees applicable to a request for records pursuant to §§ 261.11 and 261.12 are set forth in Appendix A to this section. These fees cover only the full allowable direct costs of search, duplication, and review. No fees will be charged where the average cost of collecting the fee (calculated at $5.00) exceeds the amount of the fee.

(b) *Payment procedures.* The Secretary may assume that a person requesting records pursuant to § 261.12 will pay the applicable fees, unless the request includes a limitation on fees to be paid or seeks a waiver or reduction of fees pursuant to paragraph (f) of this section.

(1) *Advance notification of fees.* If the estimated charges are likely to exceed $100, the Freedom of Information Office shall notify the requester of the estimated amount, unless the requester has indicated a willingness to pay fees as high as those anticipated. Upon receipt of such notice, the requester may confer with the Freedom of Information Office to reformulate the request to lower the costs.

(2) *Advance payment.* The Secretary may require advance payment of any fee estimated to exceed $250. The Secretary may also require full payment in advance where a requester has previously failed to pay a fee in a timely fashion. The time period for responding to requests under § 261.13(e), and the processing of the request shall be suspended until the Freedom of Information Office receives the required payment.

(3) *Late charges.* The Secretary may assess interest charges when fee payment is not made within 30 days of the date on which the billing was sent. Interest is at the rate prescribed in 31 U.S.C. 3717 and accrues from the date of the billing.

(c) *Categories of uses.* The fees assessed depend upon the intended use for the records requested. In determining which category is appropriate, the Secretary shall look to the intended use set forth in the request for records. Where a requester's description of the use is insufficient to make a determination, the Secretary may seek additional clarification before categorizing the request.

(1) *Commercial use.* The fees for search, duplication, and review apply when records are requested for commercial use.

(2) *Educational, research, or media use.* The fees for duplication apply when records are not sought for commercial use, and the requester is a representative of the news media or an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research. The first 100 pages of duplication, however, will be provided free.

(3) *All other uses.* For all other requests, the fees for document search and duplication apply. The first two hours of search time and the first 100 pages of duplication, however, will be provided free.

(d) *Nonproductive search.* Fees for search and review may be charged even if no responsive documents are located or if the request is denied.

(e) *Aggregated requests.* A requester may not file multiple requests at the same time, solely in order to avoid payment of fees. If the Secretary reasonably believes that a requester is separating a request into a series of requests for the purpose of evading the assessment of fees, the Secretary may aggregate any such requests and charge accordingly. It is considered reasonable for the Secretary to presume that multiple requests of this type made within a 30-day period have been made to avoid fees.

(f) *Waiver or reduction of fees.* A request for a waiver or reduction of the fees, and the justification for the waiver, shall be included with the request for records to which it pertains. If a waiver is requested and the requester has not indicated in writing an agreement to pay the applicable fees if the waiver request is denied, the time for response to the request for documents, as set forth in § 261.13(e), shall not begin until a determination has been made on the request for a waiver or reduction of fees.

(1) *Standards for determining waiver or reduction.* The Secretary shall grant a waiver or reduction of fees where it is determined both that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operation or activities of the government, and that the disclosure of information is not primarily in the commercial interest of the requester. In making this determination, the following factors shall be considered:

(i) Whether the subject of the records concerns the operations or activities of the government;

(ii) Whether disclosure of the information is likely to contribute significantly to public understanding of government operations or activities;

(iii) Whether the requester has the intention and ability to disseminate the information to the public;

(iv) Whether the information is already in the public domain;

(v) Whether the requester has a commercial interest that would be furthered by the disclosure; and, if so,

(vi) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(2) *Contents of request for waiver.* A request for a waiver or reduction of fees shall include:

(i) A clear statement of the requester's interest in the documents;

(ii) The use proposed for the documents and whether the requester will derive income or other benefit for such use;

(iii) A statement of how the public will benefit from such use and from the Board's release of the documents;

(iv) A description of the method by which the information will be disseminated to the public; and

(v) If specialized use of the information is contemplated, a statement of the requester's qualifications that are relevant to that use.

(3) *Burden of proof.* The burden shall be on the requester to present evidence or information in support of a request for a waiver or reduction of fees.

(4) *Determination by Secretary.* The Secretary shall make a determination on the request for a waiver or reduction of fees and shall notify the requester accordingly. A denial may be appealed to the Board in accordance with § 261.13(j).

(g) *Employee requests.* In connection with any request by an employee, former employee, or applicant for employment, for records for use in prosecuting a grievance or complaint of discrimination against the Board, fees shall be waived where the total charges (including charges for information provided under the Privacy Act of 1974 (5 U.S.C. 552a)) are $50 or less; but the Secretary may waive fees in excess of that amount.

(h) *Special services.* The Secretary may agree to provide, and set fees to recover the costs of, special services not covered by the Freedom of Information Act, such as certifying records or information and sending records by special methods such as express mail or overnight delivery.

APPENDIX A TO § 261.17—FREEDOM OF INFORMATION FEE SCHEDULE

Duplication:	
Photocopy, per standard page	$ .10
Paper copies of microfiche, per frame	.10
Duplicate microfiche, per microfiche	.35
Search and review:	
Clerical/Technical, hourly rate	20.00
Professional/Supervisory, hourly rate	38.00
Manager/Senior Professional, hourly rate	65.00
Computer search and production:	
Computer operator search, hourly rate	32.00
Tapes (cassette) per tape	6.00
Tapes (cartridge), per tape	9.00
Tapes (reel), per tape	18.00
Diskettes (3½″), per diskette	4.00
Diskettes (5¼″), per diskette	5.00
Computer Output (PC), per minute	.10
Computer Output (mainframe)	(1)

[1] Actual cost.

By order of the Board of Governors of the Federal Reserve System, June 5, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–15114 Filed 6–9–97; 8:45 am]

BILLING CODE 6210–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–176–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F28 Mark 1000 Through 4000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 1000 through 4000 series airplanes. This proposal would require replacing certain flexible hydraulic hoses that connect to the UP-port of the actuator of each main landing gear (MLG) with certain new flexible hoses that have built-in restrictor check-valves. This proposal is prompted by results of tests, which indicate that, for airplanes on which restrictor check-valves are not installed, sudden movement of the actuator of the MLG, which could occur under extreme inward sideload conditions (such as touching down at a large crab angle), may pressurize the downlock-actuator and lift the MLG toggle-links. The actions specified by the proposed AD are intended to prevent such pressurization of the downlock-actuator and consequent lifting of the toggle-links, which could result in collapse of the MLG and reduced controllability of the airplane during landing.

DATES: Comments must be received by July 21, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–176–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule.

The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–176–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96-NM–176-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On August 5, 1996, the FAA issued AD 96–16–05, amendment 39–9706, (61 FR 40510, August 5, 1996), applicable to certain Fokker Model F28 Mark 1000, 2000, 3000, and 4000 series airplanes, and Model F28 Mark 0100 series airplanes. That AD currently requires repetitive pre-load adjustments of the downlock-actuator of the main landing gear (MLG), and also provides for optional terminating action for the repetitive adjustments. These actions were prompted by a report indicating that, upon landing, the MLG of a Model F28 Mark 0100 series airplane collapsed as a result of the lock toggle-links being pulled out of the over-center position by the downlock-actuator, which was due to the relative movement of the upper and lower side-stay members. The requirements of that AD are intended to prevent collapse of the MLG, which could adversely affect the controllability of the airplane during landing.

Prior to the issuance of AD 96–16–05, the Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, notified the FAA that additional mandatory actions are necessary on certain Fokker Model F28 Mark 1000 through 4000 series airplanes to correct this unsafe condition because these earlier airplane models do not have restrictor check-valves. The RLD advises that Fokker has conducted additional tests of the actuator of the MLG. The results of these tests revealed that, in addition to pre-load adjustments of the downlock-actuator of the MLG (as required by AD 96–16–05), installation of a restrictor check-valve is necessary to address the identified unsafe condition.

If restrictor check-valves are not installed, sudden movement of the actuator of the MLG could pressurize the downlock-actuator and lift the

toggle-links of the MLG. This situation could occur under extreme side load conditions, such as touching down at relatively large crab angles, and could result in collapse of the MLG and reduced controllability of the airplane during landing.

Because Fokker Model F28 Mark 0100 series airplanes are equipped with a restrictor check-valve, they are not subject to the requirements of this proposed AD.

Explanation of Relevant Service Information

Fokker has issued Service Bulletin F28/32–123, Revision 1, dated June 30, 1994, which describes procedures for replacing certain flexible hydraulic hoses that connect to the UP-port of the actuator of the MLG with new flexible hoses that have built-in restrictor check-valves. The RLD classified this service bulletin as mandatory and issued Dutch airworthiness directive BLA 94–095 (A), dated July 15, 1994, in order to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacing certain flexible hydraulic hoses that connect to the UP-port of the actuator of the MLG with certain new flexible hoses that have built-in restrictor check-valves. These actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

The FAA estimates that 37 Fokker Model F28 Mark 1000 through 4000 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $3,554 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $140,378, or $3,794 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker: Docket 96–NM–176–AD.

Applicability: Fokker Model F28 Mark 1000 through 4000 series airplanes, equipped with flexible hydraulic hoses, part number (P/N) A71462–401; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent pressurization of the downlock-actuator during extreme inward sideload conditions (such as touching down at a large crab angle) and consequent lifting of the toggle-links of the main landing gear (MLG), which could result in the collapse of the MLG and reduced controllability of the airplane during landing, accomplish the following:

(a) Within 12 months after the effective date of this AD, replace the flexible hydraulic hoses, P/N A71462–401, that connect to the UP-port of the actuator of the MLG with new flexible hoses, P/N 97867–1, that have built-in restrictor check-valves, in accordance with Fokker Service Bulletin F28/32–123, Revision 1, dated June 30, 1994.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on June 4, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–15061 Filed 6–9–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202, 206, and 211

RIN 1010–AC02

Amendments to Gas Valuation Regulations for Federal Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Extension of public comment period.

SUMMARY: The Minerals Management Service (MMS) hereby gives notice that it is extending the public comment period for a document requesting comments on supplemental information which was published in the **Federal Register** on April 22, 1997, (62 FR 19536). In this document, MMS withdrew its proposed rulemaking to amend the regulations for valuing natural gas produced from Federal leases and requested comments on supplemental options for natural gas valuation.

In response to requests for additional time, MMS will extend the comment period from June 23, 1997, to July 23, 1997.

DATES: Comments must be submitted on or before July 23, 1997.

ADDRESSES: Written comments or suggestions should be sent to the following addresses.

For comments sent via the U.S. Postal Service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165.

For comments via courier or overnight delivery service use: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, MS 3021, Building 85, Denver Federal Center, Room A–613, Denver, Colorado 80225–0165.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, phone (303) 231–3432, FAX (303) 231–3385 or (303) 231–3194, e-Mail David__Guzy@ mms.gov.

SUPPLEMENTARY INFORMATION: MMS received requests from representatives of the oil and gas industry to extend the comment period of this document. This time extension is in response to these requests in order to provide commentors with adequate time to provide detailed comments.

Dated: June 2, 1997.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 97–15089 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC17

Seismic Reassessment of California Outer Continental Shelf Platforms

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: MMS has developed proposed regulations for the seismic reassessment of offshore platforms. This proposed rule would only apply to platforms on the Outer Continental Shelf (OCS) offshore the State of California. This proposed rule includes criteria for determining a platform's fitness through a structural analysis. Each platform on the California OCS would need to undergo a seismic assessment within 3 years of publication of the final rule. An analysis would also be triggered by damage to primary structural members, proposals to significantly increase loads, or other significant changes. Previously, MMS has allowed for good engineering judgment to determine how modifications or significant changes would affect a platform's structural integrity. This proposed rule will provide for more consistency in seismic reassessment analysis.

DATES: MMS will consider all comments received by August 11, 1997. We will begin reviewing comments then and may not fully consider comments we receive after August 11, 1997.

ADDRESSES: Mail or hand-carry written comments to the Department of the Interior; Minerals Management Service; 381 Elden Street; Mail Stop 4700; Herndon, Virginia 22070–4817; Attention: Rules Processing Team.

FOR FURTHER INFORMATION CONTACT: Lawrence Ake, Engineering and Research Branch, at (703) 787–1567.

SUPPLEMENTARY INFORMATION: Platforms installed offshore Southern California prior to the 1970's were designed and constructed according to onshore codes used at the time of their installation. In 1969, the American Petroleum Institute (API) published a document entitled ''Recommended Practice for Planning, Designing, and Constructing Fixed Offshore Platforms,'' or API RP 2A, containing guidelines developed specifically for offshore structures. The 7th edition of API RP 2A (1976) was the first version to include guidelines for seismic loading. The 19th edition of API RP 2A is currently incorporated into MMS regulations, although the latest 20th edition was published in July 1993.

Following the Loma Prieta earthquake in 1989, MMS and the California State Lands Commission (CSLC) began investigating seismic reassessment of structures located offshore Southern California. The agencies began to evaluate seismic analyses that had been performed for offshore platforms in their design phases. MMS decided to require operators of the oldest platforms, constructed before the 1976 API RP 2A 7th edition guidelines were in place, to conduct preliminary seismic analyses that are normally required for new platforms. The CSLC began a program to reassess platforms that were undergoing significant changes in operations, loads, or personnel. Experience with this process has shown the need for the development of uniform seismic design criteria.

Aware of growing MMS and CSLC interest in reassessment and the lack of credible reassessment criteria, the API funded an independent study in 1991 by a panel of four distinguished experts in matters related to seismic design. The results of the study were based on the underlying recommendation that the seismic risk offshore should be similar to that used for well-designed structures onshore. An API task group was formed to develop reassessment procedures and criteria for storm and ice loads as well as seismic loads. Its members were composed of technical experts from the offshore industry, academia, and the MMS.

Using the panel's study on seismic reassessment as a guide, the API task group developed a Supplement to the 20th edition of API RP 2A that covers all environmental loading conditions. It provides technical criteria to be used in reassessing existing structures. The criteria embrace a fitness-for-purpose evaluation coupled with the risk of structural failure and the consequences of that failure. The details of the Supplement will not be discussed here since it has already been the subject of several 1994 Offshore Technology Conference papers. The API finalized and published this Supplement

document as Supplement 1 to API RP 2A in December 1996.

MMS held several workshops to involve industry, the public, regulatory agencies, and academia in the development of reassessment guidelines. MMS, CSLC, and others sponsored an international workshop on seismic reassessment of offshore structures in December 1992. In November 1993, MMS and CSLC co-sponsored a workshop on public policy issues related to the seismic reassessment of platforms offshore Southern California. In December 1993, MMS, API, and others sponsored an international workshop on reassessment for structures located in all areas for both earthquake and storm loadings. The workshops were well attended by the interested parties. Discussions on public policy issues at all three meetings resulted in consensus on the treatment of seismic reassessment at the final workshop. The technical aspects of these numerous public discussions have been incorporated into the API Supplement, and MMS has made the proposed rule consistent with these results. Proceedings are available for each of the workshops held.

MMS is moving forward with proposed seismic reassessment regulations since seismic reassessments can provide critical information about the offshore facilities in the seismically active California OCS. Consideration is also being given to incorporating the 20th edition of API RP 2A, including the Supplement, into MMS regulations instead of proceeding with this proposed rule. Commenters are urged to provide comments on the relative merits of incorporating the API documents into MMS regulations, as well as proceeding with this rule.

The proposed rule would require lessees to conduct seismic reassessments of OCS platforms located offshore the State of California within three years of final rule publication. Reassessments would also be triggered by changing circumstances at the platform such as an increase of loads on the structure, or a change from an unmanned platform to a manned platform. Most changes that trigger reassessments would have to be judged ''significant'', which the proposed rule defines as cumulative changes that cause a 10 percent decrease in the platform's loading capacity or a 10 percent increase in the platform's loads.

A manned platform would undergo an assessment to determine if it could withstand a median 1000 year seismic event; an unmanned platform's stability would be compared with the forces from a 500 year seismic event. The more stringent requirement for a manned platform is based on the higher standard needed to protect human life. Each seismic reassessment must be verified by a Certified Verification Agent (CVA) who has been approved by the MMS.

Executive Order (E.O.) 12866

This rule was reviewed under E.O. 12866. The Department of the Interior (DOI) has determined that the rule is not a significant rule under the criteria of E.O. 12866 and therefore, the rule was not reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

DOI has determined that this proposed rule will not have a significant economic effect on a substantial number of small entities. Any direct effects of this rulemaking will primarily affect the OCS lessees and operators—entities that are not small due to the technical complexities and financial resources necessary to conduct OCS activities. The indirect effects of this rulemaking on small entities that provide support for offshore activities have also been determined to be small.

Paperwork Reduction Act

This proposed rule contains a collection of information which has been submitted to the Office of Management and Budget (OMB) for review and approval under section 3507(d) of the Paperwork Reduction Act of 1995. As part of our continuing effort to reduce paperwork and respondent burden, MMS invites the public and other Federal agencies to comment on any aspect of the reporting burden. Submit your comments to the Office of Information and Regulatory Affairs; OMB; Attention Desk Officer for the Department of the Interior (OMB control number 1010–0058); 725 17th Street, NW.; Washington, D.C. 20503. Send a copy of your comments to the Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4700; 381 Elden Street; Herndon, Virginia 20170-4817. You may obtain a copy of the proposed collection of information by contacting the Bureau's Information Collection Clearance Officer at (202) 208–7744.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

The title of this collection of information is ''30 CFR 250, Subpart I, Platforms and Structures,'' OMB control number 1010–0058. The proposed rule adds the following requirements to the currently approved collection of information required in Subpart I:

- Submit a plan for analyzing the platform structure;
- Obtain Regional Supervisor approval for analysis criteria if utilizing a probabilistic analysis;
- Review of a site-specific study by an independent peer review panel; and
- Obtain and submit a CVA report.

MMS would use this information to ensure that offshore structures located on the California OCS meet today's standards for seismic loading.

Respondents are Federal OCS oil, gas, and sulphur lessees with platforms located on the California OCS. The proposed rule requires compliance once within 3 years after publication of the final rule and thereafter as applicable. The current approved reporting burden for Subpart I is 21,803 hours. MMS estimates eight new responses each year for the first three years. Additional years would average fewer than two responses. We estimate the additional annual reporting burden as a result of this rule would be 1,256 hours (157 hours per response). Based on $35 per hour, the burden hour cost to respondents is estimated to be $43,960.

In addition to the hour burden discussed above, the proposed rule would add one other cost burden associated with the collection of information. Section 250.145(e) requires respondents to obtain a final report prepared by a CVA and submit it to the Regional Supervisor. We estimate the cost of preparing that report (including the costs of conducting engineering analysis) is $100,000 per platform.

MMS will summarize written responses to this notice and address them in the final rule. All comments will become a matter of public record.

1. MMS specifically solicits comments on the following questions:

(a) Is the proposed collection of information necessary for the proper performance of MMS's functions, and will it be useful?

(b) Are the burden hour and cost of the final CVA report estimates reasonable for the proposed collection?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on those who are to respond, including through

the use of appropriate automated electronic, mechanical, or other forms of information technology?

2. In addition, the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. MMS needs your comments on this item. Your response should split the cost estimate into two components:

(a) Total capital and startup cost; and

(b) Annual operation, maintenance, and purchase of services.

Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: before October 1, 1995; to comply with requirements not associated with the information collection; for reasons other than to provide information or keep records for the Government; or as part of customary and usual business or private practices.

The Paperwork Reduction Act of 1995 provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Takings Implication Assessment

DOI determined that this proposed rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, DOI does not need to prepare a Takings Implication Assessment pursuant to E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

E.O. 12988

DOI has certified that this proposed rule meets the applicable civil justice reform standards provided in sections 3(a) and 3(b)(2) of E.O. 12778.

National Environmental Policy Act

MMS has examined this proposed rulemaking and has determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Unfunded Mandates Reform Act of 1995

DOI has determined and certifies according to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rule will not impose a cost of $100 million or more in any given year on State, local, and tribal government, or the private sector.

List of Subjects in CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Surety bonds.

Dated: May 28, 1997.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) proposes to amend 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

2. Section 250.145 is added to Subpart I to read as follows:

§ 250.145 Seismic Reassessment of California OCS Platforms.

(a) *Applicability.* These requirements apply to all platforms located on the California OCS.

(b) *Definitions.* When used in this section, the terms have the following meanings:

Loss of Global Structural Stability means the point at which a structure is unable to establish equilibrium under the applied gravity loadings and induced earthquake forces.

Manned Platform means a platform that always has someone living on it.

Platform Capacity means the platform's ability to resist loading or to withstand a given maximum load.

Significant means cumulative damage or cumulative changes from the original design premise that lead to a decrease in capacity or an increase in loading greater than 10 percent.

Unmanned Platform means any platform other than a manned platform.

You means the lessee.

(c) *When must I conduct a seismic reassessment?* You must conduct a seismic reassessment of each of your California OCS platforms in its current condition by [Insert date that is 3 years after the date the final rule is published in the **Federal Register**]. You must also conduct a seismic reassessment when a reassessment initiator occurs. Reassessment initiators are changes in the platform status which result in a significant change in demand, capacity, or consequence of the platform's failure, such as, but not limited to:

(1) Functional or operational changes which result in significantly higher loads than in the original design (e.g., new waterflood operations, additional tanks, or crew quarters, etc.).

(2) Significant damage to primary structural members or joints found during an inspection.

(3) The availability of credible new seismic data that would indicate significantly higher loads than those used in the original design criteria.

(4) Significant changes in the original design criteria or methodologies that would negatively affect the platform. An example of this type of significant change is the evolution of the tubular joint equation.

(5) A change from an unmanned platform to a manned platform.

(d) *What are the criteria for a seismic reassessment?* Before you conduct the seismic reassessment, you must submit your plan for analyzing the structure to the Regional Supervisor for approval. In addition:

(1) For manned platforms, you must demonstrate that the platform in its current condition can withstand a median 1000-year seismic event without loss of global structural stability. The ultimate strength of all undamaged members, joints and piles must be considered and, if necessary, safety factors may be reduced to 1.0.

(2) For unmanned platforms, you must demonstrate that the platform in its current condition can withstand a median 500-year seismic event without loss of global structural stability. The ultimate strength of all undamaged members, joints, and piles must be considered, and if necessary, safety factors may be reduced to 1.0.

(3) The Regional Supervisor may accept a probabilistic analysis as an alternative to the analyses required in paragraphs (d)(1) or (d)(2) of this section. The probabilistic analysis must address the effects of uncertainty and

bias in loading and resistance. Before using this method, you must obtain approval for your analysis criteria from the Regional Supervisor.

(4) Topsides and appurtenances must withstand the seismic loads from paragraphs (d)(1) or (d)(2) of this section and be in conformance with the seismic provision of API RP 2A–WSD.

(5) You must conduct a site-specific study under 30 CFR 250.139 based on soil borings and geophysical data taken on or near the platform vicinity, using the best available technology. You may use a study previously conducted. An MMS approved independent peer review panel must review the study.

(e) *Does a third party need to verify the seismic reassessment?* You must use a Certified Verification Agent (CVA) approved by the MMS using the qualification standards in § 250.132(b)(1)(ii) to verify the analyses required in paragraphs (d)(1) through (d)(4) of this section. You must submit the CVA's final report to the Regional Supervisor. It must describe the analysis process and material reviewed, summarize the findings, and include a recommendation to the Regional Supervisor. The recommendation must advise the Regional Supervisor to either accept, request modifications, or reject the reassessment.

(f) *What if my platform does not pass the seismic reassessment?* If your structure does not meet the reassessment criteria, you must contact the Regional Supervisor for approval to initiate one or more mitigation actions. Mitigation actions are modifications to the structure or to operational procedures that reduce loads, increase capacities, or reduce consequences.

[FR Doc. 97–15088 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

[SPATS No. MO–032–FOR]

Missouri Regulatory Program

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

ACTION: Proposed rule; Reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions to a previously proposed amendment to the Missouri Regulatory program (hereinafter referred to as the ''Missouri program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to Missouri's revegetation success guidelines. Missouri is proposing to withdraw the portion of its proposed amendment pertaining to the use of county average yields for determining prime farmland revegetation success and to revise the portion of its proposed amendment pertaining to special requirements for ground cover density on previously mined areas reclaimed to a pasture land use. The amendment is intended to revise the Missouri program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., c.d.t., June 25, 1997.

ADDRESSES: Written comments should be mailed or hand delivered to Russell W. Frum, Mid-Continent Regional Coordinating Center, at the address listed below.

Copies of the Missouri Program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Mid-Continent Regional Coordinating Center.

Russell W. Frum, Mid-Continent Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, Alton Federal Building, 501 Belle Street, Alton, Illinois, 62002, Telephone: (618) 463–6460

Missouri Department of Natural Resources, Land Reclamation Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, Missouri 65102, Telephone: (573) 751–4041.

FOR FURTHER INFORMATION CONTACT: Russell W. Frum, Mid-Continent Regional Coordinating Center, Telephone: (618) 463–6460.

SUPPLEMENTARY INFORMATION:

I. Background on the Missouri Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Missouri program. General background information on the Missouri program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Missouri program can be found in the November 21, 1980, **Federal Register** (45 FR 77017). Subsequent actions concerning Missouri's program and program amendments can be found at 30 CFR 925.12, 925.15, and 925.16.

II. Discussion of the Proposed Amendment

By letter dated April 16, 1997 (Administrative Record No. MO–649), Missouri submitted a proposed amendment to its program pursuant to SMCRA. Missouri submitted the proposed amendment at its own initiative. Missouri proposed to amend its revegetation success guidelines by adding procedures to allow for the use of county average yields when determining how the production on reclaimed prime farmland compares to the production on unmined prime farmland and by referencing the special requirements for ground cover density on previously mined areas in each land use section of the guidelines.

OSM announced receipt of the proposed amendment in the April 29, 1997, **Federal Register** (62 FR 23194) and invited public comment on its adequacy. The public comment period ended May 29, 1997.

By letter dated May 29, 1997 (Administrative Record No. MO–5649.3), Missouri proposed the following revisions to its April 16,1 997, proposed amendment.

1. Phase II/III Revegetation Success Standards for Prime Farmland

Missouri proposed to withdraw the revisions to its revegetation success guidelines for phase II/III revegetation success standards for prime farmland at section II.C.5 and new Appendix N pertaining to the option and procedures for using county average yields when determining how the production on reclaimed prime farmland compares to the production on unmined prime farmland.

2. Phase III Revegetation Success Standards for Pasture

Missouri previously proposed to require the permittee to establish a minimum ground cover density of 90 percent on previously mined areas reclaimed to a land use of pasture if the premining use was not pasture or the premining ground cover density was not recorded before redisturbance. In its letter dated May 29, 1997, Missouri proposed to change the minimum ground cover density for this requirement to 70 percent.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Missouri program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Missouri program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Mid-Continent Regional Coordinating Center will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12988

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities.

Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

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

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 2, 1997.

Deborah Watford,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 97–15009 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[SPATS No. TX–033–FOR]

Texas Regulatory Program

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

ACTION: Proposed rule; withdrawal of proposed amendment.

SUMMARY: OSM is announcing the withdrawal of a proposed amendment to the Texas regulatory program (hereinafter the ''Texas program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment concerned codification of the Texas Coal Mining Regulations in the Texas Administrative Code at Part 16, Economic Regulation, Chapter 12. Texas is withdrawing the amendment at its own initiative.

DATES: The proposed amendment is withdrawn June 10, 1997.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION: By letter dated January 30, 1997, (Administrative Record No. TX–633), Texas submitted a proposed amendment to its program pursuant to SMCRA. The amendment concerned codification of the Texas Coal Mining Regulations in the Texas Administrative Code at Part 16, Economic Regulation, Chapter 12. Texas submitted the proposed amendment at its own initiative.

On February 21, 1997, OSM announced receipt of and solicited public comment on the proposed amendment in the **Federal Register** (62 FR 7965). The public comment period ended on March 24, 1997.

On May 27, 1997 (Administrative Record No. TX–633.05), Texas requested that the proposed amendment be withdrawn. Texas intends to incorporate several recently approved amendments into the withdrawn proposed amendment, and then resubmit the amendment. Therefore, the proposed amendment announced in the February 21, 1997, **Federal Register** is withdrawn.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 3, 1997.

Deborah Watford,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 97–15010 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–077–FOR]

West Virginia Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing receipt of a proposed amendment to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment revises both the West Virginia Surface Mining Reclamation Regulations and the West Virginia Surface Mining Code. The amendment mainly concerns changes to implement the standards of the Federal Energy Policy Act of 1992. The amendment is intended to revise the State program to be consistent with the counterpart Federal provisions.

DATES: Written comments must be received on or before 4:00 p.m. on June 25, 1997.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Roger W. Calhoun, Director, Charleston Field Office at the address listed below.

Copies of the proposed amendment, the West Virginia program, and the administrative record on the West Virginia program are available for public review and copying at the addresses below, during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting the OSM Charleston Field Office.

Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street, East, Charleston, West Virginia 25301 Telephone: (304) 347–7158

West Virginia Division of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143, Telephone: (304) 759–0515.

In addition, copies of the proposed amendment are available for inspection during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, P.O. Box 886, Morgantown, West Virginia 26507, Telephone: (304) 291–4004

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 323 Harper Park Drive, Suite 3, Beckley, West Virginia 25801, Telephone: (304) 255–5265.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office; Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

On January 21, 1981, the Secretary of the Interior conditionally approved the West Virginia program. Background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of the approval can be found in the January 21, 1981, **Federal Register** (46 FR 5915–5956). Subsequent actions concerning the West Virginia program and previous amendments are codified at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Discussion of the Proposed Amemdment

By letter dated April 28, 1997 (Administrative Record Number WV–1056), the West Virginia Division of

Environmental Protection (WVDEP) submitted an amendment to its approved permanent regulatory program pursuant to 30 CFR 732.17. By letter dated May 14, 1997 (Administrative Record Number WV–1057), WVDEP submitted some revisions to the original submittal. The amendment contains revisions to the West Virginia Surface Mining Reclamation Regulations (CSR Section 38–2 *et seq.*), and to § 22–3 of the West Virginia Surface Mining Code. The amendment mainly concerns changes to implement the standards of the Federal Energy Policy Act of 1992. The amendment is intended to revise the State program to be consistent with the counterpart Federal provisions.

The proposed amendments are identified below. Minor wording changes and other non-substantive changes are not identified.

1. Section 22–3 of the West Virginia Code

§ 22–3–3(u) The definition of ''surface mine'' is amended by adding three examples which are not encompassed by the definition of ''surface mine.'' The three exceptions are: (1) Coal extraction pursuant to a government financed reclamation contract; (2) coal extraction authorized as an incidental part of development of land for commercial, residential, industrial, or civic use; and the reclamation of an abandoned or forfeited mine by a no cost reclamation contract.

§ 22–3–3(x) is added to define ''Unanticipated event or condition.''

§ 22–3–3(y) is added to define ''Lands eligible for remining.''

§ 22–3–3(z) is added to define ''Replacement of water supply.''

§ 22–3–13(b)(20) concerning revegetation performance standards is amended by adding that on lands eligible for remining, the revegetation responsibility period will be not less than two growing seasons.

§ 22–3–13(b)(22) is amended by deleting the words ''shall'' in the last sentence and replacing that word with ''may.''

§ 22–3–13(c)(3) is amended by adding the postmining land use of fish and wildlife habitat and recreation lands to the list of land uses where the WVDEP Director may grant a permit under the previously specified provisions.

§ 22–3–15(h) is added to provide that the WVDEP Director may provide a compliance conference when requested by the permittee.

§ 22–3–17(b) is amended by adding a paragraph to the end of the subsection concerning the reinstating, within one year, of a revoked permit.

§ 22–3–18(c) is amended by deleting the word ''shall'' in two locations and replacing those words with ''may.'' With these revisions, a permit ''may'' not be issued until the applicant submits proof that a violation is being corrected, and a permit ''may'' not be issued if the applicant is found to be affiliated with a person who has had a permit or bond revoked for failure to reclaim.

§ 22–3–18(f) is added to provide that the prohibition of subsection 22–3–18(c) may not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mine eligible for remaining under a permit held by the applicant.

§ 22–3–28 The title of this provision is amended from special ''permits'' to special ''authorization'' for reclamation of existing abandoned coal processing waste piles. In addition, the following is added to the title: coal extraction as an incidental part of development of land for commercial, residential, industrial, or civic; no cost reclamation contract. In addition, throughout this provision, the term ''permit'' is replaced with ''authorization.''

§ 22–3–28(b) is amended in the last sentence by changing the validity of a special authorization from ''until work permitted is completed'' to ''for two years.'' § 22–3–28(c) is amended by changing ''shall'' to ''may.'' Under this change, anyone who has been issued a special authorization ''may'' not be issued an additional special authorization unless satisfactory evidence has been submitted to the WVDEP Director.

§ 22–3–28(d) is amended by deleting the words ''special permit'' and replacing them with the words ''reclamation contract.'' In addition, the second from the last sentence is being deleted. That sentence reads: ''The director shall promulgate specific rules for such operations:''.

§ 22–3–28(e) This new subsection is added to provide that no person may engage in coal extraction pursuant to a government financed reclamation contract without a valid surface mining permit unless such person affirmatively demonstrates that he is eligible to secure special authorization to engage in a government financed reclamation contract authorizing incidental and necessary coal extraction. The new subsection further specifies the criteria under which this provision may be implemented.

2. CSR 38–2 of the West Virginia Surface Mining Reclamation Regulations

38–2–2.4 The definition of ''acid-producing coal seam'' is amended by deleting coal seams commonly associated with acid-producing minerals. The last sentence is amended by deleting reference to the multiple seams whose names were deleted and to refer instead to single seams.

38–2–2.120 is amended by changing the phrase ''land or water resources'' to read ''land and water resources.''

38–2–3.2.e is amended by deleting the last sentence. The deleted language requires that permits that are being renewed or significantly revised and permit applications which are being significantly revised must be advertised in accordance with paragraph 38–2–3.2.b and paragraph (6), subsection (a), section 9 of the Act.

38–2–3.12 concerning subsidence control plans is amended to require that the survey map required by subsection 3.12.a.1 identify the location and type of water supplies. Language has been added to require the survey to identify whether subsidence could contaminate, diminish or interrupt water supplies. Language is also added to authorize, upon the submittal of justifying technical analysis, of an angle of draw other than the specified 30 degrees.

38–2–3.12.a.2 is added to require surveys of water supplies and structures that could be damaged within the applicable angle of draw. Two provisors are added that would allow an exemption or postponement of the pre-subsidence survey requirements for areas of extraction of less than or equal to 60 percent.

In addition, a provision is added to state that if the permittee is denied access to the land or property for the purpose of conducting the pre-subsidence survey, the permittee will notify the owner, in writing, that no presumption of causation will exist.

Survey reports shall be signed by the person or persons who conduct the survey, and a copy shall be provided to the WVDEP Director. Finally, the meaning of the term ''non-commercial building'' is clarified.

38–2–3.14.b.7 and 14.b.8 are deleted. These provisions require a PHC and a hydrologic reclamation plan.

38–2–3.14.b.12.E is amended by adding that ''if requested by the Director'' a stability analysis of the existing abandoned coal processing waste pile is required.

38–2–3.14.b.13.B. The existing language is deleted and replaced in its entirety.

This new language provides the requirement and criteria for diverting surface water around or over the refuse disposal piles.

38–2–3.29 concerning incidental boundary revisions (IBR) is amended by adding language to authorize that IBR's

also could include areas where the WVDEP Director determines that limited coal removal on areas immediately adjacent to the existing permit is the only practical alternative to recovery of unanticipated reserves or necessary to enhance reclamation efforts or environmental protection.

38–2–3.35 is added to specify the standards for grade and linear measurements.

38–2–5.5.c is amended to add that for permanent impoundments, the landowner sign a request that the structure be left for recreational or other purposes.

Language is deleted that requires that the operator also sign the request, and that the request assert that the landowner assumes liability for the structure and will provide for sound future maintenance of the structure.

38–2–6.5.a is amended by adding language to allow for blasting on Sunday if the WVDEP Director determines that the blasting is necessary and there has been an opportunity for a public hearing.

38–2–8.2.e is added to encourage and specify the criteria for timber windrowing to promote the enhancement of food, shelter, and habitat for wildlife.

38–2–9.2.i.2 is amended by adding one sentence to specify that an alternate maximum or minimum soil pH may be approved based on the optimum pH for the revegetated species.

38–2–9.3.h.1 is deleted and replaced in its entirity. The revised provision changes the minimum tree stocking rate from 600 trees per acre to no less than 450 stems per acre.

38–2–9.3.h.2 is deleted. This provision specified a minimum percentage of commercial tree species. The criteria for commercial species is now in 38–2–9.3.h.1.

38–2–9.3.h.2 (formerly h.3) is being revised to change the survival rate from 450 trees to 300 trees per acre, or the rate specified in the forest management plan, whichever is greater.

38–2–14.11.e concerning inactive status is amended to delete the three-year limit on inactive status for preparation plants and load-out facilities. Added language authorizes the WVDEP Director to grant inactive status for a period not to exceed ten years, provided the facilities are maintained in such condition that operations could be resumed within 60 days.

38–2–14.11.f is added to authorize the WVDEP Director to grant inactive status for a period not to exceed current permit term plus five years for underground mining operations provided the operation is maintained in such condition that the operations could be resumed within 60 days and openings are protected from unauthorized entry.

38–2–14.11.g is added to authorize the WVDEP Director to grant inactive status for a period not to exceed ten years for coal refuse sites provided the completed lifts of the coal refuse site are regraded (which may include topsoiling), seeded and drainage control, where possible, has been installed in accordance with the terms and conditions of the permit.

38–2–14.11.h is added to provide that the WVDEP Director may grant inactive status for a permit for a longer term than set forth in 14.11.e. and f. Provided, the permittee shall furnish and maintain bond that is equal to the estimated actual reclamation cost, as determined by the director, The director shall review the estimated actual reclamation cost at least every two and one-half years.

38–2–14.15.c, concerning reclaimed areas, is amended to delete language concerning Phase I bond release and semi-permanent ancillary facilities. Language is added to provide that regraded areas must also be stabilized. Also added is a list that identifies areas and criteria that shall not be included in the calculation of disturbed area: 14.15.c.1. Semi-permanent ancillary facilities; 14.15.c.2. Areas within the confines of excess spoil disposal fills which are under construction; 14.15.c.3. Areas containing 30 aggregate acres or less which have been cleared and grubbed and have the appropriate drainage controls installed and certified; 14.15.c.4. Areas that have been cleared and grubbed with exceed the thirty aggregate acres and/or those which will not be included in the operational area within six months; 14.15.c.5. Areas which have been backfilled and graded with material placed in a stable, controlled manner which will not subsequently be moved to final grade, mechanically stabilized, and had drainage controls installed.

38–2–14.15.d. This provision is amended by adding a final sentence to provide that the WVDEP Director may consider contemporaneous reclamation plans on multiple permitted areas with adjoining boundaries where contemporaneous reclamation is practiced on a total operation basis.

38–2–16.2.c is amended by adding an explanation of the term ''material'' damage. ''Material'' means functional impairment of surface lands, features, structures or facilities; any physical change that has a significant adverse impact on the affected land's capability to support or reasonably foreseeable uses or causes significant loss in production or income; or any significant change in the condition, appearance or utility of any structure from its pre-subsidence condition.

38–2–16.2.c.2 is amended by adding a final sentence to provide that the provision applies only to subsidence related damage caused by underground mining activities conducted after October 24, 1992.

38–2–16.2.c.3 is added to provide that if alleged subsidence damage occurs to protected structures as a result of earth movement within the area in which a pre-subsidence structural survey is required, a rebuttable presumption exists that the underground mining operation caused the damage.

38–2–16.2.c.3.A is added to provide that if the permittee was denied access to conduct a pre-subsidence survey, no presumption of causation will exist.

38–2–16–2.c.3.B. This provision is added to provide that the presumption will be rebutted if, for example, the evidence establishes that: the damage predated the mining in question; the damage was proximately caused by some other factors or was not proximately caused by subsidence; or the damage occurred outside the surface area within which subsidence was actually caused by the mining in question.

38–2–16.2.c.3.C. This provision is added to provide that in any determination whether damage to protected structures was caused by subsidence from underground mining, all relevant and reasonably available information will be considered by the director.

38–2–16.2.c.4. This provision is added to provide that when subsidence related material damage occurs to lands, structures, or water supply, and if the director issues violation(s), the director may extend the 90-day abatement period to complete repairs, but shall not exceed one year from date of violation notice. Provided, however, the permittee demonstrates, in writing, that it would be unreasonable to complete repairs within the 90-day abatement period. If extended beyond 90 days, as part of the remedial measures, the permittee shall post an escrow bond to cover the estimated costs of repairs.

38–2–20.1.e is added to provide that the permittee may request an on-site compliance conference, and out the requirements related to such a conference. Neither the holding of a compliance conference nor any opinion given by an authorized representative of the director at a conference shall affect the following:

38–2–20.1.e.1. Any rights or obligations of the director or by the permittee with respect to any inspection, notice of violation, or cessation order, whether prior to or subsequent to the compliance conference; or

38–2–20.1.e.2. The validity of any notice of violation or cessation order issued with any condition or practice reviewed at the compliance conference.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comments on the proposed amendment submitted by the State of West Virginia to its permanent regulatory program. Specifically, OSM is seeking comments on the revision to the State's Code and regulations that were submitted on April 28, 1997, and amended on May 14, 1997. Comments should address whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the West Virginia program.

Written Comments

Written comments should be specific, pertain only to the issue proposed in this notice and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the OSM Charleston Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on June 25, 1997. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Charleston Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under **ADDRESSES.** A written summary of each public meeting will be made part of the Administrative Record.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12988

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

Unfunded Mandates

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

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 30, 1997.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 97–15008 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 69

[FRL–5836–3]

United States Virgin Islands Proposed Ruling on Petition Pursuant to Section 325(A)(1) of the Clean Air Act

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On May 7, 1996, the Governor of the United States Virgin Islands sent to the Environmental Protection Agency (''EPA'') a petition for an exemption (''petition'') from certain requirements of the Clean Air Act (the ''Act''). The

petition, submitted pursuant to section 325(a)(1) of the Act, requests that the Hess Oil Virgin Islands Corp. (HOVIC)) refinery be granted an exemption from the prohibition on basing emission limitations on intermittent control strategies (ICS) in section 123 of the Act. Based upon the EPA's review of the petition and supplemental information provided by HOVIC, the EPA is proposing to conditionally approve the petition. The conditions would require that HOVIC switch to a lower sulfur fuel when the wind direction blows from a defined sector or when ambient monitors measure an average SO2 concentration above a specified level. Conditions governing when HOVIC can switch back to the higher sulfur fuel are also included in this proposed approval. Pursuant to section 307(d) of the Act, this proposed rule provides a description of the basis for the petition under section 325(a)(1), the petition and supporting documentation submitted by HOVIC, and the proposed decision by the EPA on the petition.

DATES: Comments on this proposed rule must be submitted on or before July 10, 1997. EPA has not scheduled a public hearing on this proposed rule. A hearing will be held in New York, N.Y. on this petition if one is requested on or before July 10, 1997.

ADDRESSES: Comments should be submitted in duplicate to: Steven C. Riva, Chief, Permitting Section, Air Programs Branch Division of Environmental Planning and Protection, U.S. Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Parties who wish to request a hearing should contact Steven C. Riva at (212) 637–4074. If a hearing is scheduled, a notice will be published in the **Federal Register**. Parties wishing to testify should contact Steven C. Riva. Hearing testimony should be submitted to the EPA Air Docket in Washington, D.C. and the Region 2 address above.

Docket: Copies of information relevant to this petition are available for inspection in public docket A–97–08 at the Air Docket of the EPA, room M–1500, 401 M Street SW., Washington, D.C. (202) 260–7548, between the hours of 8:00 am to 5:00 pm Monday through Friday. A copy of the documents contained in the docket are available at USEPA, Region 2, Division of Environmental Planning and Protection, 25th Floor, 290 Broadway, New York, NY (212) 637–4074, and is available between the hours of 8:00 am to 4:00 pm Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Annamaria Colecchia, Permitting Section, Air Programs Branch, Division of Environmental Planning and Protection, U.S. Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, Telephone: (212) 637-4016.

SUPPLEMENTARY INFORMATION:

Background

On May 7, 1996, the Governor of the United States Virgin Islands submitted a petition to the Administrator of the EPA for an exemption from certain requirements of the Act. The petition, submitted pursuant to section 325(a) of the Act, requests that the HOVIC refinery, located on the island of St. Croix, be granted an exemption from the prohibition on basing emission limitations on ICS in section 123 of the Act. HOVIC concurrently submitted a proposed modification to its existing Prevention of Significant Deterioration (PSD) permit to the EPA to: (1) increase the charge rate to the Fluid Catalytic Cracking Unit, (2) increase the production of sulfuric acid, and (3) redistribute and change the types of fuels processed in the refinery. The third change, which will substantially reduce emissions of sulfur dioxide (SO2) below the amount HOVIC is currently permitted to emit, could cause occasional exceedances of the 24-hr National Ambient Air Quality Standard (NAAQS) for this pollutant, north of the facility, during those days that the wind blows onshore for a persistent length of time. Meteorological data from the twelve months prior to the petition predicts that these wind conditions will occur only a few times a year.

The petition proposes to prevent these potential exceedances from occurring by reducing the sulfur content of the fuel processed during those time periods. Since this constitutes an ICS based on atmospheric conditions, reliance upon which in an implementation plan is specifically prohibited by the Act, the petition requested an exemption from this requirement through provisions available under section 325 of the Act. Granting HOVIC's petition will make it possible for EPA to consider, in a separate action, HOVIC's request for a PSD permit modification. EPA is not entertaining HOVIC's PSD permit modification request in this action.

Section 325(a) provides, in part, that upon petition of the Governor of the Virgin Islands, the Administrator of the EPA is authorized to exempt any persons or source or class of persons or sources in such territory from any requirement under the Clean Air Act other than section 112 or any requirement under section 110 or Part D of Subchapter I necessary to attain or maintain a national ambient air quality standard.

Description of Petition and Supporting Documents

The petition consists of a seventeen page narrative and eighteen supporting exhibits. The narrative portion of the petition is organized into sections that describe: (1) The unique meteorological conditions of the Virgin Islands, and in particular, HOVIC's location on St. Croix, (2) the planned permit modification and control options available at the HOVIC facility, (3) the fuel-switching control strategy proposed by HOVIC, and (4) the regulatory and statutory basis for granting the exemption. The supporting exhibits in the petition include, among other things, existing meteorological monitoring audits, modeling methodology, NAAQS compliance demonstration and legal references. Under separate cover, HOVIC submitted an air quality analysis as part of the complete permit modification request. Other documentation later submitted by HOVIC in support of this petition included: (1) Incremental cost analysis; (2) liquid fuel usage; (3) SO2 emissions by unit; (4) analysis of PSD increment consumption; and (5) additional information on the air quality modeling.

Criteria for Approval

As amended, section 325(a) provides the criteria for approving a request for an exemption from requirements of the Act and states, in part, that:

> Upon petition by the governor of Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Administrator is authorized to exempt any person or source or class of persons or sources in such territory from any requirement under this Act other than Section 112 or any requirement under Section 110 or Part D necessary to attain or maintain a national primary ambient air quality standard. Such exemptions may be granted if the Administrator finds that compliance with such requirement is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors of such territory or such other local factors as the Administrator deems significant.

HOVIC's proposed modification involves only SO2 emissions and approvals governed by section 110 of the Act and involves no requirements under section 112. On the basis of the language cited above, the first prerequisite to granting an exemption in this case under section 325(a)(1) is that

such an exemption may not be granted from any section 110 requirement necessary to attain or maintain a national primary ambient air quality standard. The second prerequisite to granting such a petition is that the Administrator must find the exempted requirement to be not feasible or unreasonable due to unique geographical, meteorological, or economic factors or such other local factors as the Administrator deems significant.

EPA Evaluation and Proposed Action

The EPA believes that the petition meets the first prerequisite. That is, as a statutory matter, the prohibition against SIPs relying upon ICS, contained in section 123, is not a requirement under section 110 necessary to attain or maintain the NAAQS. Moreover, the modeling analysis presented demonstrates that the proposal will not adversely affect either attaining or maintaining a NAAQS. However, more complex issues arise in determining whether the proposal meets the second test. The petition does not claim that adherence to the prohibition in section 123 is not feasible. Rather, EPA has been asked to determine whether, given the local conditions, compliance with the prohibition is unreasonable.

The petition bases its argument on the unreasonableness of compliance with the prohibition against SIP reliance upon the use of ICS given the unique meteorology and geography of the United States Virgin Islands. A principle reason for Congress' enactment of section 123 was to prevent export of air pollution from one population area to another. HOVIC argues that the prohibition against ICS was based on the experience of sources operating on the United States mainland, which given the Virgin Islands' unique wind patterns and isolation, are not relevant to HOVIC's circumstances. HOVIC claims that given these circumstances, it is ''unreasonable'' to require it to undertake a more expensive control option, the use of a lower sulfur fuel on a continual basis, in order to comply with the prohibition.

HOVIC's interpretation of unreasonable—that without the use of an ICS, HOVIC would accrue higher production costs it could otherwise avoid—is not consistent with the rationale given for previous exemption decisions made by the Agency under section 325. In previous decisions, petitioners were able to demonstrate significant adverse impacts to both the source, in terms of significant additional emission controls, and to the community, which would bear the burden of those costs and/or a potentially severe energy emergency. These decisions pointed to the severe impact to the affected community that would result from not granting the exemption. There is no overriding public welfare concern presented in this petition. The cost of compliance with the ICS prohibition would fall entirely to HOVIC, and no argument has been presented that this cost would entail a severe burden to HOVIC. The decision to incur these costs is also entirely within the discretion of HOVIC. Thus, this argument does not itself show that compliance with the prohibition is unreasonable or infeasible. Given that sources located in geographic areas not subject to section 325 cannot avail themselves of this exemption, HOVIC should not be entitled to an exemption merely on the basis that it is located in the Virgin Islands and desires to save on costs. Rather, the statute requires a showing of infeasibility or unreasonableness due to unique factors.

However, there are several factors which support granting the exemption sought in the petition. These factors provide a strong basis for approving the exemption request in a manner that is consistent with prior Agency interpretations of the term ''unreasonable'' in section 325. First, since the modeling done in support of this request demonstrates an exceedance of the 24 hour SO2 NAAQS in the northern impact area under the proposed 1% sulfur in fuel scenario, it is possible that the exceedances may already occur under HOVIC's present permit conditions of 1.5%. EPA believes that the proposed ICS would provide a remedy to this potential existing air quality concern, and that more stringent continuous controls may not be a necessary remedy in this case. Second, the EPA believes that the proposed ICS provides safeguards to ensure that exceedances will not occur in the future. The proposed ICS requires the incorporation of several provisions, including the installation of ambient monitors in the northern impact zone. These ambient monitors provide not only additional air quality monitoring but they serve as a mechanism for triggering the sulfur reduction strategy. This mechanism is in addition to the condition requiring a reduction in sulfur in fuel based upon a shift in wind direction. EPA believes that these two mechanisms will ensure that the NAAQS standard will be protected. Third, the use of ICS is compatible with the relief that section 325 was designed to provide. The legislative history of section 325 explicitly addresses the problem of sources having to adhere to all control requirements of the Act in areas where this does not result in an air quality benefit. *See*, e.g., 129 Cong. Rec. S16486–88 (daily ed. Nov. 17, 1983) (statements of Sen. Stafford and Sen. Matsunaga); 129 Cong. Rec. 26926 (daily ed. Oct. 3, 1983) (statement of Rep. Lagomarsino). EPA believes that approving the use of ICS would be an appropriate exemption under section 325 in certain circumstances. Indeed, the EPA has already approved such an exemption, in March 1993, for the Island of Guam. *See* 58 FR 13570 (Mar. 12, 1993), 58 FR 43042 (Aug. 12, 1993)

For these reasons, the EPA is proposing to exempt HOVIC from the prohibition against the use of ICS for its modification, subject to the following conditions. These conditions must be included as basic requirements in any PSD permit modification entertained by EPA. In addition, the exemption proposed today by EPA is also based upon the premise that HOVIC must comply with any other PSD permit conditions deemed necessary by EPA to ensure that these basic requirements are met. It should be noted that today's action does not represent a proposed or final PSD permit. Any proposed determination on PSD will undergo a separate notice and comment procedure. The basic requirements are as follows:

The protocol to be followed for the ICS shall be set forth in the revised Prevention of Significant Deterioration Permit anticipated to be issued to HOVIC; and will include as a minimum, the following conditions. HOVIC will comply with the details of these requirements as contained in the specific conditions of the anticipated PSD permit:[1]

(1) The switch to a lower sulfur fuel (0.5%) will take place when:

(a) The winds blow from a 45 degree sector defined as 143 to 187 degrees inclusive, where zero degrees is due north, for at least 6 consecutive hours during a 24-hour block period or any 12

[1] The conditions will be specified in detail in the permit. However, for clarity, the following specifications are assumed for purposes of this proposal:

—The wind direction will be monitored by a meteorological tower on HOVIC property, approved by EPA, and will be collected and reported as 1-hour averages, starting on the hour. If the average wind direction for a given hour is from within the designated sector, the wind will be deemed to have flowed from within the sector for that hour. Each ''day'' or ''block period'', for these purposes will start at midnight and end the following midnight.

—The SO2 concentrations will be measured by ambient monitors installed for the purposes of this ICS by instruments near HOVIC property approved by EPA. The data will be collected according to EPA approved ''SLAMS'' procedures, but will, for these purposes, be averaged by the hour, starting on the hour.

non-consecutive hours during a 24-hour block period. Or:

(b) one of HOVIC's ICS monitors measures an average ambient SO2 concentration that is 75% of the 24-hour NAAQS during any rolling 24-hour average. (75% of the 24-hour NAAQS = 274 ug/m3 or 0.105 ppm).

(2) The switch back to the higher sulfur fuel (1.0%) may occur under one of the following three conditions:

(a) If the ICS was triggered by (1)(a) above, the switch back may occur when the winds blow outside the sector listed in (1)(a) for at least 3 consecutive hours following the period during which the winds were blowing inside the sector. Or:

(b) If the ICS was triggered by (1)(b) above, the switch back may occur after all of HOVIC's ICS ambient monitors measure a 24-hour average concentration which is less than 75% of the NAAQS for at least one 24-hour block period following any occurrence when the monitor measured the concentration which was 75% of the NAAQS. Or:

(c) If the ICS was triggered by both (1)(a) and (b) above, the switch back may occur when both of the conditions in (2) (a) and (b) are met.

(3) The protocol may be modified by EPA to protect against exceedances of the sulfur dioxide NAAQS.

(4) In the event that there is an exceedance of the NAAQS, HOVIC will report the exceedance to EPA and recommend corrective action as well as amendments to the protocol to ensure the protection of the NAAQS.

Other conditions of this exemption under section 325 of the Act are set forth as follows:

(5) HOVIC must comply with all fuel switching requirements, contained in HOVIC's PSD permit.

(6) This exemption shall take effect only in the event that a final PSD permit modification becomes effective.

(7) The Administrator may terminate the exemption through rulemaking procedures upon determining that HOVIC's use of the ICS is causing or contributing to an exceedance of the NAAQS.

Administrative Requirements

Regulatory Flexibility

The Regulatory Flexibility Act, (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice an comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial matter of small entities. Small entities include small businesses, small not-for-profit enterprises and small governmental jurisdictions. This proposed rule would not have a significant impact on a substantial number of small entities because the proposed rulemaking will apply only to the Hess Oil Virgin Islands refinery on St. Croix, U.S. Virgin Islands. This facility is not a small entity, and the action granting the petition will relieve the source from restrictions that would otherwise apply. Therefore, the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Under section 204 of the UMRA, EPA generally must develop a process to permit elected officials of State, local and Tribal governments (or their designated employees with authority to act on their behalf) to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates. These consultation requirements build upon those of Executive Order 12875 (''Enhancing the Intergovernmental Partnership''). Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year. This is because this proposed rule is essentially ''deregulatory'' in nature, relieving, subject to conditions, the sole regulated entity of restrictions that would otherwise apply. This proposed rule should result in resource savings to the Hess Oil Virgin Islands refinery that would not likely be obtained in the absence of today's proposed rule. Thus, today's proposed rule is not subject to the requirements of sections 202, 204 and 205 of the UMRA. With respect to section 203 of the UMRA, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As previously stated, EPA believes the rule will reduce the regulatory burden on the regulated community, without imposing additional significant or unique burdens on the Virgin Islands to implement today's proposed rule.

Executive Order 12866

This action has been classified as a Table 3 action by the Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

List of Subjects in 40 CFR Part 69:

Environmental protection, Air pollution control.

Dated: May 30, 1997.

Carol M. Browner,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend 40 CFR part 69 as set forth below:

PART 69—[AMENDED]

1. The authority citation for part 69 continues to read as follows:

Authority: Sec. 325(b), Clean Air Act, as amended (42 U.S.C. 7625–1).

2. Subpart D is added consisting of § 69.41 to read as follows:

Subpart D—The U.S. Virgin Islands

§ 69.41 New exemptions.

(a) Pursuant to section 325(a) of the Clean Air Act and a petition submitted by the Governor of the Virgin Islands, the Administrator conditionally exempts certain units from certain CAA requirements.

(b) An exemption of the prohibition, under section 123 of the Clean Air Act, on reliance upon the use of ICS of fuel switching in an implementation plan is granted for the Hess Oil Virgin Islands (HOVIC) refinery on St. Croix with the following conditions:

(1) The switch to a lower sulfur fuel (0.5%) will take place when:

(i) The winds blow from a 45 degree sector defined as 143 to 187 degrees inclusive, where zero degrees is due north, for at least 6 consecutive hours during a 24-hour block period or any 12 non-consecutive hours during a 24 hour block period, or:

(ii) One of HOVIC's ICS monitors measures an average ambient SO2 concentration that is 75% of the 24-hour NAAQS during any rolling 24-hour average. (75% of the 24-hour NAAQS = 274 ug/m3 or 0.105 ppm).

(2) The switch back to the higher sulfur fuel (1.0%) may occur under one of the following three conditions:

(i) If the ICS was triggered by paragraph (b)(1)(i) of this section, the switch back may occur when the winds blow outside the sector listed in paragraph (b)(1)(i) of this section for at least 3 consecutive hours following the period during which the winds were blowing inside the sector, or

(ii) If the ICS was triggered by paragraph (b)(1)(ii) of this section, the switch back may occur after all of HOVIC's ICS ambient monitors measure a 24-hour average concentration which is less than 75% of the NAAQS for at least one 24-hour block period following any occurrence when the monitor measured the concentration which was 75% of the NAAQS, or

(iii) If the ICS was triggered by both paragraph (b)(1)(i) and paragraph (b)(1)(ii) of this section, the switch back may occur when both of the conditions in paragraph (b)(2)(i) of this section and paragraph (b)(2)(ii) of this section.

(3) The protocol may be modified by EPA to protect against exceedances of the sulfur dioxide NAAQS.

(4) In the event that there is an exceedance of the NAAQS, HOVIC will report the exceedance to EPA and recommend corrective action as well as amendments to the protocol to ensure the protection of the NAAQS.

(5) HOVIC must comply with all fuel switching requirements, contained in HOVIC's PSD permit.

(6) This exemption shall take effect only in the event that a final PSD permit modification becomes effective.

(7) The Administrator may terminate the exemption through rulemaking procedures upon determining that HOVIC's use of the ICS is significantly causing or contributing to an exceedance of the NAAQS.

[FR Doc. 97–15091 Filed 6–9–97; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–6

RIN 3090–AG49

Federal Advisory Committee Management

AGENCY: General Services Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The General Services Administration (GSA) is beginning the process of revising its regulations which implement its responsibilities under the Federal Advisory Committee Act (''FACA'', or ''the Act''), as amended (Pub. L. 92–463, 5 U.S.C., App.), and Executive Order 12024, December 1, 1977. These regulations have not been revised since 1989 and have become outdated as a result of significant decisions issued by the Supreme Court and other Federal Courts. In addition, the revised issuance is expected to provide more comprehensive and effective guidance for agency personnel in their attempts to involve the public in Federal decisionmaking consistent with the principles contained in the Act.

DATES: Written comments must be received on or before July 10, 1997.

ADDRESSES: Comments should be submitted to the Committee Management Secretariat at the following address: General Services Administration, Office of Governmentwide Policy, Room 5228—MC, 1800 F St., NW., Washington, DC 20405. Attention: FACA Regulations.

Comments may also be provided by facsimile on (202) 273–3559, or via the Internet to vincent.vukelich@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Vincent Vukelich, Committee Management Secretariat at (202) 273–3558.

SUPPLEMENTARY INFORMATION: GSA anticipates the new regulatory guidance will consist of two parts:

(1) The first section will address FACA's statutory requirements and policy provisions, and will likely resemble the current regulation.

(2) The second section will be in the nature of guidance which will address issues and situations that elaborate on the Act's policy provisions and illustrate how the scope and applicability of FACA apply in different situations. Where necessary, this section will relate FACA's requirements to other statutes and policy documents.

Background

FACA governs the use of covered advisory committees within the Executive Branch and establishes basic procedures to control the number and costs of these committees. At the same time, the Act provides mechanisms which assure public access to advisory committee meetings and documents. The basic policy objective contained in the Act is one that favors open decisionmaking by the Federal government when using advisory committees.

The openness provisions of FACA are evident, but the definition of what constitutes a ''Federal advisory committee'' is fairly broad. The United States Supreme Court noted that ''read unqualifiedly,'' FACA's requirements would ''extend to any group of two or more persons, or at least any formal organization, from which the President or an Executive agency seeks advice.'' *Public Citizen* v. *Department of Justice*, 491 U.S. 440, 452 (1989). The Supreme Court rejected such an unqualified interpretation. GSA's objective in revising the regulations is to provide appropriate guidance for agencies in establishing and operating advisory committees under the Act, while substantially clarifying which interactions with persons who are not ''full-time officers or employees'' of the Federal government are or are not subject to the requirements of the Act.

Many of the difficult questions under the Act arise when a Federal agency seeks to involve the public in the decisionmaking process pursuant to laws which require or encourage public involvement but does not intend to establish a committee covered by the Act. In many cases, there is no clear answer to when a public involvement strategy or situation may ''trigger'' the formal requirements regarding advisory committees under the Act. This uncertainty can lead to inconsistent approaches by different agencies, or by different segments of the same agency,

in their dealings with the public. The result may therefore be a perception among some groups that the broad scope of FACA actually hinders public involvement in Federal decisionmaking.

Issues Likely To Be Addressed

The following is a partial list of some of the issues likely to be addressed in the revision. This list is not meant to limit the scope of the comments to GSA.

Scope and Applicability

- Review applicability of Act to pre-existing groups.
- Revise definition of ''utilize'' which currently appears in the regulations at 41 CFR 101–6.1003.
- Provide additional guidance on committees which perform primarily operational as opposed to advisory functions as currently defined at 41 CFR 101–6.1004(g).
- Explain exclusions from the Act's coverage, including new provisions based on section 204(b) of the Unfunded Mandates Act, Public Law 104–4, relating to State, local and tribal government representatives.

Status of Individuals

- Provide definition of ''full-time Federal employee'' under the Act.
- Clarify status of consultants to advisory committees.

Consensus

- Update and expand references to ''consensus'' advice as a factor in determining the Act's coverage to specific groups or meetings.

Establishment and Operation of Federal Advisory Committee

- Revise procedures for establishment, re-establishment, or renewal of advisory committees.
- Review elements of ''balance'' for committee membership.
- Expand discussion for closing an advisory committee meeting under the Government in the Sunshine Act and other relevant statutes.

Nature of Comments Sought by GSA

All comments about the proposed revision of the regulations are welcome. Suggested issues to address, specific recommendations about changes needed in the current regulations, and reaction to the concept of a non-regulatory guidance section are especially relevant. In addition, examples of situations where FACA was either a useful tool or a hindrance to public involvement will be helpful in providing specific guidance most useful to Federal agencies.

Comments will be available for examination at the Committee Management Secretariat office.

Dated: June 4, 1997.

G. Martin Wagner,

Associate Administrator, Office of Governmentwide Policy.

[FR Doc. 97–15070 Filed 6–9–97; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 053097G]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a special meeting to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The meeting will be held on Wednesday, June 18, 1997, at 9 a.m.

ADDRESSES: The meeting will take place at the King's Grant Inn, Route 128 and Trask Lane, Danvers, MA. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1036; telephone: (617) 231-0422.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council, (617) 231-0422.

SUPPLEMENTARY INFORMATION: The special Council meeting will begin with agenda items concerning groundfish management. Initial action (first meeting) on a proposed framework adjustment to the Northeast Multispecies Fishery Management Plan (FMP) to modify the Gulf of Maine cod trip limit to account for overages will be discussed. Measures may: (1) Require vessels fishing under the trip limit to call a (cod hailing) telephone number upon off-loading and also at least once every 14 days, and (2) for vessels with landings exceeding the trip limit, allow resumption of fishing only when the days-at-sea (DAS) for that trip equate to their cod landings. A measure to change the cod trip limit exemption line located east of 68° W. long. from 42° to 42°20' N. lat. would also be included in the framework adjustment. Initial action may be taken on an additional framework adjustment that would allow vessels to carry over a maximum of 10 DAS to a following fishing year.

The Council plans to discuss and approve an alternative stock rebuilding schedule for monkfish (proposed Amendment 9 to the FMP would bring monkfish under Federal management authority). Public hearings will then be held in conjunction with New England and Mid-Atlantic Fishery Management Council meetings in July 1997; accordingly, the Council will revise the fishing mortality reduction schedule and stock rebuilding plan in proposed Amendment 9 to the FMP, based on the comments received.

There will be a final review of the draft public hearing document for Amendment 7 to the Atlantic Sea Scallop Fishery Management Plan. Amendment 7 would allow scallop permit holders to consolidate their DAS. The discussion will include consideration of several options to accomplish the DAS transfer.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 4, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–15077 Filed 6–9–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 053097E]

Fisheries off West Coast States and in the Western Pacific; Northern Anchovy Fishery; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Announcement of Advisory Subpanel Meeting and Status of the Northern Anchovy Fishery.

SUMMARY: The Pacific Fishery Management Council's (Council) Coastal Pelagics Advisory Subpanel will meet with representatives of the Coastal

Pelagics Planning Team to discuss the biomass estimate for northern anchovy, which was last completed in 1995, and trends in the biomass, for the purpose of setting the commercial harvest quotas for the 1997 fishing season.

DATES: The meeting will be held on June 18, 1997, at 10 a.m.

ADDRESSES: The meeting will be held at the Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: James J. Morgan at (562) 980–4036.

SUPPLEMENTARY INFORMATION: At the meeting, data showing trends in the estimated spawning biomass will be presented with an overview of historical abundance, the quotas available for harvest will be announced, and public comments will be received. Status of an issue paper on the management of coastal pelagic fisheries by the California Department of Fish and Game also will be discussed. All materials relating to the annual quotas will be forwarded to the Council and its Scientific and Statistical Committee and will be available for public inspection at the Office of the Acting Regional Administrator (see **ADDRESSES**). The interim final quotas will be published in the **Federal Register** on or about August 1 with an opportunity for public comment.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to James J. Morgan at NMFS Regional Office (see **ADDRESSES**) by June 13, 1997.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 4, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–15060 Filed 6–5–97; 2:33 pm]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 62, No. 111

Tuesday, June 10, 1997

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice; correction.

SUMMARY: The Food and Consumer Service, USDA is providing notice of a correction to a Privacy Act notice entitled, Food Stamp Program Retailer Information, USDA/FCS–9. This notice was published in the **Federal Register** at 61 FR 63815 on Monday, December 2, 1996.

Informaiton contained in this system of records is being used to determine whether retail or wholesale store owners and officers, and/or owners and officers associated with other entities authorized to redeem food stamps, such as private restaurants that qualify to participate in the special restaurant program to serve elderly, homeless and disabled Food Stamp Program (FSP) recipients, qualify to participate or continue to participate in the FSP to monitor compliance with program regulations and for program management.

A sentence was mistakenly placed in the Privacy Act notice published on December 2, 1996. Thus, the Food and Consumer Service is publishing this correction.

On page 63816 in the issue of the **Federal Register** published on December 2, 1996, FR Doc. 96–30088 is corrected by removing the last sentence under the heading ''Categories of Records in the System'' which begins in the first column.

Dated: June 3, 1997.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 97–15038 Filed 6–9–97; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 96–008N]

HACCP-Based Meat and Poultry Inspection Concepts

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) must change how resources are allocated in order to improve regulation of the meat and poultry industries after implementation of the Pathogen Reduction; Hazard Analysis and Critical Control Point (PR/HACCP)Systems final rule. Every aspect of traditional FSIS methods of inspection for slaughter and processing needs to be reconsidered. All methods are subject to change as long as the Agency can fulfill its responsibilities to ensure that the industries produce safe, wholesome, unadulterated and properly labeled meat and poultry products. The Agency is also considering adding methods to better ensure food safety and other consumer protections in distribution channels.

FSIS is seeking comments on the development of new inspection models for slaughter and processing in a HACCP environment. FSIS also invites the public to participate in the development of new inspection models and will hold a public meeting to facilitate that process.

DATES: The public meeting is scheduled for June 24, 1997, from 8 a.m. to 5 p.m.

COMMENTS: Comments are welcome at any time. Please submit written comments to Ms. Patricia Stolfa, Assistant Deputy Administrator, Office of Policy, Program Development and Evaluation, Room 402 Cotton Annex, 300 12th Street SW, Washington, D.C. 20250–3700. Comments may also be provided by facsimile (202–401–1760).

ADDRESSES: The public meeting will be held in Galleries 1, 2, and 3 of the Arlington Hilton Hotel, 950 North Stafford Street, Arlington, VA 22203. The hotel has reserved a block of rooms until June 13 for participants in the public meeting. Please contact the hotel at (800) 445–8667 and cite code USDAFSIS to make reservations.

FOR FURTHER INFORMATION CONTACT: To register for the public meeting, contact Ms. Mary Gioglio at (202) 501–7244, (202) 501–7138, or FAX (202) 501–7642. Persons wishing to speak at the public meeting are requested to submit an advance written summary of their remarks. Please submit written summaries pertaining to in-plant and/or in distribution inspection concepts to Ms. Patricia Stolfa, Assistant Deputy Administrator, Office of Policy, Program Development and Evaluation, Room 402 Cotton Annex, 300 12th Street SW,Washington, D.C. 20250–3700. Participants who require a sign language interpreter or other special accommodations should contact Ms. Gioglio at the above telephone or FAX numbers by June 10, 1997.

Background

This notice is organized into five sections. Section I (Introduction) explains the current status of the FSIS regulatory program and its food safety goals and strategy, and describes the Agency's consumer protection activities included in its current program. This section discusses the need for resource redeployment in light of the Agency's overall modernization effort. Section II (Current Inspection System) explains the current program and identifies significant inconsistencies between HACCP and the current program. This section also summarizes external support for inspection reform. Section III (HACCP-based Inspection Development Project) explains the project, describes inspection model development activities, announces a public process to assist in the development of new inspection models, and solicits volunteer establishments for participation in development activities. Section IV (New Inspection Models) presents current agency thinking on new in-plant and in-distribution models. Section V (Public Meeting) proposes material questions the Agency will address through the public process.

I. Introduction

Food Safety Goal

FSIS is committed to making fundamental improvements in the safety of America's meat and poultry supply in order to reduce the incidence of foodborne illness. In the preamble to the proposed rule ''Pathogen Reduction; Hazard Analysis and Critical Control Points (PR/HACCP) Systems'' (60 FR 6774; February 3, 1995), FSIS stated its

goal as follows: ''* * * to reduce the risk of foodborne illness associated with the consumption of meat and poultry products to the maximum extent possible by ensuring that appropriate and feasible measures are taken at each step in the food production process where hazards can enter and where procedures and technologies exist or can be developed to prevent the hazard or reduce the likelihood it will occur.'' (60 FR 6785.)

An essential first step in achieving that goal was accomplished with promulgation of the PR/HACCP Systems final rule (61 FR 38806; July 25, 1996).

The PR/HACCP final rule mandates substantial change within every inspected meat and poultry establishment. The new regulations: (1) Require that each establishment develop, implement, and follow written sanitation standard operating procedures (S-SOP's); (2) require regular microbial testing by slaughter establishments to verify the adequacy of their process controls for the prevention and removal of fecal contamination and associated bacteria; (3) establish pathogen reduction performance standards for *Salmonella* that slaughter establishments and establishments producing raw ground products must meet; and (4) require that all meat and poultry establishments develop and implement a risk-based system of preventive controls known as HACCP to improve product safety.

In mandating these reforms, FSIS recognized that in-plant technological and procedural solutions could not address foodborne illness hazards occurring in meat and poultry products outside official establishments. These components of the goal could be achieved only through a more comprehensive food safety strategy that would bring about improvements in risk management at each step in the meat and poultry production chain. Efforts must extend from just before slaughter, through slaughter, processing, distribution, and retail sale or food service, to consumers.

FSIS' Food Safety Strategy

The food safety strategy FSIS outlined in its PR/HACCP final rule included five major elements:

(1) Provision for systematic prevention or reduction of biological, chemical, and physical hazards through adoption by meat and poultry establishments of science-based process control systems.

(2) Targeted efforts to control and reduce harmful bacteria on raw meat and poultry products.

(3) Adoption of food safety performance standards that provide a catalyst for innovation to improve food safety and a measure of accountability for achieving acceptable food safety results.

(4) Removal of unnecessary regulatory obstacles to innovation.

(5) Efforts to address hazards that arise throughout the food safety continuum from farm to table.

FSIS also stressed, as a central theme of its strategy, a need to clarify and strengthen the responsibilities of establishments for maintaining effective sanitation, following sound food safety procedures, and achieving acceptable food safety results.

The PR/HACCP final rule included regulatory provisions to implement food safety strategy components (1) Hazard prevention through HACCP and other production control systems, (2) reduction and control of bacterial pathogens and (3) adoption of food safety performance standards. Earlier, FSIS had published an Advance Notice of Proposed Rulemaking (ANPR) (60 FR 67469 December 29, 1995) in pursuit of strategy component (4), the elimination of unnecessary regulatory obstacles to innovation. That notice announced a comprehensive review of all FSIS regulations to determine which will still be needed when the PR/HACCP final rule becomes effective and which ought to be revised, streamlined or eliminated. That review is well underway and a series of proposals will be published in the **Federal Register** to consolidate and remove or modify existing requirements to make them performance standards.

The PR/HACCP final rule did not address hazards arising at other points in the farm to table continuum: for instance, during the transportation, storage and retail, restaurant or food service sale of meat and poultry products. Yet each stage of production presents hazards of pathogen and other contamination and each provides opportunities for preventing or mitigating these hazards. Those in control of each segment of the farm to table continuum must accept their share of the responsibility for identifying and preventing or reducing food safety hazards that are under their operational control.

FSIS's food safety mandate requires that the Agency address foodborne illness hazards within each segment of the food production chain and that it implement and encourage prevention strategies that improve the whole system. FSIS remains committed to a farm to table food safety strategy based on these principles. Commenters on the PR/HACCP proposed rule supported FSIS modernization of its regulatory program to include all segments of the food production and transportation industries.

The Agency also will be cooperating with animal producers, academia, the Animal and Plant Health Inspection Service, the Food and Drug Administration, the States, and other government agencies to develop and foster voluntary food safety measures which can be taken on the farm to decrease the public health hazards in animals presented for slaughter.

The post-processing transportation, storage, and retail restaurant or food-service sectors are also important links in the chain of responsibility for food safety. In these areas, FDA and State and local governments share authority and responsibility for oversight of meat and poultry products outside of official establishments. FSIS, FDA, and the State and local agencies recognize that, if they are to reduce foodborne illness to the maximum extent possible, they must coordinate their food safety missions when addressing hazards that may arise in distribution and at retail. FSIS has initiated a number of activities which could form the basis for future regulatory activities at various points on the continuum.

In 1995, FSIS, FDA, and the Department of Transportation contracted with an expert group, the transportation Technical Analysis Group (TAG), to identify the hazards associated with transportation of perishable foods and to recommend reasonable controls that might be employed by industry to ensure food safety. Using the HACCP system, the TAG conducted a hazard analysis of the two major areas of concern in the trucking transportation chain: the transport of live animals or fresh materials, and the transport of processed or finished products that are perishable. The TAG concluded that a program to ensure more sanitary and temperature-controlled food transportation would benefit both the industry and consumers.

In conjunction with FDA, FSIS issued a November 22, 1996, Advance Notice Of Proposed Rulemaking (61 FR 59372) seeking comments and information on various issues and alternatives for ensuring the safety of potentially hazardous foods during transportation and storage. FSIS and FDA also co-hosted a conference in November 1996, focusing on transportation, storage and distribution of potentially hazardous foods. The conferees discussed ideas related to in-distribution regulatory activities to be considered by FSIS and FDA regarding meat, poultry, eggs,

seafood, dairy, and other potentially hazardous food products. A transcript of this conference is available from the FSIS hearing clerk.

Other Consumer Protection Activities

In addition to its food safety goal, FSIS also has other consumer protection responsibilities under the laws it administers that are the subject of many agency activities. These include ensuring that meat and poultry products are truthfully labeled and not economically adulterated with less valuable components such as water, and ensuring that consumers are protected from unwholesome meat and poultry products which, while not actually unsafe, might contain components which are undesirable.

Regulatory Objectives

The FSIS regulatory program of the future will be designed first to meet the Agency's food safety goal and strategy, along with our consumer protection responsibilities. The Agency realizes it must have the participation of all stakeholders to achieve our food safety goal and other objectives. FSIS is therefore seeking public input on the design and development of its HACCP-based program. FSIS believes that there are at least three essential objectives that will form the basis of this modern HACCP-based program.

- First, FSIS must ensure that any new inspection models do not diminish the current food safety and consumer protection achievements that result from (1) carcass-by-carcass and bird-by-bird slaughter inspection, and (2) Agency inspection oversight of production control systems in further processing establishments.
- The second objective is to effectively and efficiently oversee, evaluate, and verify industry implementation of the PR/HACCP final rule. HACCP, combined with other production control systems and FSIS inspection oversight, are complementary and interrelated, but independent activities that, taken together, enhance the safety of foods for consumers and thereby earn their confidence. Maintenance of such confidence shall be the critical test for any changes.
- The third regulatory objective is to ensure that meat and poultry products are handled and transported by allied industries under conditions which maintain their safety and integrity. FSIS intends to gather information about industry practices relative to handling, transport, and storage of meat and poultry products to determine whether businesses are effectively managing food safety risks and ensuring that other consumer protections remain intact.

Need for Resource Redeployment

FSIS will be unable to meet its food safety goal and other regulatory objectives unless it changes the way it deploys its resources. Currently, inspectors are fully, and frequently more than fully, occupied with carrying out the tasks of the present inspection system. Those tasks require that about 45% of the entire inspector field force be stationed at fixed positions along production lines in slaughter establishments. Current slaughter inspection staffing is directly related to industry production capacity. Higher production capacity requires the Agency to staff more inspection positions. Occasionally, staffing limitations negatively impact plant production rates.

FSIS recognizes that the opportunities for inspector redeployment are limited because current slaughter inspection regulations and procedures are, by design, resource-intensive. Seventy-two percent (72%) of the agency's in-plant inspection force is now assigned to slaughter or combination slaughter and processing establishments that make up only twenty-one (21%) of all establishments requiring federal inspection. Current slaughter inspection procedures obligate sixty-two percent (62%) of those in-plant slaughter inspectors (or 45% of the entire inspection force) to carcass-by-carcass and bird-by-bird post-mortem inspection.

FSIS believes it must explore alternatives to its current inspection design and resource deployment models. Redeployed resources would be allocated to new inplant functions associated with oversight, evaluation, and verification of the PR/HACCP final rule implementation. Other redeployed resources could be assigned to in-distribution oversight.

II. The Current Inspection System

This section describes current inspection system practices, especially within slaughter establishments, and illuminates several crucial problems with the current system that present barriers to the efficient and effective allocation of resources.

FSIS now carries out its meat and poultry food safety responsibilities primarily through in-plant slaughter and processing inspection programs. Under the current in-plant inspection system, FSIS inspects carcasses and parts of all livestock and birds to detect noncompliance with regulatory requirements, and requires correction of each product, production, facility, equipment and sanitation defect that occurs.

The current inspection system assumes that all livestock and birds and their carcasses and parts are presented for inspection with the intention of being prepared for use as human food. FSIS inspectors are required to determine which are wholesome, not adulterated, and capable of use as human food. FSIS inspectors decide whether to pass, condemn, or allow salvage of carcasses or parts thereof. Under the current system, FSIS uses inspectors at fixed stations on each slaughter line to organoleptically identify disease lesions or defects in carcasses, viscera and, in some species, heads.

Problems With Current Inspection

FSIS has identified several problems with the current approach. One major problem is that as slaughter establishments have come to rely on FSIS personnel to sort acceptable from unacceptable product, the establishments have no mandate or incentive to remove carcasses and parts prior to presentation for inspection. Thus, the proper roles of industry and inspection personnel are obscured. FSIS' resources are inappropriately and inefficiently used when FSIS slaughter inspectors take on the industry's responsibility for finding defects, identifying corrective actions, and solving production control problems.

A much more significant problem with the current inspection system is that it does not permit FSIS to allocate resources according to public health risk. For instance, the current line inspection system required by regulation in meat and poultry slaughter establishments focuses substantial FSIS inspection resources on areas that do not present significant food safety risks. The carcass inspection procedures carried out by FSIS inspectors today were designed many years ago in response to a higher prevalence of disease in the animal populations of that era. Over the years, significant advancements have been made in the control or eradication of many animal diseases, especially those that are transmissible to humans, such as tuberculosis and brucellosis. Also, animal production practices have become more efficient so that most livestock and poultry are slaughtered at a young age, generally free of diseases more common in older animals. Nonetheless, inspection methods have not changed.

Inspection methods have also not been modified sufficiently to address

the microbial causes of foodborne illness. Current inspection methods continue to rely on organoleptic identification of defects as indicators of possible microbial risk. Measuring microbial hazards in the design of HACCP plans through testing for actual microbial levels and validation of control measures will occur during implementation of the PR/HACCP final rule. Since new inspection models should reflect this focus on pathogen reduction and microbial monitoring and verification, the current reliance on organoleptic inspection should be carefully reassessed.

The following data illustrate the results of current FSIS line inspection. The overall level of carcass condemnation is low, 0.9 percent of young chickens, 0.1 percent of steers and heifers, and 0.3 percent of market hogs. Many carcass defects that result in condemnation by FSIS slaughter inspectors today are aesthetic rather than food safety related, such as pigmentary conditions and tumors. Condemnation for food safety reasons is even lower, 0.4 percent of young chickens, 0.08 percent of steers and heifers, and 0.23 percent of market hogs. Inspection resources are now used to directly observe 1,000 young chickens to find four (4) that should be condemned for food safety concerns. Similarly 10,000 steers and heifers are observed to condemn eight (8) and 1,000 market hogs (barrows and gilts) are observed to condemn two (2). Tables 1, 2 and 3 summarize carcass condemnation data from fiscal year 1995. These data underscore the need to reassess our current use of extensive inspection resources in this area and to ask what staffing levels and patterns are appropriate for the level of risk they address. FSIS believes that updating the diseases and conditions subject to condemnation or restriction under the PPIA and FMIA is long overdue and crucial to the development of new inspection models. Certain diseases and conditions unrelated to food safety, but currently addressed in the regulations, may be more appropriately addressed by industry monitoring.

TABLE 1.—FY 1995 CONDEMNATION DATA FOR YOUNG CHICKENS

Total slaughtered 7,512,916,376

Condemnation condition	Potential public health concern	Number condemned	Percent condemned [1]
Septicemia/toxemia	Yes	23,684,719	0.30
Synovitis	No	489,101	0.01
Contamination	Yes	6,190,429	0.08
Manufacturing defects	No	20,984,146	0.28
Aesthetic defects	No	18,990,884	0.25
Totals		70,339,279	0.94

[1] Percentages do not total 0.94 due to rounding.

The disease conditions with potential public health implications are easily identified by visual assessment. Manufacturing defects include such items as bruises, cadaver, over scalded, missing viscera, and plant rejects. Aesthetic conditions with no known food safety concern include leukosis, other tumors, and airsacculitis.

TABLE 2.—FY 1995 CONDEMNATION DATA FOR STEERS AND HEIFERS

Total slaughtered 28,807,882

Condemnation condition	Potential public health concern	Number condemned	Percent condemned [1]
Septicemia/toxemia	Yes	10,630	0.04
Inflammatory conditions	Yes	8,270	0.03
Tuberculosis	Yes	41	0.00
Ante-mortem conditions	Yes	1,802	0.01
Parasitic/fungal	Yes	2,678	0.01
Metabolic	No	2,081	0.01
Visually identifiable	No	2,352	0.01
Tumors	No	671	0.00
Totals		28,525	0.10

[1] Percentages do not total 0.10 due to rounding.

Some condemnable conditions are identified ante-mortem by visual assessment and animals with these conditions are not allowed to enter the slaughter department, including animals arriving dead, those with central nervous system disorders, moribund animals, those with tetanus, and those with fever (pyrexia). Metabolic conditions include cachexia and uremia and are identified by visual assessment. Other conditions are identifiable post-mortem by visual assessment, including icterus, eosinophilic myositis, tumors, and pigment conditions.

TABLE 3.—FY 1995 CONDEMNATION DATA FOR BARROWS AND GILTS

Total slaughtered 89,530,876			
Condemnation condition	Potential public health concern	Number condemned	Percent condemned [1]
Septicemia/toxemia	Yes	36,641	0.04
Inflammatory conditions	Yes	24,701	0.03
Tuberculosis	No	1,262	0.00
Ante-mortem conditions	Yes	137,998	0.15
Parasitic/fungal	Yes	47	0.00
Metabolic	No	1,448	0.00
Visually identifiable	No	14,717	0.02
Tumors	No	2,685	0.00
Totals		219,499	0.25

[1] Percentages do not total 0.25 due to rounding.

The conditions with potential public health implications are easily identified by visual assessment. Some condemnable conditions are identified on livestock and birds ante-mortem by visual assessment and not allowed to enter the slaughter department, including animals arriving dead (accounts for over one-half of all condemnations), those with central nervous system disorders, moribund animals, those with tetanus, and those with fever (pyrexia). Metabolic conditions include cachexia and uremia and are identified by visual assessment. Other conditions are identifiable at post-mortem by visual assessment, including icterus, eosinophilic myositis, tumors, and pigment conditions.

Despite the fact that many condemnations are unrelated to public health risks, today FSIS still fully staffs every meat and poultry establishment slaughter line inspection station. Assigning top priority to slaughter line inspection activities to detect quality as well as defects of public health concern directly affects the Agency's ability to staff other critical food safety inspection activities and may not be the best use of inspection resources. For example, FSIS inspectors in slaughter establishments are assigned the task of verifying establishment production control systems for sanitary dressing of slaughtered animals and operational sanitation of equipment and facilities. If, however, slaughter line inspection positions become vacant, inspectors are removed from these important verification duties to fill the line positions. This means that important production control systems, which prevent or eliminate hazards such as bacterial pathogens, are only monitored by plant employees with little FSIS inspection verification.

The current inspection system can also raise barriers to establishment innovation through new technology and improved production procedures. Establishments should have the flexibility to implement the PR/HACCP final rule and to make decisions about how they may best control food safety hazards and meet performance standards. Establishments should have the latitude to develop new production control methods to detect food safety and non-food safety related defects in carcasses and parts. Current slaughter inspection methods, particularly fixed inspector stations on establishment slaughter lines, limits industry innovation.

External Support for Inspection Reform

Recent outbreaks of foodborne illness have focused attention on the need for improving the current system. Studies conducted over the past decade by the National Academy of Sciences (NAS), the General Accounting Office, and by FSIS have established the need for fundamental change in the meat and poultry inspection program. Two elements have been commonly expressed: FSIS should revise and reform inspection to (1) Improve food safety through a reduction in foodborne illness caused by pathogenic bacteria on meat and poultry products and (2) make better use of its resources. Bacteria, including *Salmonella, E. Coli* 0157:H7, *Campylobacter* and *Listeria Monocytogenes,* are significant food safety hazards associated with meat and poultry products. The contamination of meat and/or poultry with these bacteria is estimated to result annually in as many as 4,000 deaths and 5,000,000 illnesses.

The theme of NAS's recommendations is that FSIS should reduce its reliance on organoleptic inspection and shift to prevention-oriented inspection systems based on risk assessment. The 1985 NAS report, *Meat and Poultry Inspection: The Scientific Basis of the Nation's Program,* recommended that FSIS focus on pathogenic organisms and require that all official establishments operate under a HACCP system for control of pathogens and other safety hazards. This report strongly encouraged ''FSIS to move as vigorously as possible in the application of the HACCP concept to each and every step in establishment operations, in all types of enterprises involved in the production, processing, and storage of meat and poultry products.''

Two later NAS studies reinforced this recommendation. The 1987 NAS report *Poultry Inspection: The Basis for a Risk Assessment Approach* concluded ''that the present system of inspection does very little to protect the public against microbial hazards in young chickens.'' The report continued to say that ''[Agency] resources are not always allocated to the right points and the resources that are properly directed are not achieving measurable results. Major changes are required in the poultry inspection system if public health is to be protected and if the investment of resources is to have maximum effect.'' It recommended that FSIS adopt an inspection strategy ''that is more likely to have a substantial impact on human diseases.'' The 1990 NAS report *Cattle Inspection: Committee on Evaluation of USDA Streamlined Inspection System for Cattle (SIS–C)* added that although ''traditional meat inspection, relying on organoleptic examinations, can ensure satisfactory meat product quality, it is not fully effective in protecting the public against foodborne health hazards not detectable with these techniques. The future will require new ways of preventing public exposure to contaminants, scientifically valid and believable methods of evaluating inspection technology, and implementation of appropriate portions of HACCP programs.''

The General Accounting Office (GAO) has advocated similar improvements for meat and poultry inspection in its reports. (Food Safety: A Unified, Risk-Based Food Safety System Needed (1994); Meat Safety: Inspection System's Ability to Detect Harmful Bacteria Remains Limited (1994); Food Safety: Building a Scientific, Risk-Based Meat and Poultry Inspection System (1993); Food Safety and Quality—Uniform, Risk-Based Inspection System Needed to Ensure Safe Food Supply (1992).) The GAO has endorsed HACCP as a scientific, risk-based system that would permit redeployment of FSIS resources in a manner that will better protect the public from foodborne illness. The 1994 GAO report, *Meat Safety: Inspection System's Ability to Detect Harmful Bacteria Remains Limited*, stated the resource problem clearly. ''Labor-intensive inspection procedures and inflexible inspection frequencies drain resources that could be put to better use in a risk-based system. To better protect the public from foodborne illnesses, FSIS must move to a modern, scientific, risk-based inspection system. Such a system would allow FSIS to target its resources toward the higher-risk meat and poultry products by increasing inspection of such products.''

Another proponent of inspection reform has been the National Advisory Committee on Microbiological Criteria for Foods (NACMCF), which prepared reports on the development and implementation of HACCP. NACMCF supported the use of risk analysis for allocation of resources to control food safety.

III. HACCP-Based Inspection Development Project

With this notice, FSIS is initiating the process of dialogue with all interested parties to advance the design and development of new inspection models to be tested in a series of trials in volunteer meat and poultry slaughter establishments and in distribution channels. This project is intended to produce a fully integrated system of regulatory oversight and controls that will permit FSIS to deploy inspection resources more effectively in-plant and between in-plant and in-distribution sites in accord with food safety and other consumer protection requirements.

Objectives for New Inspection Models

The development of new in-plant and in-distribution inspection models will occur in three phases.

Phase I. Initiation: Conduct public meeting to explain the need for new inspection models and to commence a public dialogue on the available options for their design, complete preliminary designs, and prepare for development activities.

Phase II. Development: Conduct development activities in commercial establishments and at in-distribution points to refine the models, gather data, generate implementation strategies.

Phase III. Completion: Write the final report, publish results for comment, and initiate rulemaking, as appropriate, to change existing inspection procedures.

During each phase, the in-plant and in-distribution inspection methods will be developed separately. The purpose of a two-track development is to test and refine the new inspection concepts in both commercially operating meat and poultry establishments and with in-distribution activities at several geographic sites. Throughout the development phase, FSIS will be prepared to revise or suspend current inspection procedures provided that appropriate oversight controls are maintained in volunteer establishments.

This notice announces the first step in Phase I, a public meeting to present the need for new inspection concepts and to commence a public dialogue on these concepts. At this meeting, FSIS will describe its current thinking, seek information from all stakeholders, and use that input to complete preliminary designs for new in-plant and in-distribution inspection models suitable for testing and development. FSIS needs the broadest possible public participation in the development of these models.

FSIS will prepare a transcript of the public meeting. The transcript and copies of any papers presented at the meeting will be available in the FSIS Docket Clerk's Office, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700.

Development Phase

FSIS development activities for new in-plant inspection systems will critically examine how well each design meets the Agency's regulatory objectives. In-plant tests will be conducted in establishments that predominantly slaughter young chickens, market hogs and steers/heifers. Volunteer establishments will be sought for each class. Young chickens, market hogs and steers/heifers were selected for these development activities because they tend to be healthy and uniform; they also represent over ninety percent (90%) of meat and poultry slaughtered in the United States.

Slaughter and combination slaughter and processing plants participating as volunteers will be required to have HACCP and other production controls in place to ensure that all consumer protection goals of the program are being met. Participating establishments must also have successful S–SOP's and a working generic *E. coli* testing program.

FSIS solicits establishments to volunteer for participation in the in-plant development phase. Establishments requesting to participate should request to do so in writing to FSIS at the address provided in the **ADDRESSES** portion of this notice. Written applications for participation in the development activities should provide a description of establishment operations that includes predominant species slaughtered, number and type of slaughter lines, and a certification that all applicable elements of the PR/HACCP final rule have been or will be fully implemented. FSIS will conduct an on-site visit to verify eligibility for participation in the development activities.

FSIS intends to assign inspection work more broadly during the in-plant development activities to explore new methods for performing regulatory work. For instance, if volunteer establishments conduct both slaughter and processing operations, inspectors might be assigned to perform work that cuts across traditional job lines. Within the slaughter operation, inspectors could provide oversight, evaluation, and verification of carcass-by-carcass and bird-by-bird industry determination of acceptable and unacceptable product. Inspectors would have access to perform hands-on inspection of carcasses or birds. They would perform additional tasks in slaughter and processing for assurance that products bearing the official inspection mark are not adulterated or misbranded, including verification of HACCP or S–SOP's. Such changes would provide FSIS with considerable data with which to evaluate the effectiveness of its inspection resources.

Staffing requirements for new in-plant inspection models could also vary depending on factors such as species of animal, the establishment's production system, and slaughter line configurations. Nontraditional staffing criteria are under development. In-plant slaughter inspection could (1) be staffed with available inspectors, (2) provide for rotation of inspection personnel between slaughter and processing duties, (3) provide continuous oversight of establishment production systems, (4) include scheduling of slaughter inspection tasks, and (5) provide unscheduled time for all inspection

personnel to conduct additional inspection activities in the establishment.

In view of the mix of skills to be found among slaughter inspection personnel, all slaughter inspectors currently assigned to the volunteer establishments will be trained for the project to perform (1) carcass-by-carcass and bird-by-bird slaughter inspection oversight, (2) verification of HACCP and related production control systems, (3) verification of establishment S–SOP's and (4) sampling.

The in-distribution development activities will be conducted on a separate track. In-distribution concepts will be studied in geographic areas selected to provide a variety of population densities and differing logistical challenges for scheduling work. In addition, two staffing options will be discussed at the public meeting: (1) Inspectors assigned only to in-distribution activities, and (2) inspectors who divide their time between in-plant and in-distribution work. Both options will be considered for application in rural as well as urban areas.

The in-distribution development activities will be staffed by experienced in-plant inspectors with prior training in processing inspection and supplementary training for the new work. This work will include in-plant tasks that have been identified to be supplemented or replaced by in-distribution oversight and tasks to determine the feasibility, efficiency, and effectiveness of performing food safety and other consumer protection tasks in distribution.

Completion

Upon completion of the development activities, FSIS will prepare a project report presenting a thorough evaluation of the in-plant and in-distribution inspection models tested. The Agency will decide at this point whether further testing of the models should be conducted or whether to initiate rulemaking to adopt and implement the new models nationally.

IV. New Inspection Models

The following criteria will be used to design and evaluate new in-plant and in-distribution models accepted for testing. The models should:

1. Emphasize industry responsibility for food safety and other consumer protection activities and government responsibility to verify that these objectives are met.

2. Include inspection procedures that detach inspectors from establishment production functions and from sanitation management.

3. Prioritize in-plant work to meet current inspection system objectives and verify that HACCP and other control systems and sanitation procedures are effective; provide appropriate priority to other consumer protection issues such as misbranding or economic adulteration.

4. Result from an assessment of all in-plant regulatory work to determine whether some tasks can be performed effectively and efficiently in-distribution and, where more appropriate, supplement some in-plant regulatory work with in-distribution oversight.

5. Identify and prioritize new in-distribution regulatory work, including oversight of how industry manages health and safety hazards that occur after meat and poultry products leave a USDA-inspected establishment and verification that products in-distribution are not misbranded or economically adulterated.

FSIS will develop new in-plant inspection models for slaughter establishments and combination slaughter and processing establishments to help the Agency properly allocate resources between oversight, evaluation and verification of PR/HACCP final rule implementation and activities to accomplish other consumer protection objectives. The new in-plant inspection models must also help the agency in properly allocating resources between in-plant and in-distribution work environments.

In-plant Inspection Models

A variation of the current inspection system has been identified as a model to be considered and discussed at the public meeting announced by this notice.

Under this in-plant model, the establishment would initiate HACCP and related control systems to distinguish acceptable from unacceptable carcasses and parts using current regulatory requirements for antemortem and postmortem disposition of carcasses and parts.

This model would provide establishments maximum flexibility to design and exercise more effective and more efficient production control systems. FSIS inspectors would have complete access to all carcasses and birds on each slaughter line to directly observe establishment production systems and verify process controls to ensure that products are not adulterated or misbranded. Consequently, establishment product flow plans crafted for compliance with the PR/HACCP final rule for other production control purposes would not include fixed FSIS inspection stations.

FSIS intends to judge products for safety and wholesomeness based upon the entire operation under which they are produced. FSIS inspectors could provide continuous regulatory oversight of the entire production operation to include each on-line processing step and all aspects of the establishment that contribute to product safety and wholesomeness.

FSIS envisions this inspection model as having three main components that collectively would ensure equivalent performance to that level of food safety and other consumer protections provided by the current regulatory system. Slaughter performance standards that define an acceptable carcass or part are the basis for the first inspection component. FSIS would establish performance standards to replace command and control regulations. Industry systems to meet the performance standards would satisfy the first component.

The second component is direct verification by FSIS inspectors of the establishment program. This would be accomplished by FSIS inspectors who would provide carcass-by-carcass and bird-by-bird inspection oversight at the slaughter line and by periodic checks to verify the condition of carcasses and parts the establishment has found to be acceptable.

The third component is verification of the overall establishment program for producing acceptable product including verification of HACCP, other production control systems, and S–SOP's.

This preliminary in-plant inspection model envisioned by FSIS would require fewer inspectors assigned to slaughter plants, making inspectors currently assigned to slaughter line positions available for redeployment. This is consistent with HACCP principles and would reduce or eliminate distinctions between slaughter and processing inspection by allowing inspectors to rotate from post-mortem oversight positions to work such as HACCP verification, finished product standards testing, Performance Based Inspection System (PBIS) task performance, S–SOP verification and microbial sampling.

FSIS Verification Activities

Under the new in-plant inspection model, FSIS would not prescribe how industry must accomplish production control. Establishments would instead be provided the flexibility, within performance and regulatory standards set by FSIS, to design specific processes that address hazards and defects unique

to their operations. FSIS would ensure that establishment HACCP and other control system plans for achieving regulatory standards are adequate and operating properly. Following is an illustration of steps FSIS inspectors would take to oversee, evaluate, and verify establishment production control systems.

- Observe the production control systems; verify that process control procedures are being followed by the establishment.
- Observe carcasses, parts, or viscera rejected by the establishment; provide information to the off-line inspector and veterinarian as to which diseases or conditions are prevalent.
- Observe carcasses, parts or viscera accepted by the establishment; verify removal of obvious condemnable conditions.
- Sample carcasses, heads or viscera accepted by the establishment; select and examine a specific number of carcasses, heads or viscera to verify the effectiveness of the establishment's system for ensuring accepted product is wholesome and otherwise eligible for the mark of inspection.
- Review records to determine whether the establishment is following its production control plans.
- Observe product (carcasses, heads, and viscera) to determine which conditions are present.
- Coordinate with establishment manager, who provides oversight of production control systems, to ensure that performance standards are being applied correctly.
- Conduct product standards testing (e.g., Finished Product Standards, Acceptable Quality Level) to determine the effectiveness of establishment production control systems for quality or wholesomeness defects.

FSIS also will conduct verification checks of establishment activities other than production control systems. For instance, FSIS inspectors will:

- Perform tasks related to the Performance-Based Inspection System, including those historically performed after slaughter during processing.
- Conduct HACCP record reviews to verify that the establishment is monitoring critical control points in accordance with their HACCP plan.
- Verify establishment disposition of rejected product.
- Conduct operational verification activities, such as assessing the establishment's execution of its HACCP plan.
- Take samples of product for microbiological, chemical and physical analysis to verify establishment compliance with its HACCP plan.
- Verify that the establishment is following its sanitation SOP.

The FSIS Veterinary Medical Officer (VMO) will work closely with inspectors to provide continuous oversight and thorough documentation of establishment production control systems. VMO expertise and responsibilities would include the following:

- Serve as the Inspector-in-Charge; supervise food inspectors.
- Evaluate the health of incoming animals through ante-mortem activities.
- Perform ante-mortem inspection of suspect animals.
- Verify establishment production control systems to ensure proper application of disposition standards by inspectors and establishment personnel.
- Verify microbial sampling and testing of product.
- Take microbial and histopathological samples of condemned carcasses to profile etiologies.
- Participate in the evaluation of testing or implementation of new technologies initiated by establishments for identifying condemnable carcasses.
- Serve as liaison with establishment management, industry technical experts and with local or State public health officials.

In-Distribution Concept

A new in-distribution inspection concept should provide for verifying industry management of food safety risks that arise after inspection. Resource allocation issues require an integrated approach for both food safety and other consumer protection initiatives. Thus, the in-distribution model may also supplement in-plant oversight of product labeling, economic adulteration and wholesomeness requirements. Although FSIS will develop and field-test new concepts for slaughter and in-distribution separately, FSIS envisions one fully integrated program that would permit movement of personnel and tasks between the two activities.

At present, FSIS has no comprehensive rules governing the in-distribution handling of meat and poultry products. The Agency now exercises its jurisdiction over product outside inspected establishments to a limited degree. For example, FSIS has promulgated safe handling labels for raw meat and poultry products (9 CFR 317.2 (l) and (m), and 381.125(b)); in many instances those labels are applied at retail locations. FSIS also verifies and enforces compliance with requirements concerning transportation to and among inspected establishments and allied industries, such as renderers and pet food establishments, conducts scheduled and unscheduled reviews of warehouses and other in-distribution locations, verifies the recall of product from in-distribution channels, performs scheduled and unscheduled product sampling, and investigates complaints from consumers and others about alleged adulterated or misbranded products.

This approach has been both proactive and reactive. FSIS has not focused systematically on in-distribution conditions and practices that contribute to the growth of microbes. FSIS uses resources to detect problems, educate industry, correct violations, and make appropriate dispositions on millions of pounds of product. However, the statutes provide USDA authority to oversee meat and poultry products after they leave inspected establishments. The statutes provide that one may not ''sell, transport, offer for sale or transportation, or receive for transportation'' any meat or poultry product that is capable of use as human food and is ''adulterated or misbranded at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation * * *'' (21 U.S.C. 610 and 458(a)(2)). The statutes also prohibit any action ''intended to cause or [that] has the effect of causing such articles to be adulterated or misbranded.'' (21 U.S.C. 610(d) and 458(a)(3)).

This authority would encompass the establishment of safety standards for meat and poultry products from the time they leave an inspected establishment to final sale or service to consumers. As a first step, FSIS has yet to determine whether performance standards and Good Manufacturing Practices could and whether they can be established for meat and poultry products to prevent growth of harmful bacteria and introduction of other potential hazards during transportation.

FSIS is considering work accomplished by the transportation TAG, to identify primary hazards associated with transportation of perishable foods and controls that might be employed by industry to ensure food safety. The TAG noted ''that time, temperature, and sanitation are the three key elements of any control plan'' affecting the transportation sector. The TAG also concluded that sanitary conditions and practices, maintenance of product temperature in transit, time in transit, and practices to reduce opportunities for cross contamination all represent control points for which the development of regulatory standards, good manufacturing

practices, and suitable verification controls are possible.

During in-distribution inspection concept development, FSIS will gather data to describe impacts on pathogen levels attributable to present allied industry practices. Data collection sources will include allied industry members who volunteer to describe quality or safety problems they experience with meat and poultry received from their suppliers. These data will suggest points of concern within the distribution chain that FSIS may need to address in its inspection planning.

Another data collection effort could be to identify a microbial baseline for certain products or product lots as they leave inspected establishments and track them through the distribution chain to detect and record changes caused by allied industry handling practices. The nationwide status of the food safety and other consumer protection aspects of meat and poultry products could be evaluated and profiles developed. Evaluation of changes in profiles over time would measure the effectiveness of in-distribution efforts to maintain food safety and product integrity. Status reports on meat and poultry products might be correlated with sentinel site surveillance data for foodborne disease to track the public health impact of farm to table food safety initiatives.

While time, temperature, and sanitation play a key role in controlling hazards to perishable foods in transportation, they are not the only factors that could be verified in the distribution chain. FSIS will also determine whether some adulteration and misbranding inspections presently conducted in-plant can be supplemented or perhaps performed entirely in-distribution. Many meat and poultry products are prepared by regulated establishments in consumer-ready packages. Samples could be collected in the marketplace rather than in establishments and subsequently analyzed in a laboratory for product formulation, proper labeling, and compliance with microbial and residue standards. For example, samples could be taken in-distribution to profile water added hams to determine adherence to accurate labeling and restricted ingredients requirements. Similarly, products produced in bulk packages might also be sampled at points in-distribution beyond where it was initially processed.

In-Distribution Alternatives

Transportation and storage are vital links in the farm to table continuum. The Agency has been developing in-distribution concepts and identified both available information and information gaps. Allied industries responsible for transportation and storage of meat and poultry have addressed product integrity issues for sometime. For example, cold storage facilities, warehouses, depots, and similar kinds of businesses have temperature and product handling controls that they use to ensure the safe storage of foods. Such standards may have broad applicability to in-distribution activities. The details about these activities, however, are not adequately known to FSIS.

FSIS identified several alternatives to ensure safe transportation and storage of food in its ANPR of November 22, 1996: *Transportation and Storage Requirements for Potentially Hazardous Foods* (61 FR 59372). These alternatives include specific requirements, such as temperature standards, performance standards, record keeping to ensure that food safety controls are maintained, mandatory HACCP-type systems, voluntary guidelines, and combined approaches. These alternatives are summarized below.

1. Temperature Requirements

One approach is the promulgation of a performance standard that would require that potentially hazardous foods be cooled to and maintained at or below a specific temperature during transportation and storage from the food processing plant to the retail outlet, restaurant, or other establishment serving the consumer. If this approach is adopted, all potentially hazardous foods being transported to retail or food service establishments would have to be maintained at or below such a maximum temperature.

2. Shipper Recordkeeping

Another alternative could be recordkeeping requirements with respect to the conditions under which foods that pose a risk as vehicles for foodborne disease are transported interstate. The Agency may consider requiring carriers of potentially hazardous foods that are shipped in bulk (foods which directly contact a food conveyance) to provide food shippers with records that identify the last three cargoes for any conveyance being offered to the food shipper for use in transporting the food and that disclose the data of the most recent cleaning of the conveyance.

3. Mandatory HACCP-Type Systems

Another approach would be to require that a HACCP system be established specifically with respect to the transportation and storage of potentially hazardous foods to prevent the contamination of these foods. Such requirements could be modeled on the regulations recently adopted by FSIS that apply to establishments processing meat and poultry.

Such HACCP-type systems could be relatively simple. Essentially, they would likely require that potentially hazardous foods be maintained at a particular refrigeration temperature or frozen temperature, and that the temperature be recorded using a recording thermometer. The use of a temperature standard would allow processors to determine the acceptability of a food transport vehicle for the transport of certain bulk foods, i.e., those that pose a risk of foodborne disease, based on cargo records.

4. Voluntary Guidelines

Another approach under consideration is to make more use of voluntary guidelines. Some government agencies, industry groups, and other organizations have published guidelines or recommended practices that address the transportation and storage of potentially hazardous foods, whether fresh or frozen. Such guidelines, several of which are discussed in the ANPR of November 22, 1996 (61 FR 59372), could serve as the basis for developing joint government-industry guidelines for food transportation and storage.

V. Public Meeting

Public participation in the development and implementation of the new inspection models discussed in this notice is essential. In addition to commentary on FSIS resource redeployment, specific inspection models, and in-distribution inspection activities, the Agency believes that comments addressing the following questions will facilitate the public process.

- What are the priority food safety objectives that must be accomplished by FSIS' meat and poultry inspection system?
- What other significant consumer protections should the meat and poultry regulatory system provide?
- How should the agency prioritize food safety and other consumer protection objectives?
- How much emphasis should FSIS place on detection of aesthetic defects that are not related to food safety?
- A major objective of the S–SOP requirement in the PR/HACCP regulation was to make establishments more accountable for performing all necessary sanitation functions before

and during operations. What other establishment operations might benefit from similar regulatory approaches?

- Is it necessary or desirable to employ the same inspection methodology in all similar establishments?
- What roles should Federal, State, and local governments play in verifying the safe transportation and storage of potentially hazardous foods?
- How we can best coordinate with State and local authorities to minimize restaurant and institutional outbreaks linked to meat and poultry products?
- How can FSIS verify allied industry management of food safety risks as meat and poultry products move from the establishment to consumers?
- What systems do establishments have in place for ensuring in-distribution protection of meat and poultry products? How does industry measure the performance of these systems?
- What in-plant inspection objectives can be supplemented or replaced with in-distribution inspection models?
- What additional suggestions are there for data collection efforts to be carried out in distribution channels?
- Are the in-distribution alternatives identified in the ANPR of November 22, 1996 (61 FR 59372), useful? In what ways?

Done at Washington, DC on: June 4, 1997.

Thomas J. Billy,

Administrator.

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 97–037N]

Interstate Distribution of State-Inspected Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meetings; request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is soliciting comments on ways it can improve Federal and State cooperation in the implementation of the Federal meat and poultry inspection laws, and on whether, and if so how, those laws should be amended to permit meat and poultry products inspected by State inspection programs to be distributed in interstate commerce. State inspection programs are authorized under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) to inspect meat and poultry establishments that prepare products intended for use as human food solely for distribution within the State under requirements ''at least equal to'' those imposed under Federal inspection.

DATES: The meetings will be held on June 16 and 17, 1997, in Sioux Falls, SD, and on July 22, 1997, in Washington, DC. Written information and comments will be accepted and made a part of the record of these proceedings through August 22, 1997.

ADDRESSES: The first meeting will be held from 9:00 a.m. to 4:00 p.m. on June 16 and from 9:00 a.m. to 1:00 p.m. on June 17, 1997, at the Radisson Encore Inn, 4300 Empire Place, Sioux Falls, SD 57106–6525; telephone (605) 361–6684. The second meeting will be held from 9:00 a.m. to 5:00 p.m. on July 22, 1997, in the Ticonderoga Room of the Hyatt Regency Washington on Capitol Hill, 400 New Jersey Avenue, NW, Washington, DC 20001. Persons sending written comments should send an original and two copies to the FSIS Docket Clerk, Docket No. 97–037N, Room 102 Annex Building, 300 12th Street, SW, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Persons wishing to participate in either of the two meetings are requested to register by contacting Ms. Traci Phebus by telephone at (202) 501–7138, by FAX at (202) 501–7642, or by E-mail at HACCP.Confer@USDA.GOV. Participants may reserve a 5-minute comment period when they register. More time may be available, depending on the number of people wishing to make a presentation and the time needed for questions, following the presentations. Reservations will be confirmed on a first-come, first-served basis. Written comments may also be submitted for the record at the meetings. For questions about the meetings contact Mr. Ralph Stafko at (202) 720–7774, or FAX at (202) 720–2345. Participants who require a sign language interpreter or other special accommodations should contact Ms. Jennifer Callahan at (202) 501–7138.

SUPPLEMENTARY INFORMATION: A number of State Departments of Agriculture operating their own meat and poultry inspection programs have expressed various concerns about the relationship between the State programs and the Federal meat and poultry inspection program, and, in addition, have advocated amendments in Federal laws to permit State-inspected meat and poultry products to be distributed in interstate commerce. FSIS will conduct public hearings to explore these concerns and any recommended alternative policies and procedures, including proposals to amend Federal laws to improve the cooperative relationship between Federal and State meat and poultry inspection programs. The following information is provided in order to encourage the discussion of these issues and the submission of relevant information and comment.

Background

FSIS must provide Federal inspection at any meat and poultry establishment that produces meat and poultry products for interstate or foreign commerce, or that produces such products for intrastate commerce if the State in which it is located does not operate its own program. Those approximately 6,500 establishments, encompassing very large to very small establishments, produce the vast majority of the nation's inspected meat and poultry products slaughtered and processed in the United States.

Twenty-six states operate their own inspection programs, which collectively inspect approximately 2,800 mostly small and mid-size meat and poultry plants (Table 1). Estimates of the proportion of the nation's meat and poultry products that are State-inspected have ranged as high as 7 percent. FSIS data, limited to slaughter operations and not accounting for processed products, show that State-inspected establishments slaughter commercially a little more than 1 percent of the nation's livestock and a small fraction of 1 percent of the nation's poultry by weight.

To ensure that States are enforcing requirements ''at least equal to'' the Federal requirements, FSIS inspection program personnel work directly with State inspection officials providing advice and guidance on Federal inspection requirements on a continuing basis and also conduct periodic reviews of the State inspection programs. FSIS reviews each State program's State Performance Plan (SPP) annually. The SPP is a compilation of applicable State laws and regulations, program resources, and current operations and enforcement activities (FSIS Directive 5720.2, Cooperative Inspection Programs). In addition, teams of FSIS experts periodically conduct comprehensive on-site reviews, including random sampling of records and inspection of conditions in State-inspected plants. State programs are rated as: 1, Acceptable; 2, Acceptable with Minor Variations; 3, Acceptable with Significant Variations; and 4,

Unacceptable. A ''1'' is reviewed at least every 5 years; a ''2'' at least every 4 years; a ''3'' at least every 3 years; and a ''4'' as frequently as necessary, depending on the nature of the findings. Presently, 6 States are rated ''1'', 14 States are rated ''2'', and 6 States are rated ''3''.

If a State does not have an ''at least equal to'' State inspection program, the State is designated by FSIS as one in which Federal inspection must be provided for all meat and poultry establishments requiring inspection under Federal law, regardless of whether the establishments' products are distributed solely within the State. Currently, 24 States have no meat and poultry inspection programs. (Table 2).

In addition to the State administered meat and poultry inspection programs, State agencies also enforce adulteration and mislabeling requirements of State and local laws governing meat and poultry products in commercial channels outside inspected establishments. Although the products are concurrently subject to FMIA and PPIA adulteration and mislabeling provisions, FSIS relies heavily on State and local agencies to ensure inspected products are kept safe, wholesome, and properly labeled as they are handled during distribution, and prepared and held for sale to consumers at retail stores and restaurants.

Federal Support of State and Local Programs

State meat and poultry inspection programs are an integral part of the Federal regulatory system for ensuring the safety of the nation's meat and poultry products. Accordingly, the FMIA and PPIA provide for FSIS cooperation with State agencies in carrying out the provisions of the Federal inspection laws and specify that FSIS may furnish State agencies advisory assistance, technical and laboratory assistance and training, and financial and other aid for administration of the State programs—up to 50 percent of the cost of any State's program. Currently, FSIS provides about $40.5 million to 26 States for administering the State inspection programs. In addition, FSIS allocates funds specifically for training assistance to State programs.

Some States have found that despite Federal support, they cannot maintain a State inspection program, and have deferred to FSIS to conduct all meat and poultry inspection within their States. Even in States maintaining inspection programs, State legislatures sometimes appropriate less than 50 percent of the (USDA) estimated cost, thereby reducing proportionately the amount of Federal money contributed to the State program. In those cases, non-monetary Federal assistance in areas such as training is especially important to the State programs.

In addition to 50 percent Federal funding of, and non-monetary assistance to, State inspection programs, FSIS from time to time enters into cooperative agreements with State agencies and provides funding for those agencies to conduct Federal inspection, or other enforcement activities under FMIA and PPIA within those States. This authority is provided under the Talmadge-Aiken Act, which gives the Secretary authority to enter into such agreements ''[i]n order to avoid duplication of functions, facilities and personnel, and to attain closer coordination and greater effectiveness and economy in administration of Federal and State laws * * * within his area of responsibility * * *'' (7 U.S.C. 450). Currently, FSIS has agreements under its Federal-State Cooperative Inspection Program with 9 States, under which employees of State inspection agencies carry out Federal inspection in 255 establishments under USDA supervision (Table 3). FSIS provides 50 percent funding for that work.

The President's Food Safety Initiative directs USDA and other Federal food safety and public health agencies to improve coordination and cooperation among themselves and with State and local governments on food safety matters. The Initiative recognizes the importance of State and local food safety agencies and provides for additional Federal support of those State and local activities. For example, the Initiative would improve training of State inspectors in Federal food safety standards and provide to States equipment and technology for rapid sharing of inspection results to develop a national database for monitoring all food inspections.

FSIS is working closely with FDA, State and local governments, and organizations representing industry, consumers, and public health professionals to promote more effective food safety programs. FSIS also is developing, in cooperation with the Association of Food and Drug Officials, training and training materials on potentially high-risk meat and poultry processing activities for State and local food inspection agencies that oversee meat and poultry processing at retail and food service operations. Although retail and food service facilities generally are exempt from federally mandated inspection, they are engaged in processing activities similar to those in inspected establishments. In recognition of the need for more Federal support for State agencies primarily responsible for regulating retail and food service establishments, the Administration's 1998 FSIS budget requests $565,000 for training State and local food inspectors on meat and poultry processing and related food safety matters. In addition, FSIS participates in the Partnership for Food Safety Education, a broad alliance of industry, government, and other organizations, which is developing a comprehensive plan for food safety education of consumers and others who handle food.

FSIS believes it is essential to maintain and strengthen the State administered meat and poultry inspection programs. FSIS officials understand the concern of State officials of inspection programs that the statutory requirement that State-inspected plants have Federal inspection in order to ship interstate can result in a decrease in the number of State-inspected plants and potentially threaten the viability of the affected State program. Accordingly, FSIS solicits the views and specific recommendations of all interested parties regarding how the Agency can enhance its support of, and assist in improving, State inspection programs under its current authorities.

Amending FMIA and PPIA

FSIS also is seeking comment on whether, and if so how, the FMIA and PPIA should be amended to permit distribution of State-inspected meat and poultry products in interstate commerce.

Some State Departments of Agriculture, mostly through the National Association of State Departments of Agriculture (NASDA), contend that because a State inspection program must be ''at least equal to'' Federal inspection, sales of State-inspected meat and poultry products should not be limited to commercial distribution only in that State, thereby denying State-inspected establishments access to markets that could help them survive and prosper in an increasingly competitive marketplace. Proponents of this view often cite the case where a State-inspected plant located right next to the State line is cut off from what would otherwise be a natural market because it is restricted to intrastate sales. Many State program officials also point out that while State-inspected products are restricted to intrastate sale, imported products can be sold freely in any State.

Efforts to obtain statutory amendments that would permit

interstate distribution of State-inspected products led to a 1996 request for USDA to report to Congress on the issue. The Federal Agriculture Improvement and Reform Act of 1996, also known as the 1996 Farm Bill, directed the Secretary of Agriculture to submit to Congress a report concerning steps necessary to achieve interstate shipment of products inspected under State programs that are ''at least equal to'' the Federal inspection program.

The Department submitted this report to Congress in July, 1996. The report recommended that before State-inspected establishments are authorized to ship products in interstate commerce, certain conditions should be met: These conditions are: (1) States should implement FSIS's Pathogen Reduction/Hazard Analysis Critical Control Point systems; (2) FSIS resources would need to be adequate to accommodate any additional oversight required to substantiate ''at least equal to'' status; (3) such legislation should clarify that the Secretary retains ultimate authority over products prepared for interstate commerce; and (4) additional issues, mostly dealing with potential conflicts between Federal and State laws, would have to be resolved.

Recently, two bills (H.R. 801 and H.R. 1137) have been introduced in Congress to amend the FMIA and PPIA to permit the interstate distribution of State-inspected meat and poultry. The Department has determined that the changes proposed by these bills raise a number of important food safety issues that require plenary discussion and careful consideration. Some of the issues that need to be considered are as follows:

- Whether legislative changes to the FMIA and PPIA to provide for interstate distribution of State-inspected products should be enacted or made effective prior to implementation of HACCP?
- Whether and, if so how, Federal oversight of State programs should be strengthened in the event State-inspected products are authorized to be shipped interstate?
- Whether allowing the interstate distribution of State-inspected products would lead to ''competing'' inspector programs among the States and between the States and the Federal program, and also to ''forum shopping?''
- Whether and how other pending or proposed regulatory actions should be taken into account before any of the proposed legislative changes are made effective? Further, there are a number of jurisdictional issues central to the discussion:
- Whether there would be concurrent State and Federal jurisdiction regarding the denial/withdrawal/withholding of grants of inspection?
- Who would have jurisdiction over misbranding/adulteration violations?
- Whether States will have separate authority to detain/seize/condemn/recall products in commercial channels outside plants?

The foregoing list of issues is not intended to be exhaustive. FSIS welcomes discussion and comments on all issues related to the interstate shipment of meat and poultry from State-inspected establishments.

Done in Washington, DC, on: June 4, 1997.

Thomas J. Billy,

Administrator.

Table 1 summarizes the number of States at the end of fiscal year 1996 with intrastate inspection programs for meat (26) and poultry (24); the number of State full-time equivalent staff years during fiscal year 1996; and Federal funding assistance expended by States during fiscal year 1996. ''M'' after the name of the State indicates that the State conducted a meat inspection program; ''M&P'' indicates that the State conducted meat and poultry inspection programs. In order to continue operating intrastate inspection programs and to continue receiving Federal funding assistance, States must maintain inspection requirements at least equal to those of the Federal program.

TABLE 1.—STATE INSPECTION PROGRAMS

	Regular plants			Total	Custom exempt plants				Full time equivalent staff years	FY 1996 federal assistance
	Meat	Poultry	Meat and poultry		Meat	Poultry	Meat and Poultry	Total		
ALABAMA M&P	70	5	3	78	20	0	0	20	15.5	1,274,376
ALASKA M&P	7	0	8	15	1	0	0	1	5.0	341,155
ARIZONA M&P	63	2	0	65	27	0	0	27	24.8	584,388
DELAWARE M&P	1	0	2	3	3	1	3	7	10.5	212,604
FLORDIA[1] M&P	0	105	27	132	26	.....	.....	26	79.0	1,966,547
GEORGIA M[2]	86	0	0	86	21	0	0	21	101.0	2,403,110
HAWAII[3] M&P	.....	.....	.....	.....	.....	.....	.....	.....	.....	293,200
ILLINOIS M&P	208	21	101	330	15	4	2	21	122.0	4,359,261
INDIANA M&P	48	7	74	129	20	6	1	27	85.0	1,652,715
IOWA M&P	136	6	0	142	105	5	6	116	34.0	1,010,902
KANSAS M&P	141	5	5	151	12	1	0	13	51.0	1,282,247
LOUSIANA M&P	84	5	1	90	42	0	0	42	68.0	1,754,579
MISSISSIPPI M&P	36	0	15	51	18	4	0	22	44.0	1,098,002
MONTANA M&P	22	0	15	37	87	31	20	138	15.0	341,039
NEW MEXICO M&P	38	0	0	38	13	0	0	13	15.0	418,650
NORTH CAROLINA M&P	156	10	0	166	41	0	0	41	125.0	2,847,709
OHIO M&P	151	17	91	259	58	14	1	73	133.0	4,616,502
OKLAHOMA M&P	63	3	22	88	60	0	0	60	68.0	1,616,065
SOUTH CAROLINA M&P	43	9	56	108	0	0	0	0	49.0	1,131,972
SOUTH DAKOTA M[2]	53	0	0	53	51	0	0	51	21.0	479,771
TEXAS M&P	256	12	78	346	131	4	11	146	213.0	4,622,924
UTAH M&P	29	0	8	37	48	2	0	50	29.3	770,926
VERMONT M&P	16	1	1	18	12	2	0	14	14.2	283,578
VIRGINIA M&P	24	3	4	31	136	0	2	138	42.0	1,292,494
WEST VIRGINIA M&P	30	0	0	30	42	0	0	42	26.0	597,101
WISCONSIN M&P	155	10	113	278	56	3	13	72	85.0	2,983,403

TABLE 1.—STATE INSPECTION PROGRAMS—Continued

	Regular plants			Total	Custom exempt plants				Full time equivalent staff years	FY 1996 federal assistance
	Meat	Poultry	Meat and poultry		Meat	Poultry	Meat and Poultry	Total		
WYOMING M&P	31	0	0	31	29	0	0	29	7.5	283,805
TOTAL	1,947	221	624	2,792	1,074	77	59	1,210	1,482.8	40,519,025
CALIFORNIA [1]	.....	.....	.....	.....	.....	.....	.....	306	.....	147,697
MINNESOTA [4]	.....	.....	.....	.....	.....	.....	.....	298	.....	110,348

[1] FY 1995 figures. FY 1996 figures not available at this time.
[2] Poultry Program is under Federal jurisdiction.
[3] The Hawaii Program was designated November 1, 1995 so other statistics are not available.
[4] Official plants are under Federal jurisdiction. Custom exempt facilities are reviewed under State contract.
*All Federal assistance amounts are estimates.

Table 2 lists the dates the Department assumed inspection of meat and poultry products for intrastate sale in designated States as of September 28, 1996. All plants in designated States come under Federal inspection and their products can be sold in interstate commerce.

TABLE 2.—DATES USDA ASSUMED INTRASTATE INSPECTION

State	Meat	Poultry
Arkansas	06/01/81	01/02/71
California	04/01/76	04/01/76
Colorado	07/01/75	01/02/71
Connecticut	10/01/75	10/01/75
Georgia	(1)	01/02/71
Hawaii	11/01/95	11/01/95
Idaho	07/01/81	01/02/71

TABLE 2.—DATES USDA ASSUMED INTRASTATE INSPECTION—Continued

State	Meat	Poultry
Kentucky	01/14/72	07/28/71
Maine	05/12/80	01/02/71
Maryland	04/01/91	04/01/91
Massachusetts	01/12/76	01/12/76
Michigan	10/03/81	01/02/71
Minnesota	05/16/71	01/02/71
Missouri	08/18/72	08/18/72
Nebraska	10/01/71	07/28/71
Nevada	07/01/73	07/01/73
New Hampshire	08/07/78	08/07/78
New Jersey	07/01/75	07/01/75
New York	07/16/75	04/11/77
North Dakota	06/22/70	01/02/71
Oregon	07/01/72	01/02/71
Pennsylvania	07/17/72	10/31/71

TABLE 2.—DATES USDA ASSUMED INTRASTATE INSPECTION—Continued

State	Meat	Poultry
Rhode Island	10/01/81	10/01/81
South Dakota	(1)	01/02/71
Tennessee	10/01/75	10/01/75
Washington	06/01 /73	06/01/73

(1) Indicates USDA has not assumed meat inspection in the State shown.

Table 3 lists the number of meat, poultry, and other plants inspected under Federal-State Cooperative Inspection Program (FSCIP) agreements as of September 28, 1996. FSCIP agreements permit State employees to carry out inspection in federally inspected plants.

TABLE 3.—FEDERAL-STATE COOPERATIVE INSPECTION PLANTS (FORMERLY TALMADGE-AIKEN)

State	Meat plants	Poultry plants	Meat and poultry plants	Sub total	Other plants	Grand total
Alabama	20	0	0	20	0	20
Georgia	11	0	41	52	0	52
Illinois	18	2	10	30	0	30
Mississippi	5	0	14	19	0	19
North Carolina	51	3	0	54	0	54
Oklahoma	13	0	1	14	0	14
Texas	7	1	14	22	0	22
Utah	8	0	5	13	0	13
Virginia	9	1	21	31	0	31
Total	142	7	106	255	0	255

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–428–801, A–475–801, A–588–804, A–485–801, A–559–801, A–401–801, A–412–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews

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

ACTION: Notice of preliminary results of Antidumping Duty Administrative Reviews and partial termination of administrative reviews.

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof (AFBs) from France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom. The classes or kinds of merchandise covered by these orders are ball bearings and parts thereof (BBs), cylindrical roller bearings and parts thereof (CRBs), and spherical plain bearings and parts thereof (SPBs). The reviews cover 21 manufacturers/exporters. The period of review (the POR) is May 1, 1995, through April 30, 1996.

We are terminating the reviews for five other manufacturers/exporters because the requests for reviews were withdrawn in a timely manner.

We have preliminarily determined that sales have been made below normal value (NV) by various companies subject to these reviews. If these preliminary results are adopted in our final results of these administrative reviews, we will instruct U.S. Customs to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who submit comments in these proceedings are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: June 10, 1997.

FOR FURTHER INFORMATION CONTACT: The appropriate case analyst, for the various respondent firms listed below, at Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–4733.

France

Chip Hayes (SKF), Lyn Johnson (SNFA), Michael Panfeld (SNR), Kris Campbell, or Richard Rimlinger.

Germany

Thomas Barlow (Torrington Nadellager), J. David Dirstine (SKF), Suzanne Flood (INA), Michael Panfeld (NTN Kugellagerfabrik), Thomas Schauer (FAG), Kris Campbell, or Richard Rimlinger.

Italy

Chip Hayes (SKF), Mark Ross (FAG), or Richard Rimlinger.

Japan

J. David Dirstine (Koyo Seiko), Charles Riggle (NTN), Matthew Rosenbaum (NPBS), Thomas Schauer (NSK Ltd., Nachi-Fujikoshi Corp.), Kris Campbell, or Richard Rimlinger.

Romania

Thomas Barlow (Tehnoimportexport, S.A.) or Kris Campbell.

Singapore

Lyn Johnson (NMB/Pelmec) or Richard Rimlinger.

Sweden

Mark Ross (SKF) or Richard Rimlinger.

United Kingdom

Hermes Pinilla (FAG, Barden, NSK/RHP) or Kris Campbell.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On May 15, 1989, the Department published in the **Federal Register** (54 FR 20909) the antidumping duty orders on BBs, CRBs, and SPBs from France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom. Specifically, these orders cover BBs, CRBs, and SPBs from France, Germany, and Japan; BBs and CRBs from Italy, Sweden and the U.K.; and BBs from Romania, Thailand and Singapore. On June 20, 1996, in accordance with 19 C.F.R. 353.22(c), we published a notice of initiation of administrative reviews of certain of these orders for the period May 1, 1995, through April 30, 1996 (61 FR 31506). Subsequently, on July 30, 1996, we published an amendment to our initiation notice which, *inter alia*, terminated the review with respect to BBs from Thailand and conditionally initiated reviews for all other exporters of BBs from Romania in addition to Tehnoimportexport (61 FR 39629). The Department is now conducting these administrative reviews in accordance with section 751 of the Tariff Act.

Subsequent to the initiation of these reviews, we received timely withdrawals of review requests for Meter S.p.A. (Italy), Asahi Seiko (Japan), Izumoto Seiko Co., Ltd. (Japan), Kohwa Technos Corp. (Japan), and Sanwa Kizai Co., Ltd. (Japan). Because there were no other requests for review of these companies from any other interested parties, we are terminating the reviews with respect to these companies in accordance with 19 C.F.R. 353.22(a)(5).

Scope of Reviews

The products covered by these reviews are AFBs and constitute the following classes or kinds of merchandise:

1. Ball Bearings and Parts Thereof:

These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.10, 8482.99.35, 8482.99.6590, 8482.99.70, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75,

8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

2. Cylindrical Roller Bearings and Parts Thereof

These products include all AFBs that employ cylindrical rollers as the rolling element. Imports of these products are classified under the following categories: antifriction rollers, all cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, and housed or mounted cylindrical roller bearing units and parts thereof.

Imports of these products are classified under the following HTS subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.40.00, 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.25, 8482.99.35, 8482.99.6530, 8482.99.6560, 8482.99.6590, 8482.99.70, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.93.5000, 8708.99.4000, 8708.99.4960, 8708.99.50, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

3. Spherical Plain Bearings and Parts Thereof

These products include all spherical plain bearings that employ a spherically shaped sliding element.

Imports of these products are classified under the following HTS subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.50.10, 8483.30.80, 8483.90.30, 8485.90.00, 8708.93.5000, 8708.99.50, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. For a further discussion of the scope of the orders being reviewed, including recent scope determinations, see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.; Final Results of Antidumping Duty Administrative Reviews, 62 FR 2081 (January 15, 1997) (AFBs VI). The HTS item numbers are provided for convenience and Customs purposes. The written descriptions remain dispositive.

These reviews cover the following firms and classes or kinds of merchandise:

Name of firm	Class or kind
France	
SKF Compagnie d'Applications Mecaniques, S.A. (including all relevant affiliates) (SKF France)	All
SNFA	BBs, CRBs
Societe Nouvelle Roulements (SNR)	All
Germany	
FAG Kugelfischer Georg Schaefer KGaA (FAG Germany)	All
INA Walzlager Schaeffler KG (INA)	All
NTN Kugellagerfabrik (Deutschland) GmbH (NTN Germany)	All
SKF GmbH (including all relevant affiliates) (SKF Germany)	All
Torrington Nadellager (Torrington/Kuensebeck)	CRBs
Italy	
FAG Italia S.p.A. (including all relevant affiliates) (FAG Italy)	BBs, CRBs
SKF-Industrie S.p.A. (including all relevant affiliates) (SKF Italy)	BBs
Japan	
Koyo Seiko Co., Ltd.	All
Nachi-Fujikoshi Corp.	All
Nippon Pillow Block Sales Company, Ltd. (NPBS)	All
NSK Ltd. (formerly Nippon Seiko K.K.)	All
NTN Corp. (NTN Japan)	All
Romania	
Tehnoimportexport, S.A. (TIE)	BBs
Singapore	
NMB Singapore Ltd./Pelmec Ind. (Pte.) Ltd./(NMB Singapore/Pelmec)	BBs
Sweden	
SKF Sverige (including all relevant affiliates) (SKF Sweden)	BBs
United Kingdom	
Barden Corporation	BBs, CRBs
FAG (U.K.) Ltd.	BBs, CRBs
NSK Bearings Europe, Ltd./RHP Bearings Ltd. (NSK/RHP)	BBs, CRBs

Duty Absorption

On May 31, 1996, and July 9, 1996, the Torrington Co. requested that the Department determine with respect to all respondents, except Torrington Nadellager and SNFA, whether antidumping duties had been absorbed during the POR. This request was filed pursuant to section 751(a)(4) of the Tariff Act.

Section 751(a)(4) provides for the Department, if requested, to determine, during an administrative review initiated two years or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. Section 751(a)(4) was added to the Tariff Act by the URAA. The Department's interim regulations do not address this provision of the Tariff Act.

For transition orders as defined in section 751(c)(6)(C) of the Tariff Act, *i.e.*, orders in effect as of January 1, 1995, section 351.213(j)(2) of the Department's proposed antidumping regulations provides that the Department will make a duty-absorption determination, if requested, for any administrative review initiated in 1996 or 1998. *See* 61 FR 7308, 7366 (February 27, 1996). The preamble to the proposed antidumping regulations explains that reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year. 61 FR at 7317. Although these proposed antidumping regulations are not yet binding upon the Department, they do constitute a public statement of how the Department expects to proceed in construing section 751(a)(4) of the Tariff Act. This approach ensures that interested parties will have the opportunity to request a duty-absorption determination prior to the time for sunset review of the order under section 751(c) on entries for which the second and fourth years following an order have already passed. Because these orders on AFBs have been in effect since 1989, these are transition orders in accordance with section 751(c)(6)(C) of the Tariff Act; therefore, based on the policy stated above, the Department will consider a request for an absorption determination during a review initiated in 1996. This being a review initiated in 1996 and a request having been made, we are making a duty-absorption determination as part of these administrative reviews.

The statute provides for a determination on duty absorption if the subject merchandise is sold in the United States through an affiliated importer. In these cases, all firms subject to the duty-absorption request filed by the Torrington Co., with the exception of TIE, sold through importers that are ''affiliated'' within the meaning of section 751(a)(4) of the Tariff Act. Furthermore, we have preliminarily determined that there are dumping margins for the following firms with respect to the percentages of their U.S. sales, by quantity, indicated below:

Name of firm	Class of kind	Percentage of U.S. affiliate's sales with dumping margins
France		
SKF	BBs	34.84
	CRBs	100.00
	SPBs	100.00
SNR	BBs	36.23
	CRBs	64.80
Germany		
FAG	BBs	54.58
	CRBs	64.05
	SPBs	18.70
INA	BBs	81.91
	CRBs	88.78
NTN	BBs	36.44
SKF	BBs	7.03
	CRBs	53.85
	SPBs	21.26
Italy		
FAG	BBs	20.43
SKF	BBs	7.99
Japan		
Koyo	BBs	44.43
	CRBs	53.22
Nachi	BBs	59.81
	CRBs	32.44
NPBS	BBs	61.41
NSK	BBs	31.30
	CRBs	36.82
NTN	BBs	21.24
	CRBs	12.86
SPBs	47.01	
Singapore		
NM Singapore/ Pelmec Ind.	BBs	17.74
Sweden		
SKF	BBs	45.29
United Kingdom		
NSK/RHP	BBs	1.46
	CRBs	18.77
Barden	BBs	0.34

In the case of SKF France, the firm did not respond to our questionnaire with respect to CRBs and SPBs and the dumping margins for all sales of these classes or kinds of merchandise were determined on the Basis of adverse facts available. Lacking other information, we find duty absorption on all sales.

With respect to those companies (with affiliated importers) whose margins were not determined based on adverse facts available, we rebuttably presume that the duties will be absorbed for those sales which were dumped. This presumption can be rebutted with evidence that the unaffiliated purchasers in the United States will pay the ultimately assessed duty. However, there is no such evidence on the record. Under these circumstances, we preliminarily find that antidumping duties have been absorbed by the above-listed firms on the percentages of U.S. sales indicated. If interested parties wish to submit evidence that the unaffiliated purchasers in the United States will pay the ultimately assessed duty, they must do so no later than 15 days after publication of these preliminary results.

Verification

As provided in section 782(i) of the Tariff Act, we verified information provided by certain respondents, using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Use of Facts Available

We preliminarily determine, in accordance with section 776(a) of the Tariff Act, that the use of facts available as the basis for the weighted-average dumping margin is appropriate for SNFA with respect to BBs and CRBs, for Torrington Nadellager with respect to CRBs, and for SKF France with respect to CRBs and SPBs because these firms did not respond to our antidumping questionnaire. We find that these firms have not provided ''information that has been requested by the administering authority.'' Furthermore, we determine that, pursuant to section 776(b) of the Tariff Act, it is appropriate to make an inference adverse to the interests of these companies because they failed to cooperate to the best of their ability by not responding to our questionnaire.

With respect to SNFA, an importer of subject merchandise, Agusta Aerospace Corporation (AAC) submitted information regarding its purchases of subject merchandise produced by SNFA. We have not used this information to calculate an antidumping duty rate for either SNFA or AAC. It is our practice to base our analysis on information provided by the respondent, in this case SNFA, and to calculate a single rate for each respondent. Further, AAC did not provide sufficient data to allow for a determination of the antidumping duty rate for SNFA's POR sales of subject

merchandise. The only information that AAC provided concerned its own imports of merchandise produced by SNFA and that information is in fact insufficient to allow for an analysis of the duty rate applicable to these imports. We are also denying a request made by AAC that, because it imported and sold a *de minimis* amount of subject merchandise from SNFA during the POR, such imports should be exempted from the antidumping duty order. The statute and our regulations do not provide for exceptions to the dumping law based on a small quantity of imports.

For the weighted-average dumping margins of these firms, we have used the highest rate from any prior segment of the respective proceeding as adverse facts available. This is secondary information within the meaning of section 776(c) of the Tariff Act.

Section 776(c) of the Tariff Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that corroborate means simply that the Department will satisfy itself that the secondary information to be used has probative value (see H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870 (1994)).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike for other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996) (Fresh Cut Flowers) (where the Department disregarded the highest margin as adverse best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

In this case, for SKF France, SNFA, and Torrington Nadellager, we have used the highest rate from any prior segment of the respective proceeding as adverse facts available. This rate is the highest available rate and no evidence exists in the record that indicates that the selected margin is not appropriate as adverse facts available.

In certain situations, we found it necessary to use partial facts available. Partial facts available was applied in cases where we were unable to use some portion of a response in calculating the dumping margin. This occurred with respect to tooling revenues reported by NSK and related-party-input costs provided by Nachi. For partial facts available, we extrapolated information from the company's response and used that information in our calculations. For further information, please see the analysis memoranda on file for these firms.

We also found that Barden failed to report information concerning the channel(s) of distribution of its EP sales despite requests for such information in both the initial and supplemental questionnaires. Since we did not have this information, we were unable to determine which level of trade in the home market most closely corresponded to the level(s) of trade of Barden's EP sales. Because Barden repeatedly failed to report the requested information, we have used an inference that is adverse to Barden with respect to the missing information pursuant to section 776(b) of the Tariff Act. As partial adverse facts available, we matched Barden's EP sales to the level of trade in the home market with the highest average prices.

Export Price and Constructed Export Price—Market-Economy Countries

For the price to the United States, we used EP or CEP as defined in sections 772(a) and 772(b) of the Tariff Act, as appropriate. Due to the extremely large volume of transactions that occurred during the POR and the resulting administrative burden involved in calculating individual margins for all of these transactions, we sampled CEP sales in accordance with section 777A of the Tariff Act. When a firm made more than 2,000 CEP sales transactions to the United States for a particular class or kind of merchandise, we reviewed CEP sales that occurred during sample weeks. We selected one week from each two-month period in the review period, for a total of six weeks, and analyzed each transaction made in those six weeks. The sample weeks were June 4–10, 1995, August 20–26, 1995, October 15–21, 1995, December 17–23, 1995, February 11–17, 1996, and March 24–30, 1996. We reviewed all EP sales transactions during the POR.

We calculated EP and CEP based on the packed f.o.b., c.i.f., or delivered price to unaffiliated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, for discounts and rebates. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act.

In accordance with section 772(d)(1) of the Tariff Act and the SAA (at 823–824), we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, including commissions, direct selling expenses, indirect selling expenses, and repacking expenses in the United States. Where appropriate, in accordance with section 772(d)(2) of the Tariff Act, we also deducted the cost of any further manufacture or assembly, except where the special rule provided in section 772(e) of the Tariff Act was applied (see below). Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Tariff Act.

Some respondents claimed an offsetting adjustment to U.S. indirect selling expenses to account for the cost of financing cash deposits during the POR. In past reviews of these orders we have accepted such an adjustment, mainly to account for the opportunity cost associated with making a deposit (i.e., the cost of having money unavailable for a period of time). However, we have preliminarily determined to change our practice of accepting such an adjustment.

We are not convinced that there are opportunity costs associated with paying deposits. Moreover, while it may be true that importers sometimes incur an expense if they borrow money in order to pay antidumping duty deposits, it is a fundamental principle that money is fungible. If an importer acquires a loan to cover one operating cost, that may simply mean that it will not be necessary to borrow money to cover a different operating cost. We find that the calculation of the dumping margin should not vary depending on whether a party has funds available to pay cash deposits or requires additional funds in the form of loans.

Therefore, we find that an adjustment to indirect selling expenses where parties have claimed financing costs is inappropriate and we have denied such an adjustment for these preliminary results of reviews. We invite interested parties to comment on this issue.

With respect to subject merchandise to which value was added in the United States prior to sale to unaffiliated U.S. customers, *e.g.*, parts of bearings that were imported and further processed into finished bearings by U.S. affiliates of foreign exporters, we determined that the special rule for merchandise with value added after importation under section 772(e) of the Tariff Act applied for all firms that added value in the United States except INA and NPBS.

Section 772(e) of the Tariff Act provides that, where the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we shall determine the CEP for such merchandise using the price of identical or other subject merchandise if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the use of such sales is appropriate. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine the CEP.

To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the averages of the prices paid for the subject merchandise by the affiliated person. Based on this analysis, we estimated, for all firms that added value in the United States except INA and NPBS that the value added was at least 60 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States. Therefore, we determined that the value added is likely to exceed substantially the value of the subject merchandise. Also, for the companies in question, we determined that there was a sufficient quantity of sales remaining to provide a reasonable basis for comparison and that the use of such sales is appropriate. Accordingly, for purposes of determining dumping margins for these sales, we have used the weighted-average dumping margins calculated on sales of identical or other subject merchandise sold to unaffiliated persons. No other adjustments to EP or CEP were claimed or allowed.

Normal Value—Market-Economy Countries

Based on a comparison of the aggregate quantity of home market and U.S. sales and absent any information that a particular market situation in the exporting country does not permit a proper comparison, we determined that the quantity of foreign like product each respondent sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States pursuant to section 773(a) of the Tariff Act because each company's quantity of sales in its home market was greater than five percent of its sales to the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Tariff Act, we based NV on the prices at which the foreign like products were first sold for consumption in the exporting country.

Due to the extremely large number of transactions that occurred during the POR and the resulting administrative burden involved in examining all of these transactions, we sampled sales to calculate NV in accordance with section 777A of the Tariff Act. When a firm had more than 2,000 home market sales transactions for a particular class or kind of merchandise, we used sales in sample months that corresponded to the sample weeks we selected for U.S. sales sampling plus one contemporaneous month prior to the POR and one following the POR. The sample months were April, June, August, October, and December of 1995, and February, March, and May of 1996.

We used sales to affiliated customers only where we determined such sales were made at arm's-length prices, *i.e.*, at prices comparable to prices at which the firm sold identical merchandise to unrelated customers.

Because the Department disregarded sales below the cost of production (COP) in the last completed review with respect to SNR, FAG Germany, FAG Italy, INA, SKF France, SKF Germany, SKF Italy, SKF Sweden, Koyo, Nachi, NPBS, NSK, NTN Japan, NMB Singapore/Pelmec Ind., FAG U.K., Barden U.K. and NSK/RHP and the classes or kinds of merchandise under review, we had reasonable grounds to believe or suspect that sales of the foreign product under consideration for the determination of NV in this review may have been made at prices below the COP as provided by section 773(b)(2)(A)(ii) of the Tariff Act. Therefore, pursuant to section 773(b)(1) of the Tariff Act, we initiated COP investigations of sales by SNR, FAG Germany, FAG Italy, INA, SKF France, SKF Germany, SKF Italy, SKF Sweden, Koyo, Nachi, NPBS, NSK, NTN Japan, NMB Singapore/Pelmec, FAG U.K., and NSK/RHP in the home market. In addition, based on allegations submitted by the Torrington Co. subsequent to our initiation of these reviews, we determined that there was a reasonable basis to believe or suspect that NTN Germany may have made sales in the home market at prices below the COP and we initiated a COP investigation of NTN Germany as well.

In accordance with section 773(b)(3) of the Tariff Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product plus selling, general and administrative (SG&A) expenses and all costs and expenses incidental to placing the foreign like product in condition packed ready for shipment. In our COP analysis, we used the home market sales and COP information provided by each respondent in its questionnaire responses. We did not conduct a COP analysis for respondents which reported no sales or shipments nor did we conduct a COP analysis for respondents for which we relied on total facts available to determine weighted-average dumping margins for a class or kind of merchandise.

After calculating the COP, we tested whether home market sales of AFBs were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permit recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Tariff Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we disregarded the below-cost sales because they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Tariff Act. Based on comparisons of prices to weighted-average COPs for the POR, we also determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Tariff Act. Based on this test, we disregarded below-cost sales with respect to all of the above companies and classes or kinds of merchandise.

We compared U.S. sales with sales of the foreign like product in the home market. We considered all non-identical

products within a bearing family to be equally similar. As defined in the questionnaire, a bearing family consists of all bearings within a class or kind of merchandise that are the same in the following physical characteristics: load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, outer diameter, inner diameter, and width.

Home market prices were based on the packed, ex-factory or delivered prices to affiliated or unaffiliated purchasers in the home market. Where applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Tariff Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Tariff Act and for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Tariff Act and 19 C.F.R. 353.56. For comparison to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. For comparisons to CEP, we made COS adjustments by deducting home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in EP and CEP calculations.

In accordance with section 773(a)(1)(B)(i) of the Tariff Act, to the extent practicable, we based NV on sales at the same level of trade as the EP or CEP. If NV was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with section 773(a)(7) of the Tariff Act. (See *Level of Trade* below.)

In accordance with section 773(a)(4) of the Tariff Act, we used CV as the basis for NV when there were no usable sales of the foreign like product in the comparison market. We calculated CV in accordance with section 773(e) of the Tariff Act. We included the cost of materials and fabrication, SG&A expenses, and profit. In accordance with section 773(e)(2)(A) of the Tariff Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses. To the extent possible, we calculated CV by level of trade, using the selling expenses and profit determined for each level of trade in the comparison market.

Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Tariff Act and 19 C.F.R. 353.56 for COS differences and level-of-trade differences. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. For comparisons to CEP, we made COS adjustments by deducting home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in EP and CEP comparisons.

Where possible, we calculated CV at the same level of trade as the EP or CEP. If CV was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with sections 773(a)(7) and 773(a)(8) of the Tariff Act. (See *Level of Trade* below.)

Level of Trade

To the extent practicable, we determine NV for sales at the same level of trade as the U.S. sales (either EP or CEP). When there are no sales at the same level of trade, we compare U.S. sales to home market (or, if appropriate, third-country) sales at a different level of trade. The NV level of trade is that of the starting-price sales in the home market. When NV is based on CV, the level of trade is that of the sales from which we derive selling, SG&A and profit.

For both EP and CEP, the relevant transaction for the level-of-trade analysis is the sale (or constructed sale) from the exporter to the importer. While the starting price for CEP is that of a subsequent resale to an unaffiliated buyer, the construction of the CEP results in a price that would have been charged if the importer had not been affiliated. We calculate the CEP by removing from the first resale to an independent U.S. customer the expenses under section 772(d) of the Tariff Act and the profit associated with these expenses. These expenses represent activities undertaken by the affiliated importer. As such, they occur after the transaction between the exporter and the importer for which we construct CEP. Because the expenses deducted under section 772(d) represent selling activities in the United States, the deduction of these expenses normally yields a different level of trade for the CEP than for the later resale (which we use for the starting price). Movement charges, duties and taxes deducted under section 772(c) do not represent activities of the affiliated importer, and we do not remove them to obtain the CEP level of trade.

To determine whether home market sales are at a different level of trade than U.S. sales, we examine whether the home market sales are at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with goods being sold by the producer and extends to the sale to the final user, regardless of whether the final user is an individual consumer or an industrial user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales occur somewhere along this chain. In the United States, the respondent's sales are generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the home market and U.S. export markets, including selling functions, class of customer, and the extent and level of selling expenses for each claimed level of trade. Customer categories such as distributor, original equipment manufacturer (OEM), or wholesaler are commonly used by respondents to describe levels of trade, but, without substantiation, they are insufficient to establish that a claimed level of trade is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed levels of trade. If the claimed levels are different, the selling functions performed in selling to each level should also be different. Conversely, if levels of trade are nominally the same, the selling functions performed should also be the same. Different levels of trade necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the levels of trade. A different level of trade is characterized by purchasers at different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

When we compare U.S. sales to home market sales at a different level of trade, we make a level-of-trade adjustment if the difference in levels of trade affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in a single market, the home market. Any price effect must be manifested in a pattern of consistent price differences between home market sales used for comparison and sales at the equivalent level of trade of the export transaction. To quantify the price differences, we calculate the difference

in the average of the net prices of the same models sold at different levels of trade. We use the average difference in net prices to adjust NV when NV is based on a level of trade different from that of the export sale. If there is no pattern of consistent price differences, the difference in levels of trade does not have a price effect and, therefore, no adjustment is necessary.

The statute also provides for an adjustment to NV when NV is based on a level of trade different from that of the CEP if the NV level is more remote from the factory than the CEP and if we are unable to determine whether the difference in levels of trade between CEP and NV affects the comparability of their prices. This latter situation can occur where there is no home market level of trade equivalent to the U.S. sales level or where there is an equivalent home market level but the data are insufficient to support a conclusion on price effect. This adjustment, the CEP offset, is identified in section 773(a)(7)(B) and is the lower of the following:

- The indirect selling expenses on the home market sale, or
- The indirect selling expenses deducted from the starting price used to calculate CEP.

The CEP offset is not automatic each time we use CEP. The CEP offset is made only when the level of trade of the home market sale is more advanced than the level of trade of the U.S. (CEP) sale and there is not an appropriate basis for determining whether there is an effect on price comparability.

For a company-specific description of our level-of-trade analysis for these preliminary results, see Memorandum to Laurie Parkhill, Level of Trade, March 24, 1997, in Import Administration's Central Records Unit (Room B–099 of the main Commerce building (hereafter, B–099)).

Methodology for Romania

Separate Rates

It is the Department's standard policy to assign all exporters of subject merchandise subject to review in a non-market-economy (NME) country a single rate unless an exporter can demonstrate that it is sufficiently independent to be entitled to a separate rate. For purposes of this ''separate rates'' inquiry, the Department analyzes each exporting entity under the test 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). Under this test, exporters in NME countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports.

Evidence supporting, though not requiring, a finding of *de jure* absence of government control 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.

De facto absence of government control with respect to exports is based on four criteria: (1) Whether the export prices are set by or subject to the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has autonomy in making decisions regarding the selection of management; and (4) whether each exporter has the authority to negotiate and sign contracts. See Silicon Carbide at 22587.

We have determined that the evidence of record demonstrates an absence of government control, both in law and in fact, with respect to exports by TIE according to the criteria identified in Sparklers and Silicon Carbide. For a discussion of the Department's preliminary determination that TIE is entitled to a separate rate, see Memorandum from Thomas O. Barlow to Laurie Parkhill, dated March 24, 1997, ''Assignment of Separate Rate for Tehnoimportexport: 1995–96 Administrative Review of the Antidumping Duty Order on Antifriction Bearings (other than tapered roller bearings) and parts thereof from Romania'' (Separate Rate Memo), which is a public document on file in B–099. Since TIE is preliminarily entitled to a separate rate and is the only Romanian firm for which an administrative review has been requested, it is not necessary for us to review any other Romanian exporters of subject merchandise.

Export Price—Romania

For sales made by TIE we based our margin calculation on EP as defined in section 772(a) of the Tariff Act because the subject merchandise was first sold before the date of importation by the exporter of the subject merchandise outside of the United States (TIE) to unaffiliated purchasers in the United States.

We calculated EP based on the packed price to unaffiliated purchasers in the United States. We made deductions from the price used to establish EP, where appropriate, for foreign inland freight, bank charges and international freight (air and ocean). To value foreign inland freight we used the freight rates from the public version of the May 10, 1996 and July 15, 1996 submissions of P.T. Multi Raya Indah Abadi, respondent in the antidumping case concerning melamine institutional dinnerware from Indonesia which is on file in B–099. We used the actual reported expenses for international freight and bank charges because the expenses were incurred in market-economy currencies. No other adjustments were claimed or allowed.

Normal Value—Romania

For merchandise exported from a NME country, section 773(c)(1) of the Tariff Act provides that the Department shall determine NV using a factors-of-production methodology if available information does not permit the calculation of NV using home-market or third-country prices under section 773(a) of the Tariff Act. In every investigation or review conducted by the Department involving Romania, we have treated Romania as a NME country. None of the parties to this proceeding has contested such treatment in this review and, therefore, we have maintained our treatment of Romania as a NME for these preliminary results.

Accordingly, we calculated NV in accordance with section 773(c) of the Tariff Act and section 353.52 of the Department's regulations. In accordance with section 773(c)(3) of the Tariff Act, the factors of production used in producing AFBs include, but are not limited to, hours of labor required, quantities of raw materials employed, amounts of energy and other utilities consumed, and representative capital cost, including depreciation.

In accordance with section 773(c)(4) of the Tariff Act, the Department valued the factors of production, to the extent possible, using the prices or costs of factors of production in market-economy countries which are at a level of economic development comparable to that of Romania and which are significant producers of comparable merchandise. We determined that Indonesia is at a level of economic development comparable to that of Romania. We also found that Indonesia is a producer of bearings. Therefore, we have selected Indonesia as the primary surrogate country. For a further

discussion of the Department's selection of surrogate countries, see Memorandum from Thomas O. Barlow to Laurie Parkhill, dated March 24, 1997, ''Surrogate-Country Selection: 1995–96 Administrative Review of the Antidumping Duty Order on Antifriction Bearings (other than tapered roller bearings) and parts thereof from Romania'' (Surrogate Memo), which is a public document on file in B–099.

For purposes of calculating NV, we valued the Romanian factors of production as follows:

- Where direct materials used to produce AFBs were imported into Romania from market-economy countries, we used the import price to value the material input. To value all other direct materials used in the production of AFBs, *i.e.*, those which were sourced from within Romania, we used the import value per metric ton of these materials into Indonesia as published in the Indonesian Foreign Trade Statistical Bulletin—Imports which include data on months during the POR. We made adjustments to include freight costs incurred between the domestic suppliers and the AFB factories, using freight rates obtained from the public version of the April 27, 1995 calculation memorandum for the antidumping case Disposable Lighters from the People's Republic of China (A–570–834) (Lighters from the PRC), which is on file in B–099. We also made a deduction to the steel input factors to account for the scrap steel which was sold by the producers of the relevant bearings.
- For direct labor, we used the Indonesian average daily wage and hours worked per week for the iron and steel basic industries reported in the 1994 Special Supplement to the Bulletin of Labour Statistics, published by the International Labour Office.
- For factory overhead, SG&A expenses, and profit, we could not find values for the bearings industry in Indonesia. Therefore, we used information which the U.S. Embassy in Jakarta, Indonesia, provided in the antidumping duty investigation of certain carbon-steel butt-weld pipe fittings from the People's Republic of China because the pipe-fittings industry is a similar metal manufacturing industry (see A–570–814, cable from American Embassy—Jakarta, Indonesia, September 9, 1991).
- To value packing materials, where materials used to package AFBs were imported into Romania from market-economy countries, we used the import price. To value all other packing materials, *i.e.*, those sourced from within Romania, we used the import value per metric ton of these materials (adjusted with the wholesale-price-index inflator to place these values on an equivalent basis) as published in the Indonesian Foreign Trade Statistical Bulletin—Imports. We adjusted these values to include freight costs incurred between the domestic suppliers and the AFB factories. To value freight costs, we used freight rates obtained from the public version of the calculation memorandum in Lighters from the PRC, cited above.

Currency Conversion

We made currency conversions in accordance with section 773A(a) of the Tariff Act. We used the rates certified by the Federal Reserve Bank or, where not available, we used average monthly exchange rates published by the International Monetary Fund in International Financial Statistics.

Preliminary Results of Reviews

As a result of our reviews, we preliminarily determine the weighted-average dumping margins (in percent) for the period May 1, 1995, through April 30, 1996 to be as follows:

Company	BBs	CRBs	SPBs
France			
SKF	3.48	18.37	42.79
SNFA	66.42	18.37	[3]
SNR	8.68	23.77	[2]
Germany			
FAG	12.42	19.49	10.33
INA	49.41	19.77	28.62
NTN	9.44	[2]	[2]
SKF	4.25	17.83	4.78
Torrington Nadellager	[3]	76.27	[3]
Italy			
FAG	1.64	[2]	.....
SKF	4.66	[3]	.....
Japan			
Koyo Seiko	14.66	12.17	[3]
Nachi	14.02	3.51	[2]
NPBS	19.58	[2]	[2]
NSK Ltd.	9.49	6.26	[2]
NTN	5.82	3.84	8.31
Romania			
TIE	0.01	.....	.....
Singapore			
NMB Singapore/Pelmec Ind.	1.40	.....	.....

Company	BBs	CRBs	SPBs
Sweden			
SKF	13.13	.....	.....
United Kingdom			
NSK/RHP	2.90	13.74	.....
FAG (U.K.)	[1]	[1]	.....
Barden	0.30	[1]	.....

[1] No shipments or sales subject to this review. The firm has an individual rate from the last relevant segment of the proceeding in which the firm had shipments/sales.
[2] No shipments or sales subject to this review. The firm has no individual rate from any segment of this proceeding.
[3] No review requested.

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication of this notice. A general issues hearing, if requested, and any hearings regarding issues related solely to specific countries, if requested, will be held in accordance with the following schedule and at the indicated locations in the main Commerce Department building:

	Date	Time	Room No.
General Issues	July 8, 1997	10:00 a.m.	4830
Sweden	July 9, 1997	9:00 a.m	4830
Romania	July 9, 1997	2:00 p.m	4830
Italy	July 10, 1997	9:00 a.m	4830
United Kingdom	July 11, 1997	9:00 a.m	4830
Singapore	July 11, 1997	2:00 p.m	4830
Germany	July 14, 1997	9:00 a.m	4830
France	July 14, 1997	2:00 p.m	4830
Japan	July 15, 1997	10:00 a.m	1412

Issues raised in hearings will be limited to those raised in the respective briefs and rebuttal briefs. Briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than the dates shown below for general issues and the respective country-specific cases. Parties who submit briefs or rebuttal briefs in these proceedings are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

Case	Briefs	Rebuttals due
General Issues	June 24, 1997	July 1, 1997.
Sweden	June 25, 1997	July 2, 1997.
Romania	June 25, 1997	July 2, 1997.
Italy	June 26, 1997	July 3, 1997.
United Kingdom	June 27, 1997	July 7, 1997.
Singapore	June 27, 1997	July 7, 1997.
Germany	June 30, 1997	July 7, 1997.
France	June 30, 1997	July 7, 1997.
Japan	July 1, 1997	July 8, 1997.

The Department will publish the final results of these administrative reviews, including the results of its analysis of issues raised in any such written briefs or hearings. The Department will issue final results of these reviews within 120 days of publication of these preliminary results.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Because sampling and the inability to link sales with specific entries prevents calculation of duties on an entry-by-entry basis, we have calculated importer-specific *ad valorem* duty assessment rates for each class or kind of merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between statutory NV and statutory EP or CEP, by the total statutory EP or CEP value of the sales compared and adjusting the result by the average difference between EP or CEP and customs value for all merchandise examined during the POR.)

In some cases, such as EP situations, the respondent does not know the entered value of the merchandise. For these situations, we have either calculated an approximate entered value or an average unit-dollar amount of antidumping duty based on all sales examined during the POR. (See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review, 56 FR 31694 (July 11, 1991).) The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of these reviews.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of these reviews (except that no deposit will be required for firms with zero or *de minimis* margins, *i.e.*, margins less than 0.5 percent); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate made effective by the final results of the 1991–92 administrative reviews of these orders (see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order, 58 FR 39729 (July 26, 1993), and Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, *et al.*; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 66472 (December 17, 1996)). As noted in those previous final results, these rates are the ''all others'' rates from the relevant LTFV investigations. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 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.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: June 2, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–15118 Filed 6–9–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052397A]

Use of Acoustic Pingers to Deter Marine Mammals in Commercial Fishing Operations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comments.

SUMMARY: NMFS has prepared a draft programmatic environmental assessment (EA) detailing the circumstances under which acoustic pingers may be used as a management measure to reduce marine mammal interactions with commercial fisheries. In addition, the EA provides guidance on what constitutes adequate scientific validation of the efficacy of pingers for individual fisheries. Because the EA may be used in the preparation of Take Reduction Plans under § 118 of the Marine Mammal Protection, NMFS is requesting comments on the draft EA before it is finalized.

DATES: Written comments must be received on or before July 10, 1997.

ADDRESSES: Copies of the draft EA may be obtained from Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or by calling (301) 713–2322.

Written comments should be submitted to Chief, Marine Mammal Division, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Dean Wilkinson, Office of Protected Resources, at (301) 713–2322.

SUPPLEMENTARY INFORMATION: The draft EA deals only with incorporation of acoustic pinger technology into management regimes in order to reduce marine mammal bycatch. It does not address use of explosives or high amplitude sound generators that are often used to deter pinnipeds. It also does not address the independent use of acoustic pingers by fishers outside the context of a prescribed management program.

Although generally applicable to any fishery in which the use of pingers may be proposed, the EA focuses on those fisheries in which use of pingers has been or is likely to be proposed: The New England multispecies sink gillnet fishery; the Atlantic swordfish component of the Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics drift gillnet fishery; the U.S. mid-Atlantic coastal gillnet fishery; and the California/Oregon thresher shark/swordfish drift gillnet fishery.

The EA addresses two alternatives—a no-action alternative and the use of acoustic pingers as a management measure. The no- action alternative would entail no incorporation of pinger technology into management regimes. The preferred alternative—use of pingers as a management measure when appropriate—is divided into two sections—conditions under which pingers may be incorporated into a management regime, and guidelines for what will be considered a scientifically valid experiment to determine the efficacy of pingers in specific fisheries.

The conditions for incorporation of pingers as a management measure are:

1. Use of pingers will not substitute for other management measures until there is a statistically significant validation of the efficacy of pingers in the specific fishery and for the species of marine mammal taken.

2. There should be observer coverage of those fisheries in which pingers are used in order to determine whether pingers remain effective under conditions other than the original research setting and whether they continue to work over a period of time.

3. If pingers are found to be significantly less effective than original evidence indicated, other management measures will be used to reduce marine mammal-fishery interactions.

4. If significant questions as to the environmental impact of pingers arise that are not addressed by the EA, a subsequent EA will be prepared.

The guidelines for conducting experiments are:

1. Experiments should be structured with controls.

2. Data should be collected and reported by independent observers.

3. A double-blind protocol is preferred, but when not feasible, a single-blind experiment may be conducted.

4. In order to generate meaningful results, a power analysis should be done in advance to determine the sample size and observer coverage. To limit the chance of Type 2 error, power should be at least 0.7.

Dated: June 3, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–15075 Filed 6–9–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052797B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of scientific research permit 1051 (P45Z), issuance of modification 1 to scientific research permit 875 (P774#1), issuance of modification 1 to scientific research permit 1030 (P625), and notice of receipt of application for a scientific research permit (P647).

SUMMARY: Notice is hereby given that on May 29, 1997, NMFS issued scientific research permit 1051 to Jorgen Skjeveland, U.S. Fish and Wildlife Service (P45Z); on June 4, 1997, NMFS issued modification 1 to permit 875 issued to the Director, Northeast Fisheries Science Center; and on May 29, 1997, NMFS issued modification 1 to permit 1030 issued to Sarah Mitchell, Gray's Reef National Marine Sanctuary for the purpose of scientific research subject to certain conditions set forth therein. Notice is also given that Joseph E. Hightower, of North Carolina Cooperative Fish and Wildlife Research Unit has applied in due form for a scientific research permit to take listed shortnose sturgeon (P647).

ADDRESSES: The application, permit, and related documents are available for review by appointment in the following offices:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401); and

Director, Northeast Region, NMFS, NOAA, One Blackburn Drive, Gloucester, MA 01930–2298 (508–281–9250).

or

Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

SUPPLEMENTARY INFORMATION: Notice was published on April 16, 1997 (62 FR 18588) that an application had been filed by Jorgen Skjeveland, U.S. Fish and Wildlife Service (P45Z), to take listed shortnose sturgeon as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222).

The applicant requested a five year permit to take up to 25 listed shortnose sturgeon annually from the Upper Chesapeake Bay to determine the population status and preferred habitat of the species in the Bay. The sturgeon will be measured, tagged, tissue sampled, and released. The data collected under this permit will be used to identify dredged material disposal sites that will have minimal environmental impact on sturgeon species. Notice is hereby given that on May 29, 1997, NMFS issued scientific research permit 1051.

Notice was published on April 9, 1997 (62 FR 17178) that an application had been filed by the Northeast Fisheries Science Center, National Marine Fisheries Service (P774#1), to take listed sea turtles as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222).

The applicant requested a modification to permit 875 to include an increase in the authorized take of leatherback sea turtles from 20 to 85, and the authorization to take blood samples from sea turtles captured incidental to the swordfish drift gillnet fishery. Notice is hereby given that on June 4, 1997, NMFS issued modification 1 to permit 875.

On May 29, 1997, NMFS issued modification 1 to permit 1030 issued to Sarah Mitchell, Gray's Reef National Marine Sanctuary. Currently, Ms. Mitchell is authorized to take loggerhead turtles in the waters of the Gray's Reef National Marine Sanctuary to investigate population trends, migrations, habitat, and diving behavior. Modification 1 authorizes the collection of blood samples from loggerhead turtles taken pursuant to the permitted research.

Joseph E. Hightower, of North Carolina Cooperative Fish and Wildlife Research Unit (P647), requests a scientific research permit under the authority of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

The applicant has requested a two year permit to conduct scientific research on listed shortnose sturgeon within the Albemarle Sound estuarine system. A maximum of 25 shortnose sturgeon will be collected from the Albemarle Sound to determine the status of shortnose sturgeon in the estuary and to examine habitat selection and overlap for shortnose sturgeon and juvenile Atlantic sturgeon. The sturgeon will be examined, measured, photographed, and tagged. Sonic transmitters will be externally attached to the sturgeon to monitor their movement within the Sound. The sturgeon will be released immediately following the above procedures.

Issuance of these permits/modifications, as required by the ESA, was based on a finding that such permits/modifications: (1) were applied for in good faith, (2) will not operate to the disadvantage of the listed species that are the subject of the permits/modifications, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 4, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–15076 Filed 6–9–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Export Visa Stamp for Certain Textiles and Textile Products Produced or Manufactured in Indonesia

June 4, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs providing for the use of a new export visa stamp.

EFFECTIVE DATE: June 15, 1997.

FOR FURTHER INFORMATION CONTACT: Lori Mennnitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

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); Uruguay Round Agreements Act.

Beginning on March 1, 1997, the ''Ministry of Industry'' and the ''Ministry of Trade'' merged to form the ''Ministry of Industry and Trade.'' On March 1, 1997, the Government of Indonesia started issuing visas with the new stamped marking ''Ministry of Industry and Trade.''

Effective on June 15, 1997, textile products exported from Indonesia on and after March 1, 1997, shall be accompanied by a visa with the new stamped marking ''Ministry of Industry and Trade,'' instead of the ones from the former ''Ministry of Industry'' and ''Ministry of Trade.'' There will be a grace period from June 15, 1997 through July 14, 1997, during which the old or the new visas will be acceptable. The new visa stamp must accompany goods exported on and after July 15, 1997. If the merchandise is not accompanied by the appropriate visa, goods will be denied entry and a new visa must be obtained.

A facsimile of the new visa stamp is on file at the U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, room 3100.

See 52 FR 20134, published on May 29, 1987.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 4, 1997.

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 May 19, 1987, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directed you to prohibit entry of certain textiles and textile products, produced or manufactured in Indonesia for which the Government of Indonesia has not issued an appropriate visa.

Beginning on March 1, 1997, the ''Ministry of Industry'' and the ''Ministry of Trade'' merged to form the ''Ministry of Industry and Trade.'' On March 1, 1997, the Government of Indonesia started issuing visas with the new stamped marking ''Ministry of Industry and Trade.''

Effective on June 15, 1997, textile products exported from Indonesia on and after March 1, 1997, shall be accompanied by a visa with the new stamped marking ''Ministry of Industry and Trade,'' instead of the ones from the former ''Ministry of Industry'' and ''Ministry of Trade.'' There will be a grace period from June 15, 1997 through July 14, 1997, during which the old or the new visas will be acceptable. The new visa stamp must accompany goods exported on and after July 15, 1997.

A facsimile of the new visa stamp is enclosed with this letter.

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,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–15072 Filed 6–9–97; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

New Foster Grandparent Projects

AGENCY: Corporation for National and Community Service

ACTION: Notice of availability of funds.

SUMMARY: The Corporation for National and Community Service (''Corporation'') announces the availability of up to $4,450,000 for grants to support approximately 20–25 new Foster Grandparent Program (''FGP'') projects in geographic areas that are not currently being served by FGP projects funded by the Corporation.

DATES: All applications must be postmarked by 5:00 p.m., July 23, 1997.

ADDRESSES: Interested organizations may request application materials by contacting the appropriate Corporation State Office listed below.

FOR FURTHER INFORMATION CONTACT: For further information, contact John Keller at (206) 220–7737. This notice may be requested in an alternative format for the visually impaired.

SUPPLEMENTARY INFORMATION:

Background

The Corporation is a Federal government corporation that encourages Americans of all ages and backgrounds to engage in community-based service. This service addresses the nation's educational, public safety, environmental, and other human needs to achieve direct and demonstrable results. In supporting service programs, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service.

The FGP is a service program authorized by the Domestic Volunteer Service Act of 1973, as amended. See 42 U.S.C. 5011 *et seq.* The program (1) provides opportunities for income eligible individuals 60 years of age and over to serve children and youth with special or exceptional needs on a person-to-person basis, (2) provides communities with valuable service by empowering older adults to contribute to their communities through volunteer service, and (3) enhances the lives of the volunteers and those whom they serve.

The program began in 1965 as a national demonstration program designed to demonstrate how low-income persons age 60 and over have the maturity and experience to establish personal relationships with children who have either special or exceptional needs. Today, there are over 21,000 Foster Grandparents providing care and attention every day to more than 80,000 qualified children and youths. Foster Grandparents volunteer in schools, hospitals, drug treatment centers, correctional institutions, Head Start programs, and day care centers. They also provide emotional support to children who have been abused and neglected, mentor troubled teenagers and young mothers, and care for premature infants and children with physical disabilities or servere illnesses, including AIDS. By developing special relationships with children and youths, Foster Grandparents help young people develop self-esteem, gain confidence, and become more productive members of society. The purpose of the new FGP projects is to expand the program to serve geographic locations that are not currently being served by FGP projects.

Eligible Applicants

Public agencies (including state and local agencies and other units of government) and non-profit organizations in the United States are eligible to apply. The following Corporation grantees are encouraged to apply: organizations that operate an AmeriCorps*National program or an AmeriCorps*State program; Retired and Senior Volunteer Program project sponsors; Senior Companion Program project sponsors; AmeriCorps*VISTA projects sponsors; and organizations that directly receive a Learn and Serve America: School or Community-Based program grant or a Learn and Serve America: Higher Education program grant from the Corporation. FGP project sponsors that are funded by the Corporation are not eligible to receive a grant to expand into new geographic areas.

Under the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(4)) which engages in lobbying activities is not eligible to apply for these funds.

Estimated Number of Awards

The Corporation anticipates making 20–25 awards.

Suggested Amount of Awards

The average amount of awards will be approximately $210,000.

Period of Awards

Grants will be awarded for a period of twelve months and may be renewed contingent upon performance and the availability of appropriations.

Selection Criteria

The Corporation will initially determine whether the organization is eligible and whether the application contains the information required in the application materials. After this initial screening, the Corporation will assess applications based on the following criteria:

1. The capacity of the applicant to effectively implement the Foster Grandparent Program according to law, regulations, and current Corporation policy and procedures.

2. The cost-effectiveness of the proposal and the sponsor's ability to leverage significant additional resources from non-federal sources to support and sustain the project.

3. The geographic location of the proposed project—to ensure that projects (1) Are in approved geographic service areas that do not currently have an FGP projects and (2) include a mix of urban and rural locations. Applicants may call the appropriate Corporation State Office to ascertain the geographic areas for which new projects are sought.

It is expected that applicants will develop a broad range of volunteer assignments for the Foster Grandparents. However, priority will be given to applicants that emphasize assignments that focus on helping children to improve their pre-literacy, literacy, or reading skills, or a combination of those skills.

Applicable Regulations

Regulations governing the Foster Grandparent Program are located in 45 CFR Part 1208.

Program Authority

Corporation authority to make these grants is codified in 42 U.S.C. 5011 *et seq.*

Dated: June 4, 1997.

Barry W. Stevens,

Acting General Counsel.

Corporation State Offices

Alabama

John D. Timmons, Director, Medical-Forum 950 22nd Street North Suite Room 428, Birmingham, AL 35203, (205) 731–0027, (205) 731–0031 Fax

Alaska

Billy Joe Caldwell, Director, 915 2nd Avenue, Suite 3190, Seattle, WA 98174–1103, (206) 220–7736, (206) 553–4415 Fax

Arizona

Richard Persely, Director, 522 North Central, Rm. 205A, Phoenix, AZ 85004, (602) 379–4825, (602) 379–4030 Fax

Arkansas

Robert Torvestad, Director, Federal Building, Rm 2506, 700 West Capitol Street, Little Rock, AR 72201, (501) 324–5234, (501) 324–6949 Fax

California

Gayle A. Hawkins, Director, Federal Bldg., Room 11221, 11000 Wilshire Blvd., Los Angeles, CA 90024–3671, (310) 235–7421, (310) 235–7422 Fax

California Satellite Office, Gayle A. Hawkins, Director, 5967 Moraga Ave., Room 386, P.O. Box 29996, Presidio of San Francisco, CA 94129–0996, (415)561–5967, (415)561–5970 Fax

Colorado

Gayle Schladale, Director, 140 E. 19th Ave., Suite 120, Denver, CO 80203–1167, (303) 866–1070, (303) 866–1081 Fax

Connecticut

Romero, Cherry, Director, 1 Commercial Plaza, 21st Fl., Hartford, CT 06103–3510, (860) 240–3237, (860) 240–3238 fax

Delaware (and MD), Jerry E. Yates, Director, 300 West Lexington Street, Box 5-Suite 702, Baltimore, MD 21201–3418, (410) 962–4443, (410) 962–3201 Fax

District of Columbia (and VA), Thomas Harmon, Director, 400 North 8th St., Rm 1119, P.O. Box 10066, Richmond, VA 23240, (804) 771–2197, (804) 771–2157 Fax

Florida

Henry Jibaja, Director, 3165 McCrory Street, Suite 115, Orlando, FL 32803–3750, (407) 648–6117, (407) 648–6116 Fax

Georgia

David A. Dammann, Director, 75 Piedmont Ave., N.E., Suite 462 Atlanta, GA 30303–2587 (404) 331–4646 (404) 331–2898 Fax

Hawaii; Guam; American Samoa

Lynn Dunn, Director, P.O. Box 50024, 300 Ala Moana Blvd. #6326, Honolulu, HI 96850–0001, (808) 541–2832, (808) 541–3603 Fax

Idaho

Van Kent Griffitts, Director, 304 North 8th St., Rm. 344, Boise, ID 83702, (208) 334–1707, (208) 334–1421 Fax

Illinois

Timothy Krieger, Director, 77 West Jackson Blvd., Suite 442, Chicago, IL 60604–3511, (312) 353–3622, (312) 353–5343 Fax

Indiana

Thomas L. Haskett, Director, 46 East Ohio St., Room 457, Indianapolis, IN 46204–1922, (317) 226–6724, (317) 226–5437 Fax

Iowa

Joel Weinstein, Director, 210 Walnut—Room 917, Des Moines, IA 50309, (515) 284–4817, (515) 284–6640 Fax

Kansas

James M. Byrnes, Director, Frank Carlson Federal Building, 444 SE Quincy -Room 147, Topeka, KS 66683–3572, (913) 295–2540, (913) 295–2596 Fax

Kentucky

Betsy Irvin Wells, Director, Federal Building, Room 372 D 600 Martin Luther King Jr. Pl., Louisville, KY 40202–2230, (502) 582–6384, (502) 582–6386 Fax

Louisiana

Willard L. Labrie, Director, 640 Main Street, Suite 102, Baton Rouge, LA 70801–1910, (504) 389–0471, (504) 389–0510 Fax

Maine (and NH/VT)

Peter Bender, Acting Director, The Whitebridge 91–93 North State St., Concord, NH 03301, 603 225–1450 (Phone), 603 225–1459

Maryland (and DE)

Jerry E. Yates, Director, 300 West Lexington Street, Box 5-Suite 702, Baltimore, MD 21201–3418, (410) 962–4443, (410) 962–3201 Fax

Massachusetts

Peter Bender, Acting Director, 10 Causeway Street, Rm 467, Boston, MA 02222–1039, (617) 565–7000, (617) 565–7011 Fax

Michigan

Mary Pfeiler, Director, 211 West Fort Street, Suite 1408, Detroit, MI 48226, (313) 226–7848, (313) 226–2557 Fax

Minnesota

Robert Jackson, Director, 431 South 7th Street, Room 2480, Minneapolis, MN 55415, (612) 334–4083, (612) 334–4084 or 4081 Fax

Mississippi

Rocktabija Abdul-Azeez, Director, Dr. A. H. McCoy, Federal Building, Rm. 1005–A, 100 West Capitol Street, Jackson, MS 39269–1092, (601) 965–5664, (601) 965–4617 Fax

Missouri

John J. McDonald, Director, 801 Walnut St., Room 504, Kansas City, MO 64106, (816) 374–6300, (816) 374–6305 Fax

Montana

Joe R. Lovelady, Director, Capitol One Center, 208 North Montana Avenue, Suite 206, Helena, MT 59601–3837, (406) 449–5404, (406) 449–5412 Fax

Nebraska

Anne C. Johnson, Director, Federal Building, Room 156, 100 Centennial Mall North, Lincoln, NE 68508–3896, (402) 437–5493, (402) 437–5495 Fax

Nevada

Craig R. Warner, Director, 4600 Kietzke Lane, Suite E–141, Reno, NV 89502–5033, (702) 784–5314, (702) 784–5026 Fax

New Hampshire (and VT)

Peter Bender, Director, The Whitebridge, 91–93 North State St., Concord, NH 03301–3939, (603) 225–1450, (603) 225–1459 Fax

New Jersey

Stanley Gorland, Director, 44 South Clinton Ave., #702, Trenton, NJ 08609, (609) 989–2243, (609) 989–2304 Fax

New Mexico

Ernesto Ramos, Director, 120 S. Federal Place, #315, Santa Fe, NM 87501–2026, (505) 988–6577, (505) 988–6661 Fax

New York

Bernard A. Conte, Director, 6 World Trade Center, Room 758, New York, NY 10048–0206, (212) 466–4471, (212) 466–4195 Fax

New York Satellite Office,

Bernard A. Conte, Director, Lea O'Brien Federal Bldg. Rm.818, Clinton Ave. & Pearl Street, Albany, NY 12207, (518) 431–4150, (518) 431–4154 Fax

North Carolina

Robert L. Winston, Director, P.O. Century Station, Federal Building, 300 Fayetteville Street Mall, Room 131, Raleigh, NC 27601, (919) 856–4731, (919) 856–4738 Fax

North Dakota (and SD)

John Pohlman, Director, Federal Building, 225 S. Pierre Street, Room 225, Pierre, SD 57501–2452, (605) 224–5996, (605) 224–9201 Fax

Ohio

Paul Schrader, Director, 51 North High Street, Room 451, Columbus, OH 43215, (614) 469–7441, (614) 469–2125 Fax

Oklahoma

H. Zeke Rodriguez, Director, 215 Dean A. McGee, Suite 234, Oklahoma City, OK 73102, (405) 231–5201, (405) 231–4329 Fax

Oregon

Robin Sutherland, Director, 2010 Lloyd Center, Portland, OR 97232, (503) 231–2103, (503) 231–2106 Fax

Pennsylvania

Jorina Ahmed, Director, Gateway Building, 3535 Market Street, Room 2460, Philadelphia, PA 19104, (215) 596–4077, (215) 596–4072 Fax

Puerto Rico; Virgin Islands

Loretta DeCordova, Director, U.S. Federal Building #662, 150 Carlos Chardon Avenue, Hato Rey, PR 00918–1737, (787) 766–5314, (787) 766–5189 Fax

Rhode Island

Vincent Marzullo, Director, 400 Westminster St., Rm. 203, Providence, RI 02903–3215, (401) 528–5424, (401) 528–5220 Fax

South Carolina

Jerome J. Davis, Director, Federal Building, Suite 872, 1835 Assembly Street, Columbia, SC 29201–2430, (803) 765–5771, (803) 765–5777 Fax

South Dakota (and ND)

John C. Pohlman, Director, 225 South Pierre Street, Room 225, Pierre, SD 57501–2452, (605) 224–5996, (605) 224–9201 Fax

Tennessee

Alfred E. Johnson, Director, 265 Cumberland Bend Drive, Nashville, TN 37228, (615) 736–5561, (615) 736–7937 Fax

Texas

Jerry G. Thompson, Director, 903 San Jacinto Blvd., Suite 130, Austin, TX 78701, (512) 916–5671, (512) 916–5806 Fax

Utah

Rick Crawford, Director, U.S. Courthouse, 350 South Main St., Rm. 504, Salt Lake City, UT 84101, (801) 524–5411, (801) 524–3599 Fax

Vermont (and NH)

Peter Bender, Director, 91–93 North State Street, Concord, NH 03301–3939, (603) 225–1450, (603) 225–1459 Fax

Virginia (and DC)

Thomas Harmon, Director, 400 North 8th St., Rm 1119, P.O. Box 10066, Richmond, VA 23240, (804) 771–2197, (804) 771–2157 Fax

Washington

John A. Miller, Director, Jackson Federal Building, 915 Second Avenue, Suite 3190, Seattle, WA 98174, (206) 220–7745, (206) 553–4415 Fax

West Virginia

Judith Russell, Director, Suite 203, 10 Hale Street, Charleston, WV 25301, (304) 347–5246, (304) 347–5464 Fax

Wisconsin

Michael P. Murphy, Director, Henry Reuss Federal Plaza, 310 W. Wisconsin Ave., Room 1240E, Milwaukee, WI 53203 (414) 297–1118, (414) 297–1863 Fax

Wyoming

Patrick Gallizzi, Director, 2120 Capitol Avenue, Rm. 1110, Cheyenne, WY 82001–3649, (307) 772–2385, (307) 772–2389 Fax.

[FR Doc. 97–15037 Filed 6–9–97; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 97–14]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Assistance Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/CPD, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 97–14, with attached transmittal, policy

justification, and sensitivity of technology pages.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–01–M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

21 MAY 1997

In reply refer to:
I-04309/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 97-14, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to France for defense articles and services estimated to cost $85 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Thomas G. Rhame
Lieutenant General, USA
Director

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Attachments

Transmittal No. 97-14

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act (U)

(i) Prospective Purchaser: France

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$85 million
TOTAL	$85 million

(iii) Description of Articles or Services Offered:
Four Electronic Support Measures (ESM) Systems for incorporation into their E-3F AWACS fleet, develop and provide support for a French ESM Emitter Data Base system, maintenance of system software and related services, U.S. Government and contractor engineering and logistics services, personnel training and training equipment, publications and technical data, support equipment, spare and repair parts and other related elements of logistics support.

(iv) Military Department: Air Force (NBS)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
See Annex attached.

(vii) Date Report Delivered to Congress: 21 MAY 1997

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

France - Electronic Support Measures Systems

The Government of France has requested the purchase of four Electronic Support Measures (ESM) Systems for incorporation into their E-3F AWACS fleet, develop and provide support for a French ESM Emitter Data Base system, maintenance of system software and related services, U.S. Government and contractor engineering and logistics services, personnel training and training equipment, publications and technical data, support equipment, spare and repair parts and other related elements of logistics support. The estimated cost is $85 million.

This sale will contribute to the foreign policy and national security of the United States by improving the security military capabilities of France in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability.

France will use these systems to upgrade its AWACS aircraft inventory as well as expand its role in support of existing United Nations peacekeeping operations and other ongoing coalition contingencies. France will have no difficulty absorbing these systems into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Boeing Defense and Space Group, Seattle, Washington. One or more proposed offset agreements may be entered into in connection with this proposed sale.

Implementation of this program will not require the assignment of any additional U.S. Government personnel in-country but will require approximately six contractor representatives to provide in-country technical support for 36 months.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

Transmittal No. 97-14

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The Electronic Support Measures Systems contains sensitive state-of-the-art technology. Some of the hardware, publications, performance specifications, operational capability, parameters, vulnerabilities to countermeasures, and software documentation are classified Secret. The classified information to be provided consists of that which is necessary for the operation, maintenance, and repair (through depot level) of the E-3F aircraft and its installed systems and related software.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advance capabilities.

3. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 97–15015 Filed 6–9–97; 8:45 am]
BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Submarine of the Future

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Submarine of the Future will meet in closed session on June 26–27, 1997 at Science Applications International Corporation, 4001 N. Fairfax Drive, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will assess the nation's need for attack submarines in the 21st century.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c) (1) (1994), and that accordingly these meetings will be closed to the public.

Dated: June 4, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–15014 Filed 6–9–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 11, 1997.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 4, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of Postsecondary Education

Title: Graduate Assistance in Areas of National Need (GAANN) Fellowship Program.

Frequency: Annually.

Affected Public: Individuals or households; not-for-profit institutions.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 325.

Burden Hours: 13,432.

Abstract: These instructions and forms provide the U.S. Department of Education the information needed to make awards to academic departments and to sustain and enhance the capacity for teaching and research in areas of national need.

[FR Doc. 97–15035 Filed 6–9–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 10, 1997.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process

would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: June 4, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office for Civil Rights

Type of Review: Reinstatement.

Title: Fall 1997 Elementary and Secondary School Civil Rights Compliance Report.

Frequency: Biennially.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Burden:

Responses: 63,425.

Burden Hours: 295,700.

Abstract: The Elementary and Secondary School Civil Rights Compliance Report is the vehicle for the Office for Civil Rights, U.S. Department of Education, to acquire source material in the form of data and information regarding civil rights compliance issues in the nation's public elementary and secondary schools. Information from the E & S Compliance Report is used by regional OCR staff when they consider public school districts for compliance reviews, and a source material when civil rights compliant investigations are conducted.

[FR Doc. 97–15034 Filed 6–9–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–381–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

June 4, 1997.

Take notice that on May 30, 1997, ANR Pipeline Company (ANR) tendered for filing, as part of its FERC Gas Tariff Second Revised Volume No. 1, the following tariff sheet proposed to become effective June 1, 1997:

Thirtieth Revised Sheet No. 18

ANR states that the above-referenced tariff sheet is being filed by ANR to restate its currently effective Gas Supply Realignment (GSR) and Pricing Differential (PD) Reservation Surcharges, to reflect the impact of the annual update of the Eligible MDQ that is used to calculate those Surcharges, as required by and consistent with ANR's transition cost recovery mechanism set forth in its tariff. ANR advises that the Eligible MDQ has increased by approximately eight percent, thereby reducing the levels of these surcharges.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. 97–15055 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–382–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

June 4, 1997.

Take notice that on May 30, 1997, ANR Pipeline Company (ANR) tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets proposed to become effective June 1, 1997:

Twenty-third Revised Sheet No. 8
Twenty-fifth Revised Sheet No. 9
Twenty-fourth Revised Sheet No. 13
Twenty-fifth Revised Sheet No. 16
Twenty-ninth Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed to implement recovery of approximately $2 million of above-market costs that are associated with its obligations to Dakota Gasification Company (Dakota). ANR proposes a reservation surcharge applicable to its Part 284 firm transportation customers to collect ninety percent (90%) of the Dakota costs, and an adjustment to the maximum base tariff rates of Rate Schedule ITS and overrun rates applicable to Rate Schedule FTS–2, so as to recover the remaining ten percent (10%). ANR advises that this filing also includes the annual restatement of the ''Eligible MDQ'' used to design the reservation surcharge. ANR also advises that the proposed changes would decrease current quarterly Above-Market Dakota Cost recoveries from $2.5 million to $2 million, based upon lower costs incurred from February 1997 through April 1997.

Any person desiring to be heard or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. 97–15056 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–137–001]

Deseret Generation & Transmission Cooperative; Notice of Filing

June 4, 1997.

Take notice that Deseret Generation & Transmission Cooperative (Deseret) on May 2, 1997, tendered for filing a Firm Transmission Service Agreement and an Umbrella Non-Firm Transmission Service Agreement under Deseret's open access transmission tariff between Deseret's Merchant function and Deseret's Transmission Function. In addition, Deseret tendered for filing Amendment No. 1 to Power Marketing and Resource Management Service Agreement Between Deseret Generation & Transmission Cooperative and PacifiCorp. This filing is in compliance with the Commission's Order dated March 13, 1997 in Docket No. 137, which directed Deseret to unbundle its service agreement with PacifiCorp and to take service under its open access tariff for the power sales contemplated in its service agreement with PacifiCorp.

Any person desiring to be heard or to protest said filing should file a motion to intervene with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before June 16, 1997. 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. 97–15042 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–373–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

June 4, 1997.

Take notice that on May 30, 1997, Koch Gateway Pipeline Company tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the tariff sheets listed on the filing, to become effective December 1, 1997.

Koch states that the proposed changes would increase revenues from jurisdictional service by $81 million based on the 12-month period ending January 31, 1997, as adjusted.

Koch states that this filing proposes changes to the rates for Koch Gateway's transportation and gathering rates to reflect cost increases, and the change in rate design to a zone gate method comprised of four zones for pricing its transportation services. Koch further states that the filing fulfills its commitment under Section VII of the Joint Stipulation and Agreement dated February 10, 1995, approved in Docket No. RP94–120, and it addresses a significant undercollection of Koch's current settled cost-of-service.

Koch Gateway proposes an effective date of July 1, 1997, for the applicable tariff sheets, anticipating that the Commission will exercise its authority under Section 4(e) of the NGA to suspend the effectiveness of the sheets for the full five-month statutory period, so the applicable sheets are allowed to become effective December 1, 1997.

Koch seeks to increase the cost-of-service used to derive its maximum tariff rates by $81 million over its settled cost-of-service level established in Docket No. RP94–120 and by $48 million over the cost-of-service which Koch originally filed for in Docket No. RP94–120. As part of the enhancements to Koch's system included in this increase, Koch has reduced its fuel rate from 2.0% to 1.6%, while Koch's customers will benefit from new assets, including installation of new information systems.

Koch seeks to roll-in the costs of its Bastian Bay supply lateral, with these facilities costs paid by customers utilizing this zone. Koch proposes inclusion of a negative salvage provision for onshore transmission facilities, allowing for recovery of future abandonment costs. All other depreciation rates remain the same, however, annual depreciation expense increased by $23 million over the depreciation expenses included in the currently effective rates from Docket No. RP94–120.

Koch proposes a hypothetical capital structure in its filing, and that it be granted 58% equity and 42% debt upon which to base its return. Koch seeks an overall rate of return on equity of 17.7%. The rate of return in the currently effective rates is 14.16% pretax. The return and income taxes included in this filing are $82 million, an increase from its previous rates.

Koch proposes change in its rate design from six 100-mile types to a zone gate method. It has divided its system into four geographic zones and provided for a system access charge in addition to a zone component for each zone theoretically utilized to provide transportation service. The zone rate structure will only apply to Koch's firm and interruptible transportation services. No-Notice service rates, including the small customer option, will continue under average postage stamp rates based upon seasonal MDQs.

Koch states that the proposed rate increase is the result of increases in Koch's cost-of-service, its rate base, and the utilization of a discount adjustment to throughput for the purpose of designing rates. No change from SFV rate design methodology, nor in the functionalization or classification of assets or expenses is proposed. Interruptible transportation service remains on a 100% load factor design basis and Koch maintains its 33.3% load factor to impute volumes for small customer option services. The proposed rates will not affect Koch's NNS–SCO, FTS, FTS–SCO or ITS customers which are currently capped by previously negotiated discounted transportation agreements.

Koch states that the tariff sheet changes propose to eliminate ITS revenue crediting, propose zones for calculation of transportation rates, and other minor changes.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. 97–15047 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–399–001]

Montana Power Company; Notice of Filing

June 4, 1997.

Take notice that on April 14, 1997, Montana Power Company tendered for filing a Notice of Withdrawal of its expanded rate schedules.

Any person desiring to be heard or to protest sail filing should file a motion to intervene or protests with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before June 16, 1997. 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. 97–15043 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP94–817–000]

Natural Gas Pipeline Company of America; Notice of Request to Vacate

June 4, 1997.

Take notice that on May 7, 1997, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148–5072, filed in Docket No. CP94–817–000 a letter stating that the facilities authorized in its May 26, 1995 order,[1] have not been constructed, and are no longer warranted. The Commission will treat Natural's letter as a request to vacate, all as more fully set forth in the request filed with the Commission and open to public inspection.

By order issued May 16, 1995, in the referenced docket, Natural received Commission authorization to construct and operate approximately 2.86 miles of 36-inch loop line on Natural's Gulf Coast Mainline in Effingham County, Illinois. The loop line would have extended northward (downstream) from the outlet of Natural's Loudon Storage Field, and would have formed part of the 36-inch No. 3 Line of Natural's Gulf Coast Mainline.

The May 26, 1995 order required that construction be completed and the facilities be placed in operation within one year. By petition filed on April 18, 1996, Natural requested that such one-year period be extended by an additional year. That extension was granted, under the delegated authority, on April 30, 1996.

By the filing of the May 7, 1997 letter, Natural states that such construction is not warranted, in light of generally reduced Gulf Coast Mainline utilization levels.

Any person desiring to be heard or to make any protest with reference to said request should on or before June 25, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15039 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

[1] See 71 FERC ¶ 62,148 (1995).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2935–000]

New York State Electric & Gas Corporation; Notice of filing

June 4, 1997.

Take notice on May 21, 1997, New York State Electric & Gas Corporation (NYSEG) tendered for filing a letter requesting that the service agreements filed on May 14, 1997 between NYSEG and Citizens Lehman Power Sales and NYSEG and Cinergy Operating Companies be withdrawn in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before June 16, 1997. 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. 97–15046 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–378–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 4, 1997.

Take notice that on May 29, 1997, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1.

Northern states that the filing revises the current Stranded Account No. 858 and Stranded Account No. 858-Reverse Auction surcharges, which are designed to recover costs incurred by Northern related to its contracts with third-party pipelines. Therefore, Northern has filed

Thirty-Third Revised Sheet Nos. 50, 51 and 53 to be effective July 1, 1997.

Northern states that copies of this filing were served upon the Company's 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, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15052 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–374–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 4, 1997.

Take notice that on May 29, 1997, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective July 1, 1997.

Northwest states that the purpose of this filing is to establish a mechanism in its tariff to negotiate rates in accordance with the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines issues in Docket No. RM95–6–000, and applicable precedent.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to be heard or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. 97–15048 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP–97–380–000]

Pacific Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

June 4, 1997.

Take notice that on May 30, 1997, Pacific Gas Transmission Company (PGT) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets: Eleventh Revised Sheet No. 5, Fifth Revised Sheet No. 6, First Revised, Twelfth Revised Sheet No. 7, Third Revised Sheet No. 96, First Revised Sheet No. 97, Second Revised Sheet No. 98, Original Sheet No. 98A, First Revised Sheet Nos. 104,105 and 107, Third Revised Sheet No. 108, Fourth Revised Sheet No. 109, Third Revised Sheet Nos. 116 and 117, First Revised Sheet No. 117A, Original Sheet Nos. 117B through 117F, First Revised Sheet No. 124K, Original Sheet No. 124M, and First Revised Sheet No. 160, to be effective June 1, 1997.

PGT asserts the purpose of this filing is to conform its FERC Gas Tariff Second Revised Sheet No. 1 to the provisions of Order No. 587 issued July 17, 1996 in Docket RM96–1–000, establishing standards for business practices of interstate natural gas pipelines.

PGT further states a copy of this filing has been served upon its jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. 97–15054 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–379–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

June 4, 1997.

Take notice that on May 30, 1997, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective July 1, 1997.

Panhandle states that this filing removes from its currently effective rates the Second Supplemental Take-or-Pay Volumetric Surcharge (Second Supplemental TOP Volumetric Surcharge) established by Section 18.4 of the General Terms and Conditions of Panhandle's tariff which was the subject of Panhandle's filing in Docket No. RP96–259–000.

Panhandle further states that this filing removes from its currently effective rates the Stranded Transportation Cost Reservation Surcharge (ST Reservation Surcharge) applicable to Rate Schedules FT, EFT, SCT, and LFT and, the Stranded Transportation Cost Volumetric Surcharge (ST Volumetric Surcharge) applicable to Rate Schedules IT and EIT established by Section 18.13 of the General Terms and Conditions of Panhandle's tariff which was the subject of Panhandle's filing in Docket No. RP94–294–000.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. 97–15053 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2919–000]

Pennsylvania-New Jersey-Maryland Interconnection; Notice of Filing

June 4, 1997.

On May 16, 1997, the Pennsylvania-New Jersey-Maryland Interconnection tendered for filing a letter stating that PacifiCorp Power Marketing, Inc., Koch Energy Trading, Inc., and AIG Trading Corporation all applied to become additional signatories to the Pennsylvania-New Jersey-Maryland Interconnection Agreement, as revised on December 31, 1996.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before June 16, 1997. 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. 97–15045 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–376–000]

Southern Natural Gas Company; Notice of GSR Revised Tariff Sheets

June 4, 1997.

Take notice that on May 30, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of June 1, 1997:

Tariff Sheets Applicable to Contesting Parties

Twenty Sixth Revised Sheet No. 14
Forty Seventh Revised Sheet No. 15
Twenty Sixth Revised Sheet No. 16
Forty Seventh Revised Sheet No. 17
Thirty Second Revised Sheet No. 29

Southern submits the revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, to reflect a change in its FT/FT–NN GSR Surcharge, due to a decrease in GSR billing units effective June 1, 1997.

Southern states that copies of the filing were served upon all parties listed on the official service list compiled by the Secretary in these proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15050 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–383–000]

Southern Natural Gas Company; Notice of Cost Recovery Filing

June 4, 1997.

Take notice that on May 30, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of July 1, 1997.

Tariff Sheets Applicable to Contesting Parties

Twenty Seventh Revised Sheet No. 14
Forty Eighth Revised Sheet No. 15
Twenty Seventh Revised Sheet No. 16
Forty Eighth Revised Sheet No. 17
Twenty Sixth Revised Sheet No. 18

Tariff Sheets Applicable to Supporting Parties

Fourteenth Revised Sheet No. 14a
Twentieth Revised Sheet No. 15a
Fourteenth Revised Sheet No. 16a
Twentieth Revised Sheet No. 17a

Southern sets forth in the filing its revised demand surcharges and revised interruptible rates that will be charged in connection with its recovery of GSR costs associated with the payment of price differential costs under unrealigned gas supply contracts as well as sales function costs during the period February 1, 1997 through April 30, 1997. These GSR costs have arisen as a direct result of customers' elections during restructuring to terminate their sales entitlement under Order No. 636.

Southern states that copies of the filing were served upon Southern's 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, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 1154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing

are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15057 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–385–000]

Tennessee Gas Pipeline Company; Notice of Request for Waiver and Filing of Take-or-Pay Reports

June 4, 1997.

Take notice that on May 30, 1997, Tennessee Gas Pipeline Company (Tennessee) tendered for filing a request for waiver of Article XXV of the General Terms and Conditions of its FERC Gas Tariff, Fifth Revised Volume No. 1.

Tennessee states that it is requesting this waiver to permit Tennessee to omit the filing of the revised tariff sheets scheduled to be filed by May 31, 1997, to be effective on July 1, 1997, in that Tennessee has incurred no new amount of recoverable take-or-pay costs since its last recovery filing submitted on November 26, 1996 in Docket No. RP97–98.

Tennessee notes that the deferral of recovery of take-or-pay costs will not affect the accounting for additional costs and carrying charges, in accord with Article XXV, sections 3.2 and 3.3, and the costs will be recovered through future filings pursuant to Article XXV.

Tennessee further notes that it is filing reports showing the derivation of the balances in its Demand and Volumetric Transition Cost Accounts, including carrying charge calculations, and the status of its recovery filings relative to the cap.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file an intervention. 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. 97–15059 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–530–000]

Texas Gas Transmission Corporation; Notice of Request Under Blanket Authorization

June 4, 1997.

Take notice that on May 19, 1997, Texas Gas Transmission Corporation, (Texas Gas), Post Office Box 20008, Owensboro, Kentucky 42304, filed in Docket No. CP97–530–000 a request pursuant to Sections 157.205, 157.212, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, and 157.216(b)) for authorization to replace and relocate an existing delivery point in Hopkins County, Kentucky. Texas Gas makes such request under its blanket certificate issued in Docket No. CP82–407–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas proposes to replace and relocate its Hanson delivery point which Texas Gas states is used to serve Western Kentucky Gas Company (WKG), a local distribution company. Specifically, Texas Gas is proposing to relocate the Hanson delivery point from the terminus of the Hanson 2-inch line to Texas Gas' Slaughters-Nortonville 10-inch line. Texas Gas indicates that it will install, own and operate a new high-pressure positive meter, electronic flow measurement, dual-run regulation station and related facilities on a lot acquired by Texas Gas. Texas Gas further states that following installation of the new facilities, that it will transfer ownership of the Hanson 2-inch line and the existing Hanson 2-inch meter station to WKG. It is indicated that WKG will use the Hanson 2-inch line to receive gas from the relocated Hanson delivery point. It is stated that such proposed replacement and relocation of this meter facility is to upgrade the existing measurement facilities and relocate the meter to a site which is more convenient for operation and maintenance of the station. The estimated costs for this replacement and relocation is $70,000.

It is averred that since this proposal is merely a relocation of an existing delivery point, no increase in contract quantity has been requested by WKG, and thus the above proposal will have no significant effect on Texas Gas' peak day and annual deliveries, and service to WKG through this point can be accomplished without detriment to Texas Gas' other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15040 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–536–000]

Texas Gas Transmission Corporation; Notice of Request Under Blanket Authorization

June 4, 1997.

Take notice that on May 21, 1997, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP97–536–000 a request pursuant to Sections 157.205, 157.212, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, and 157.216) for approval to replace and relocate an existing delivery point in Hopkins County, Kentucky, under Texas Gas' blanket certificate issued in Docket No. CP82–407–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas requests authorization to replace and relocate its Mortons Gap delivery point which is used to serve Western Kentucky Gas Company

(WKG), a local distribution company. Texas Gas states that the purpose of this proposal is to upgrade the existing measurement facilities and relocate the existing meter to a site which is more convenient for operation and maintenance of the station. Texas Gas asserts that this proposal will have no significant effect on Texas Gas' peak day and annual deliveries. Texas Gas also asserts that this service to WKG through this delivery point can be accomplished without detriment to Texas Gas' other customers.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15041 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–384–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 4, 1997.

Take notice that on May 30, 1997, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in Appendix A attached to the filing. The tariff sheets are proposed to become effective July 1, 1997.

Transco states that the purpose of the instant filing is to revise Transco's Rate Schedule ISS to include Transco's Hester Storage Field as a facility eligible to provide interruptible storage service under Rate Schedule ISS.

Transco is serving copies of the instant filing to its affected 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, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Sections 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. 97–15058 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2592–000]

Watt Works, L.L.C.; Notice of Filing

June 4, 1997.

Take notice that on May 12, 1997, Watt Works, L.L.C. tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before June 16, 1997. Protests will be considered by the Commission in determining the appropriate 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. 97–15044 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–377–000]

Williston Basin Interstate Company; Notice of Tariff Filing

June 4, 1997.

Take notice that on May 30, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing its Annual Gas Supply Realignment Reconciliation Filing pursuant to Section 39.3.3 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. More specifically, Williston Basin filed the following tariff sheets:

Second Revised Volume No. 1
Twenty-Fourth Revised Sheet No. 15
Twenty-Seventh Revised Sheet No. 16

Williston Basin has requested that the Commission accept this filing to become effective July 1, 1997.

Williston Basin states that the revised tariff sheets reflect the annual reconciliation of the latest Gas Supply Realignment cost recovery period. Williston Basin states that pursuant to the total recovery periods proposed for GSR cost recovery in Docket Nos. RP94–48–000 and RP95–110–000, this filing reflects the reconciliation through the final month applicable relative to such dockets. As such, this filing reflects the termination of the GSR surcharge applicable to these dockets effective July 1, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15051 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–375–000]

Wyoming Interstate Company, Ltd., Notice of Proposed Changes in FERC Gas Tariff

June 4, 1997.

Take notice that on May 30, 1997, Wyoming Interstate Company (WIC) tendered for proposed changes in its FERC Gas Tariff, First Revised Volume No. 1 and Second Revised Volume No. 2.

WIC states that the proposed rates changes (motion rates) would increase revenues from jurisdictional service by approximately $5.7 million based on the 12-month period ending February 28, 1997, as adjusted. WIC requested an effective date of July 1, 1997. WIC states the rate increase is necessary to: (1) compensate WIC for increased operating costs and capital costs primarily associated with WIC's expansion authorized by FERC in Docket No. CP96–288 (preliminary determination, 76 FERC ¶ 61,252, (1996) order granting a certificate, 78 FERC ¶ 61,185 (1997)) and (2) allow WIC to earn a rate of return on WIC's assets, at a level that will be competitive in capital markets.

WIC states that a full copy of its filing are being served on all jurisdictional customers, applicable state commissions and interested parties that have requested service.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filling are on file with the Commission and are available for public inspections in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–15049 Filed 6–9–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed During the Week of May 5 Through May 9, 1997

During the Week of May 5 through May 9, 1997, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585–0107.

Dated: May 29, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 5 through May 9, 1997]

Date	Name and location of applicant	Case No.	Type of Submission
05/05/97	National Steel Corp., Pittsburgh, PA ..	VXA–0001	Appeal of an Exception Request Dismissal. *If Granted:* The April 4, 1997 Dismissal issued to National Steel Corp. by the Office of Hearings and Appeals would be modified regarding the firm's Petition for Special Redress.
05/06/97	Information Focus on Energy, Inc. Gaithersburg, MD.	VFA–0293	Appeal of an Information Request Denial. *If Granted:* The March 31, 1997 Freedom of Information Request Denial issued by the Ohio Field Office would be rescinded, and Information Focus on Energy, Inc. would receive access to certain DOE information.
05/06/97	Personnel Security Review	VSA–0125	Request for Review of Opinion under 10 CFR Part 710. *If Granted:* The April 4, 1997 Opinion of the Office of Hearings and Appeals (Case No. VSO–0125) would be reviewed at the request of an individual employed by the Department of Energy.

[FR Doc. 97–15107 Filed 6–9–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed During the Week of May 12 Through May 16, 1997

During the Week of May 12 through May 16, 1997, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585–0107.

Dated: May 29, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 12 through May 16, 1997]

Date	Name and location of applicant	Case No.	Type of submission
5/12/97	Hicks Co., Santa Barbara, CA	RR272–292	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If Granted: The March 13, 1997 Decision and Order Case No. RG272–374 issued to Hicks Co. would be modified regarding the firm's Application for Refund submitted in the crude oil refund proceeding.
5/12/97	Nebraska Asphalt Paving Co., Omaha, NE.	RR272–293	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If Granted: The January 21, 1997 Decision and Order Case No. RR272–274 issued to Nebraska Asphalt Paving Co. would be modified regarding the firm's Application for Refund submitted in the crude oil refund proceeding.
5/12/97	Patricia L. Baade, Charlottesville, VA	VFA–0294	Appeal of an on Information Request Denial. If Granted: The Freedom of Information Request Denial would be rescinded, and Patricia L. Baade would receive access to certain DOE information.
5/13/97	Information Focus on Energy, Inc., Gaithersburg, MD.	VFA–0295	Appeal of an Information Request Denial. If Granted: The May 1, 1997 Freedom of Information Request Denial issued by the Office of General Counsel would be rescinded, and Information Focus on Energy, Inc. would receive access to certain DOE information.
5/15/97	Personnel Security Hearing	VSO–0156	Request for Hearing Under 10 CFR Part 710. If Granted: An individual employed by the Department of Energy would receive a hearing under 10 CFR Part 710.
5/15/97	Roderick L. Ott, Knoxville, TN	VFA–0296	Appeal of an Information Request Denial. If Granted: The April 30, 1997 Freedom of Information Request Denial issued by Oak Ridge Operations Office would be rescinded, and Roderick L. Ott would receive access to certain DOE information.

[FR Doc. 97–15108 Filed 6–9–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed During the Week of April 28 through May 2, 1997

During the Week of April 28 through May 2, 1997, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585–0107.

Dated: May 29, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of April 28 through May 2, 1997]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 4, 1997	Benton County, Office of Civilian Radioactive Waste Management, Benton County, WA.	VPX–0011	Supplemental order. If granted: The OHA would issue a supplemental order to the decision and order issued in Case No. LPA–0001, approving Benton County and the OCRWM's Joint Stipulation of Settlement, and would dismiss the underlying appeal by Benton County with prejudice.
Do	Martha J. McNeely, Gilroy, CA	VFA–0291	Appeal of an information request denial. If granted: The March 27, 1997 Freedom of Information Request Denial issued by the Office of the Executive Secretariat would be rescinded, and Martha J. McNeely would receive access to certain DOE information.
Do	Personnel Security Review	VSA–0120	Request for review of opinion under 10 CFR part 710. If granted: The March 21, 1997 Opinion of the Office of Hearings and Appeals (Case No. VSO–0120) would be reviewed at the request of an individual employed by the Department of Energy.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of April 28 through May 2, 1997]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 29, 1997	Wales Transportation, Inc., Dallas, TX	RR272–291	Request for modification/rescission in the crude oil refund proceeding. If granted: The March 18, 1997 Decision and Order Case No. RF272–97064 issued to Wales Transportation, Inc. would be modified regarding the firm's application for refund submitted in the Crude Oil refund proceeding.
May 2, 1997	Mary Feild Jarvis, Richland, WA	VFA–0292	Appeal of an information request denial. If granted: The April 24, 1997 Freedom of Information Request Denial issued by Richland Operations Office would be rescinded, and Mary Feild Jarvis would receive access to certain DOE information.

[FR Doc. 97–15110 Filed 6–9–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of May 12 Through May 16, 1997

During the week of May 12 through May 16, 1997 the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: May 29, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 33

Week of May 12 Through May 16, 1997

Appeal

Roderick L. Ott, 5/16/97, VFA–0288

Mr. Roderick L. Ott filed an Appeal from a March 24, 1997 determination by the Manager of the Office of Scientific and Technical Information of the Department of Energy (DOE). In that determination, the Manager denied Mr. Ott's request for information and his request for a waiver of fees. In considering the Appeal, the DOE determined that Mr. Ott's request was not reasonably descriptive as the FOIA requires. Also, the DOE determined that Mr. Ott had not satisfied the four factors that an agency must weigh to determine whether the requester has met the public interest requirement for an agency to grant him a fee waiver. Thus, the DOE denied Mr. Ott's Appeal for a fee waiver and request for information.

Refund Application

Hershey Entertainment & Resort Co. et. al., 5/14/97, RF272–98707 et al.

Applicants, including Tarrant County (Tarrant), filed Applications for Refund in the Subpart V crude oil overcharge refund proceeding. Tarrant's filing service, Wilson, Keller & Associates (WKA), extrapolated from the figure shown on Tarrant's purchase volume printout in the Gulf proceeding in order to derive an estimated purchase volume. WKA claimed it was entitled to do so because Tarrant had purchased only diesel fuel from Gulf, and that product was decontrolled on July 1, 1976. The Office of Hearings and Appeals (OHA) found on a more detailed Gulf customer listing that Tarrant has actually purchased no diesel fuel from Gulf. Because WKA had apparently not attempted to verify its assertion with Tarrant, this Office or any other source, the OHA questioned WKA's reliability. Due to unreliability of the assertion of WKA concerning diesel fuel in this case, OHA ordered that Tarrant's refund check should be mailed directly to that Applicant, rather than to WKA.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Burlington Northern	RG272–742	5/16/97
Cal-Car Service Co.	RG272–10	5/14/97
Citronelle-Mobile Gathering/Globe Manufacturing Co. et al	RR336–112	5/14/97
Crude Oil Supple	RB272–00041	5/16/97
Crude Oil Supple Refund Dist	RB272–00108	5/14/97
Crude Oil Supple Refund Dist	RB272–00109	5/14/97
Gulf Oil Corporation/Michael Herndon	RF300–20047	5/14/97
Bruer Airland Gulf	RF300–20048	
Gulf Oil Corporation/Ken's Gulf	RF300–21839	5/14/97
Joe's Gulf	RF300–21840	
Hildreth Farmers Coop Assoc et al	RF272–93527	5/16/97
Sinton Dairy	RG272–747	5/16/97

Dismissals

The following submissions were dismissed.

Name	Case No.
Clear Fork Ranch	RF272–98603
Consolidation Coal Co.	RF272–98660
David Warren & Son, Inc.	RF272–98605
National Steel Corp.	VXA–0001
Peoria County Service Co.	RR272–282

[FR Doc. 97–15109 Filed 6–9–97; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5837–9]

Agency Information Collection Activities Under OMB Review; Comment Request; New Source Performance Standards for Primary Aluminum Reduction Plants

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 following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Standards of Performance for Primary Aluminum Reduction Plants (NSPS Subpart S), OMB Control Number 2060–0031 Expiration Date: 7/31/97. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 10, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No.1683.02 (Previously numbered 1067.05).

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for Primary Aluminum Reduction Plants (OMB Control No. 2060–0031; EPA ICR No. 1683.02 (Previously numbered 1067.05). This is a request for an extension of a currently approved ICR.

Abstract: Primary aluminum reduction plants emit particulate matter, carbon monoxide, volatile organic compounds (VOCs), hydrogen fluoride and sulfur dioxide in quantities that the Administrator believes cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Consequently, New Source Performance Standards for primary aluminum reduction plants were promulgated. Affected facilities are required to meet total fluoride emission limits as well as opacity limits. Unless approved for less frequent testing, owners or operators must conduct monthly performance tests to verify compliance with the standards, and maintain daily records of production, raw material feed rates, and cell or potline voltages. In the absence of such information, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on December 2, 1996 (61 FR 63840). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Primary Aluminum Reduction Plants.

Estimated Number of Respondents: 6.

Frequency of Response: On Occasion.

Estimated Total Annual Hour Burden: 4,365 hours.

Estimated Total Annualized Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1067.05 and OMB Control No. 2060–0031 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: June 4, 1997.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 97–15092 Filed 6–9–97; 8:45 am]

BILLING CODE: 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5838–2]

Agency Information Collection Activities: Submission for OMB Review

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 following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Oil Pollution Act Facility Response Plan,

OMB Control Number 2050–0135, EPA ICR Number 1630.03, expiring 7/31/97. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 10, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1630.03.

SUPPLEMENTARY INFORMATION:

Title: Oil Pollution Act Facility Response Plan, (OMB Control Number 2050–0135, EPA ICR Number 1630.03) expiring 7/31/97. This is a request for extension of a currently approved collection.

Abstract: The authority for EPA's response plan requirements is derived from Section 311 of the Clean Water Act as amended by the Oil Pollution Act of 1990 (OPA). EPA's regulation, which is codified at 40 CFR 112.20 and 21, requires that owners and operators of facilities that could cause substantial harm to the environment by discharging oil into navigable water bodies or adjoining shorelines prepare plans for responding to the maximum extent practicable, to a worst case discharge of oil, to a substantial threat of such a discharge, and as appropriate, to discharges smaller than worst case discharges.

All facility response plan (FRP) reporting and recordkeeping activities are mandatory. Each FRP is submitted to EPA. The Agency, in turn, reviews and approves plans from facilities identified as having the potential to cause ''significant and substantial harm'' to the environment from oil discharges. Other low risk, regulated facilities that are not required to prepare facility response plans are required to document their determination that they do not meet the ''substantial harm'' criteria.

Facility response plans enhance EPA's ability to protect navigable waters and sensitive environments when oil discharges occur and reduce the cost of spills to the regulated community and society. Response plans reduce such costs by ensuring that discharges are controlled and cleaned up swiftly and efficiently. Facilities that are prepared to respond to incidents are more likely to contain the spread of a spill before it reaches navigable waters and to mitigate the effects of a spill on the environment. In an emergency, On-Scene Coordinators, local emergency response officials such as fire chiefs, and outside oil response contractors may consult the facility response plan.

None of the information to be gathered for this collection is believed to be confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 2/20/97 (62 FR 7769). Three comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated as follows: An average of .1 hours of recordkeeping for newly regulated facilities not required to prepare FRPs (i.e., facilities that certify that they do not meet the ''substantial harm'' criteria); 8.3 hours for recordkeeping and 118.48 hours for reporting for the newly regulated facilities required to prepare FRPs (i.e., first year costs for plan development); 1.22 hours for recordkeeping and 65.7 hours for reporting for facilities maintaining FRPs (i.e., subsequent costs for annual plan maintenance). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 9886.

Estimated Number of Respondents: 9886.

Frequency of Response: One time certification, one time plan development. Annual plan review and revision as needed.

Estimated Total Annual Hour Burden: 376,599 hours.

Estimated Total Annualized Cost Burden: $11.632 million.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1630.03 and OMB Control No. 2050–0135 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460.
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: June 4, 1997.

Richard Westlund,

Action Division Director, Regulatory Information Division.

[FR Doc. 97–15098 Filed 6–9–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5838–1]

Agency Information Collection Activities Under OMB Review; Comment Request; Standards of Performance for New Stationary Sources Magnetic Tape Coating Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507(a)(1)(D)), this notice announces that the following Information Collection Request (ICR) described below has been forwarded to the Office of Management and Budget (OMB) for review and approval: 40 CFR part 60, subpart SSS—Magnetic Tape Coating Facilities, OMB Control Number 2060–0171, expiration date: 9/30/97. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 10, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1135.06.

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for Magnetic Tape Coating Facilities (OMB Control No. 2060–0171; EPA ICR No. 1135.06).

Expiration date: 9/30/97. This is a request for extension of a currently approved collection.

Abstract: The Administrator has judged that VOC emissions from

magnetic tape coating facilities cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Owners/operators of magnetic tape coating facilities must notify EPA of construction, modification, startups, shut downs, date and results of initial performance test and provide semiannual reports of excess emissions.

In order to ensure compliance with the standards promulgated to protect public health, adequate reporting and recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 5, 1997 and no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 3982.2 hours. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Magnetic Tape Manufacturing.

Estimated Number of Respondents: 14.

Frequency of Response: 2.

Estimated Total Annual Hour Burden: 3982.2 hours.

Estimated Total Annualized Cost Burden: $139,377.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1135.06 and OMB Control No. 2060–0171 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: June 4, 1997.

Richard Westlund,

Acting Division Director, Regulatory Information Division.

[FR Doc. 97–15104 Filed 6–9–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5838–5]

Acid Rain Program: Notice of Draft Written Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft written exemptions.

SUMMARY: The Environmental Protection Agency is issuing draft written exemptions from Acid Rain permitting and monitoring requirements to 2 utility units at 2 plants in accordance with the Acid Rain Program regulations (40 CFR part 72). Because the Agency does not anticipate receiving adverse comments, the exemptions are also being issued as a direct final action in the notice of written exemptions published elsewhere in today's **Federal Register**.

DATES: Comments on the exemptions proposed by this action must be received on or before July 10, 1997 or 30 days after publication of a similar document in a local newspaper.

ADDRESSES: Administrative Records. The administrative record for the exemptions, except information protected as confidential, may be viewed during normal operating hours at the following location: U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois.

Comments. Send comments to: David Kee, Director, Air and Radiation Division (AT18J) (address above).

Submit comments in duplicate and identify the exemption to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of the unit covered by the exemption.

FOR FURTHER INFORMATION CONTACT: Cecilia Mijares, U.S. EPA Region 5, (312) 886–0968.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to these draft written exemptions and the exemptions issued as a direct final action in the notice of written exemptions published elsewhere in today's **Federal Register** will automatically become final on the date specified in that document. If significant, adverse comments are timely received on any exemption, that exemption in the notice of written exemptions will be withdrawn. Because the Agency will not institute a second comment period on this notice of draft written exemptions, any parties interested in commenting should do so during this comment period.

For further information and a detailed description of the exemptions, see the information provided in the notice of written exemptions elsewhere in today's **Federal Register**.

Dated: May 21, 1997.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–15100 Filed 6–9–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5838–4]

Acid Rain Program: Notice of Direct Final Written Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of written exemptions.

SUMMARY: The Environmental Protection Agency is issuing, as a direct final action, written exemptions from the Acid Rain permitting and monitoring requirements to 2 utility units at 2 plants in accordance with the Acid Rain Program regulations (40 CFR part 72). Because the Agency does not anticipate receiving adverse comments, the exemptions are being issued as a direct final action.

DATES: Each of the exemptions issued in this direct final action will be final on July 21, 1997 or 40 days after publication of a similar document in a local newspaper, whichever is later,

unless significant, adverse comments are received by July 10, 1997 or 30 days after publication of a similar document in a local newspaper, whichever is later. If significant, adverse comments are timely received on any exemption in this direct final action, that exemption will be withdrawn through a document in the **Federal Register**.

ADDRESSES: Administrative Records. The administrative record for the exemptions, except information protected as confidential, may be viewed during normal operating hours at the following location: U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois.

FOR FURTHER INFORMATION CONTACT: Cecilia Mijares, U.S. EPA Region 5, (312) 886–0968.

SUPPLEMENTARY INFORMATION: All public comment received on any exemption in this direct final action on which significant, adverse comments are timely received will be addressed in a subsequent issuance or denial of exemption based on the relevant draft exemption in the notice of draft written exemptions that is published elsewhere in today's **Federal Register** and that is identical to this direct final action.

Under the Acid Rain Program regulations (40 CFR 72.7), utilities may petition EPA for an exemption from permitting and monitoring requirements for any new utility unit that serves one or more generators with total nameplate capacity of 25 MW or less and burns only fuels with a sulfur content of 0.05 percent or less by weight. On the earlier of the date a unit exempted under 40 CFR 72.7 burns any fuel with a sulfur content in excess of 0.05 percent by weight or 24 months prior to the date the exempted unit first serves one or more generators with total nameplate capacity in excess of 25 MW, the unit shall no longer be exempted under 40 CFR 72.7 and shall be subject to all permitting and monitoring requirements of the Acid Rain Program.

EPA is issuing written exemptions to the following new units, effective from January 1, 1997 through December 31, 2001:

Oberlin unit 10 in Ohio, owned and operated by Oberlin Municipal Light & Power System. The designated representative is Robert Dispirito.

Wellington Municipal Utilities West Station unit 1 in Ohio, owned and operated by Wellington Municipal Utilities. The designated representative is Robert Dupee.

Dated: May 21, 1997.

Brian J. McLean,

Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–15101 Filed 6–9–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5838–8]

National Drinking Water Advisory Council, Consumer Confidence Report Working Group; Notice of Open Meeting

Under Section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that the Consumer Confidence Report Working Group of the National Drinking Water Advisory Council (established under the Safe Drinking Water Act, as amended (42 U.S.C. § 300(f) *et seq.*)), will hold a meeting on 8 and 9 July from 9:00 a.m. to 5:00 p.m. at the Embassy Suites Hotel, 1900 Diagonal Road, Alexandria, VA 22314.

The purpose of the meeting is to finalize recommendations regarding the draft rule which will be presented to the NDWAC. The meeting is open to the public, but seating is limited. Statements from the public will be taken at the end of the first day if time permits.

For more information, please contact: Francoise M. Brasier, Designated Federal Officer, Consumer Confidence Report Working Group, U.S. EPA, Office of Ground Water and Drinking Water (4606), 401 M Street SW, Washington, DC 20460, (telephone) 202–260–5668. (e-mail) brasier.francoise@epamail.epa.gov.

Dated: June 2, 1997.

Charlene Shaw,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 97–15097 Filed 6–9–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5838–3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer (202) 260–2740, please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1633.10; Acid Rain Program: Amendment for Non-Cogeneration Industrial Unit Exemptions; was approved 05/28/97; OMB No. 2060–0258; expires 01/31/99.

EPA ICR 1713.03; Federal Operations Permits Program of the Clean Air Act—Part 71; was approved 05/28/97; OMB No. 2060–0336; expires 05/31/2000.

EPA ICR No. 0370.15; Land Disposal Restrictions: Phase III Decharacterized Waste Water, Carbamate Wastes, and Spent Potliners; was approved 05/07/97; OMB No. 2040–0042; expires 06/30/98.

EPA ICR No. 1767.01; Reporting and Recordkeeping Requirements for Primary Aluminum Reduction Plants; was approved 05/13/97; OMB No. 2060–0360; expires 05/31/2000.

EPA ICR No. 1060.08; Steel Plants: Electric Arc Furnaces and Decarburization Vessels—NSPS Subparts AA and AAa; was approved 05/14/97; OMB No. 2060–0038; expires 05/31/2000.

EPA ICR No. 1665.02; Confidential Claims; was approved 05/12/97; OMB No. 2020–0003; expires 05/31/2000.

EPA ICR No. 1353.05; Land Disposal Restrictions No-Migration Variances—40 CFR Part 268.6; was approved 05/12/97; OMB No. 2050–0062; expires 05/31/2000.

EPA ICR No. 1363.06; Toxic Chemical Release Reporting, Recordkeeping, Supplier Notification, and Petitions under Section 131 of the Emergency Planning and Community Right-to-Know Act (EPCRA); was approved 04/30/97; OMB No. 2070–0093; expires 04/30/2000.

EPA ICR No. 1784.02; Addition of Facilities in Certain Industry Sectors, Toxic Chemical Release Reporting, Community Right-to-Know; was approved 04/30/97; expires 04/30/2000.

EPA ICR No. 1550.04; Conflict of Interest; was approved 05/12/97; OMB No. 2030–0023; expires 05/31/2000.

EPA ICR No. 0857.07; Polychlorinated Biphenyls (PCBs): Manufacturing, Processing, and Distribution in Commerce Exemptions; was approved 05/06/97; OMB No. 2070–0021; expires 05/31/2000.

EPA ICR No. 1596.04; Significant New Alternatives Policy (SNAP) Program under Title VI of the Clean Air Act Amendments of 1990 (Final Rule); was approved 04/28/97; OMB No. 2060–0226; expires 04/30/2000.

EPA ICR No. 1564.04; Small Industrial-Commerical-Institutional Steam Generating Units—NSPS for Subpart Dc; was approved 03/05/97; OMB No. 2060–0202; expires 03/31/2000.

EPA ICR No. 0795.09; Notification of Chemical Exports—TSCA Section 12(b); was approved 04/26/97; OMB No. 2070–0030; expires 04/30/99.

EPA ICR No. 1132.05; NSPS for Volatile Organic Liquid Storage Vessels—Subpart Kb, 40 CFR Part 60; was approved 05/30/97; OMB No. 2060–0074; expires 05/31/2000.

EPA ICR No. 1093.05; NSPS for the Surface Coating of Plastic Parts for Business Machines—Subpart TTT; was approved 05/30/97; OMB No. 2060–0162; expires 05/31/2000.

EPA ICR No. 1795.01; National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing; was approved 05/28/97; OMB No. 2060–0359; expires 05/31/2000.

Short Term Extensions

On 04/17/97; EPA ICR No. 1680.01; Combined Sewer Overflow Policy; OMB No. 2040–0170; received an extension of expiration date to 5/31/97 and, on 05/22/97; expiration date was extended again to 08/30/97.

Dated: June 4, 1997.

Richard Westlund,

Acting Division Director, Regulatory Information Division.

[FR Doc. 97–15099 Filed 6–9–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

June 4, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 10, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0040.

Title: Application for Aircraft Radio Station License and Temporary Aircraft Radio Station.

Form Number: FCC Form 404/404–A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; and state, local or tribal government.

Number of Respondents: 1,350.

Estimate Hour Per Response: 20 minutes (.33).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 446 hours.

Needs and Uses: FCC Rules require that applicants file FCC 404 for a new station license, renewal, or modification of an existing license. An applicant filing for a new station license may operate the aircraft radio station pending issuance of a station license for a period of 90 days under a temporary operating authority evidenced by a properly executed certification on FCC 404–A. The form has been revised to include a space for the applicant to provide an Internet or e-mail address and Taxpayer Identification Number (TIN). The FCC is required to collect the TIN as a result of the Debt Collection Improvement Act of 1996. The TIN will be redacted from public view. There has also been a significant decrease in the number of respondents and total annual burden due to delicensing certain applicants as a result of Report and Order, WT Docket No. 96–82 adopted October 18, 1996, and released October 25, 1996. This eliminated the individual radio licensing requirements for aircraft stations that operate domestically and are not required by statute or treaty to carry a radio. The drug certification has been incorporated in to the certification text prior to applicant signature and the requirement to check a ''yes/no'' block eliminated. An additional question has been added to clarify whether the aircraft will make international flights. FCC staff will use the data to determine eligibility for a radio station authorization, and to issue a radio station license. Data is also used by Compliance personnel in conjunction with field engineers for enforcement and interference resolution purposes.

OMB Approval No.: 3060–0051.

Title: Application for Renewal of Ship/Aircraft Radio Station License.

Form Number: FCC Form 405–B.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; and state, local or tribal government.

Number of Respondents: 10,500.

Estimate Hour Per Response: 10 minutes (.166).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 1,743 hours.

Needs and Uses: FCC Rules allow for the use of this form to renew a Ship/Aircraft Radio Station license when there are no changes or only certain minor changes to administrative data. This form is used to verify existence of a station every ten years. During the last OMB cycle, the Commission separated the Ship and Aircraft renewal into two separate collections, 3060–0051 and 3060–0615 (FCC Form 405–S), due to the large quantity of applications

received. Since that submission, the Commission implemented delicensing of a major portion of the Ship and Aircraft stations. Therefore, we are re-combining the two collections as 3060–0051 (FCC Form 405–B) and will let the collection for 3060–0615 expire. The number of respondents and the burden have been adjusted accordingly due to delicensing and re-combining of the collections. A space for the applicant to provide an Internet or e-mail address is being added to the form as an alternative media for contacting the applicant with questions relating to the application. We are also requesting permission to collect the Taxpayer Identification Number (TIN) to comply with the Debt Collection Improvement Act of 1996. This will be added to the application sometime during the OMB three year cycle. FCC staff will use the data to determine eligibility for a renewed radio station authorization, and to issue a radio station license. Data is also used by Compliance personnel in conjunction with field engineers for enforcement and interference resolution purposes.

OMB Approval No.: 3060–0068.

Title: Application for Consent to Assignment of Radio Station Construction Authorization or License (For Stations in Services Other Than Broadcast).

Form Number: FCC Form 702.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit.

Number of Respondents: 2,644.

Estimate Hour Per Response: 5 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 13,220 hours.

Needs and Uses: The FCC Form 702 is used to request Commission approval of assignment of radio station construction authorization or license. The form is being revised to increase the number of respondents and total annual burden hours as a result of the Third Report and Order, Redesignation of 27.5 GHz Frequency Band, Establishing Rules and Policies for Local Multipoint Distribution Service (LMDS). The Commission concluded that any LMDS licensee will be permitted to partition or disaggregate portions of its authorization. The Fifth Notice of Proposed Rulemaking proposes that this form will be used to complete the disaggregation and partitioning of LMDS. This form may also be used in the future disaggregation and partitioning for a variety of spectrum-based services licensed by the Commission. Specific rules will be adopted in Reports and Orders or by Public Notice for each service subject to disaggregation and partitioning.

The form has been revised to include a space for the applicant to provide an Internet or e-mail address is being added to the form as an alternative media for contacting the applicant with questions relating to the application. We are also requesting permission to collect the Taxpayer Identification Number (TIN) to comply with the Debt Collection Improvement Act of 1996. The drug certification question has been eliminated and text added to the certification block prior to signature in lieu of check a ''yes/no'' block. The application has been revised to include reference to Part 101 applicants. The data will be used by Commission staff to determine the financial, legal and technical qualifications of the applicant.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–15082 Filed 6–9–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review and approval of the information collection system described below.

Type of Review: Revision of currently approved collection.

Title: Forms Relating to Outside Counsel Services Contracting.

Form Number: Representations and Certifications Form 5200/01 and Background Investigation Form 1600/05.

OMB Number: 3064–0122.

Expiration Date of OMB Clearance: November 30, 1999.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before July 10, 1997 to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: To ensure that law firms that seek to provide legal services to the FDIC meet the eligibility requirements established by Congress, such law firms must complete a Representations and Certifications form and individuals who will perform services for the FDIC must complete a Background Investigation form.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 97–15153 Filed 6–9–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appear in the **Federal Register**.

Agreement No.: 203–011578

Title: FANAL/FESCO Chartering and Cooperative Working Agreement

Parties:

Ocean Management, Inc., D/B/A FESCO Australia North America Line (''FANAL'')

Far Eastern Shipping Co., Ltd. (''FESCO'')

Synopsis: The Agreement permits FANAL, upon certain limitations, to charter space (up to the entire vessel) on FESCO's vessels in the trade between the United States and Australia and New Zealand. The parties are also authorized to discuss and agree upon matters relating to the charters and whether or not FESCO

will offer a competitive service in the Agreement trade.

Agreement No.: 224–200968–001
Title: Port of Oakland/South Pacific Container Line Terminal Agreement
Parties:
Port of Oakland (''Port'')
South Pacific Container Line, Inc. (''SPCL'')
Synopsis: The amendment provides that in lieu of tariff wharfage rates, SPCL will be assessed wharfage based upon the amount of cargo it moves through the Port's facilities. This rate will be linked to a varying minimum annual guarantee/break point of cargo measured as loaded TEUs.

Agreement No.: 224–201026
Title: Port of New Orleans/Transocean Terminal Operators, Inc. Lease Agreement
Parties:
Port of New Orleans (''Board'')
Transocean Terminal Operators, Inc. (''TTO'')
Synopsis: The proposed Agreement permits the Board to lease to TTO the Board's Nashville Avenue Terminal. The primary terms of The Agreement will be for five years. In addition, this Agreement also cancels the former lease agreement between the Board and TTO, Agreement No. 301–200857.

Dated: June 4, 1997.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–15007 Filed 6–9–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. 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 standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 3, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Commercial Bancshares of Ozark, Inc., Ozark, Alabama; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Commercial Bank of Ozark, Ozark, Alabama.

2. F & M Bancorporation, Inc., Kaukauna, Wisconsin, and F & M Merger Corporation, Kaukauna, Wisconsin; to acquire and merge with Clear Lake Bancorp, Inc., Clear Lake, Wisconsin, and thereby indirectly acquire Landmark Bank, Clear Lake, Wisconsin.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Norma McLane-Smith Family Limited Partnership, Poplar Bluff, Missouri; to acquire 14.46 percent of the voting shares of Midwest Bancorporation, Inc., Poplar Bluff, Missouri, and thereby indirectly acquire Midwest Bancshares, Inc., Poplar Bluff, Missouri; First Midwest Bank of Piedmont, Piedmont, Missouri; First Midwest Bank of Dexter, Dexter, Missouri; and Carter County State Bank, Van Buren, Missouri.

C. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. First Bank System, Inc., Minneapolis, Minnesota; to acquire 100 percent of the voting shares of First Bank National Association, Fargo,North Dakota.

Board of Governors of the Federal Reserve System, June 5, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–15127 Filed 6–9–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice 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 the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 25, 1997.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Altus NBC Corporation, Inc., Oklahoma City, Oklahoma; to engage *de novo* through its subsidiaries, NBC Corporation, Inc., Oklahoma City, Oklahoma, and NBC Technologies, Inc., Oklahoma City, Oklahoma, in the activity of providing data processing services to others, pursuant to § 225.28(b)(14) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 5, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–15126 Filed 6–9–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING:
Committee on Employee Benefits of the Federal Reserve System.*

TIME AND DATE: 4:30 p.m., Friday, June 13, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 2lst Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel action (appointments, promotions, assignments, reassignments, and salary actions) involving an individual Federal Reserve System employee.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

* The Committee on Employee Benefits considers matters relating to the Retirement, Thrift, Long-Term Disability Income, and Insurance Plans for Employees of the Federal Reserve System.

Dated: June 6, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–15327 Filed 6–6–97; 3:40 pm]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, June 16, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 2lst Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 6, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–15328 Filed 6–6–97; 3:40 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–119]

Quarterly Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice is a quarterly announcement that contains a list of sites for which ATSDR has completed public health assessments during the period January–March 1997. This list includes sites that are on or proposed for inclusion on the National Priorities List (NPL).

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE, Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments was published in the **Federal Register** on March 21, 1997 [62 FR 13622]. The quarterly announcement is the responsibility of ATSDR under the regulation Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities [42 CFR part 90]. This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) [42 U.S.C. 9604(i)].

Availability

The completed public health assessments are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday, except legal holidays. The completed public health assessments are also available by mail from the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 487–4650. NTIS charges for copies of public health assessments. The NTIS order numbers are listed in parentheses following the site names.

Public Health Assessments Completed or Issued

Between January 1, 1997, and March 31, 1997, public health assessments were issued for the sites listed below:

NPL Sites

California

Montrose Chemical Corporation—Torrance—(PB97–146583)
T.H. Agriculture and Nutrition Company—Fresno—(PB97–138440)

Connecticut

Barkhamsted-New Hartford Landfill—Barkhamsted—(PB97–146435)

Iowa

Fairfield Coal Gasification Plant—Fairfield—(PB97–132252)

Massachusetts

U.S. Army Materials Technology Laboratory—Watertown—(PB97–140677)

Minnesota

Littlefork Groundwater Contamination—Littlefork—(PB97–141667)

Nebraska

Cleburn Street Well Site—Grand Island—(PB97–153621)

New Jersey

CPS/Madison Industries (a/k/a CPS Chemical/Madison Industries)—Old Bridge Township—(PB97–138465)

Ohio

Air Force Plant 85—Columbus—(PB97–138473)
Nease Chemical—Salem—(PB97–138457)

Oregon

Reynolds Metals Company—Troutdale—(PB97–132245)

Utah

Murray Smelter—Murray—(PB97–129472)

Washington

Old Navy Dump/Manchester Laboratory (USEPA/NOAA)—Manchester—(PB97–153639)

Dated: June 4, 1997.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 97–15063 Filed 6–9–97; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 775]

Primary Prevention Skin Cancer Strategies for Children, Parents, and Caregivers

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1997 funds for cooperative agreement projects for primary prevention of skin cancer, and to build a national primary prevention effort that targets children (aged 0–13), parents, and caregivers. Caregivers are defined as those individuals who spend a significant number of consecutive hours with a child or children on a daily basis, i.e., grandparents, day-care workers, teachers, foster parents, etc. Project activities will be developed to complement previous and ongoing efforts of the National Skin Cancer Prevention Education Program (NSCPEP) and focus on two program options. Applicants may choose one or both of the options. The strategies or activities proposed for each option chosen must be clearly identified and stand alone, and applications must include separate narratives and budgets for each option selected.

Applicants not adhering to this requirement will be disqualified.

Option One: Develop and conduct a skin cancer primary prevention intervention.

Option Two: Develop partnerships, coalitions, or interest groups with the lay, professional, and scientific community that supplement and support the primary prevention efforts of the NSCPEP.

CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a national activity to reduce morbidity and mortality and to improve the quality of life. This announcement is related to the priority area of Cancer. (For ordering a copy of ''Healthy People 2000'', see the section ''Where To Obtain Additional Information.'')

Authority

This program is authorized under section 317(k)(2) of the Public Health Service Act, as amended (42 U.S.C. 247b(k)(2)). Applicable program regulations are found in 42 CFR part 51b—Project Grants for Preventive Health Services.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Pub. L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants are public and private not-for-profit organizations, governments, and their agencies. Thus, universities, colleges, research institutions, other not-for-profit public and private organizations, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority-and/or women-owned not-for-profit businesses are eligible to apply.

Note: Organizations described in section 501(c)(4) of the Internal Revenue Code of 1966 that engage in lobbying are not eligible to receive Federal grant and cooperative agreement funds.

Availability of Funds

Approximately $800,000 is available in FY 1997 to fund approximately four awards. A minimum of one award will be made for each of the Options. The average award will be $200,000, with awards ranging from approximately $150,000 to $250,000. It is expected that the awards will begin on or about September 30, 1997, and will be for a 12-month budget period within a project period of up to 3 years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1997 HHS Appropriations Act, which became effective October 1, 1996, expressly prohibits the use of 1997 appropriated funds for indirect or ''grass roots'' lobbying efforts that are designed to support or defeat legislation pending before State legislatures. This new law, Section 503 of Public Law 104–208, provides as follows:

> Section 503(a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, * * * except in presentation to the Congress or any State legislative body itself.
>
> (b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997, as enacted by the Omnibus Consolidated Appropriations Act, 1997, Division A, Title I, section 101(e), Public Law 104–208 (September 30, 1996).

Background

Skin cancer is the most common form of cancer in the United States, which accounts for more than one million new cases annually or roughly one third of all new cancer cases. Basal and squamous cell skin cancers are the most common types of skin cancer and tend to have a low mortality but high morbidity that may result in disfigurement and disability. Melanoma has a lower incidence, but a higher mortality rate among the skin cancers. The American Cancer Society estimates that in 1997, 40,300 persons will be diagnosed with melanoma of the skin and 7,300 will die from the disease. There will be a projected total of 9,490 deaths, 2,100 resulting from basal cell, squamous cell, and a small proportion of more rare skin cancers. From 1973–1992, the overall percentage increase in the rate of death of melanoma (34.1%) was the third highest of all cancers. Incidence rates are over 10 times higher among whites than among blacks (11.7 per 100,000 v. 0.8 per 100,000 for the period 1985–1989). Mortality from cutaneous melanoma has increased,

although less rapidly than the incidence. Survival has improved partly because of an increase in the proportion of cases diagnosed at the localized stage.

Unprotected exposure to ultraviolet radiation, from the sun or nonsolar sources such as tanning beds, is strongly associated with skin cancer. Melanoma appears to have a strong association with early life sun exposure and sunburns. Because of the apparent link between severe sunburns during childhood and increased risk of melanoma later in life, special efforts should be made to protect children from the sun. Basal cell cancer and melanoma appear to be occurring at earlier ages, which implies the early initiation of activities that significantly increase sun exposure among children.

There are some predisposing risk factors that appear to heighten the propensity for the development of skin cancer such as the presence or family history of skin cancer; large mole count; fair or light colored complexion, hair and eyes; and skin that readily burns from sun exposure.

Currently, it is recommended that people of all ages, and especially those with light complexions, limit sun exposure. Parents and caregivers should limit sun exposure for infants and children. Childhood education is considered a priority target for prevention because children receive an estimated 70–80 percent of lifetime sun exposure before the age of 18; excessive sun exposure early in life appears to increase the risk of the subsequent development of skin cancer later in life, and beneficial behavior patterns established during early childhood often persist throughout life. Children are particularly at risk for sun exposure and have the greatest lifetime potential to benefit from positive sun protection habits. Strategies should identify discrete actions children, parents, and caregivers can take to assure adequate protection from the sun.

Since 1994, CDC has been developing and implementing the NSCPEP program. Related projects funded by CDC include: development and evaluation of skin cancer primary prevention education strategies; media campaigns with resultant widespread media dissemination; national skin cancer prevention education agenda-setting meetings; development of partnerships; development of educational brochures with other agencies and organizations, and development of guidelines for skin cancer prevention in the school and community. In the fall of 1996, CDC co-sponsored and participated in a workshop related to basal cell and squamous cell skin cancers, spear-headed by the National Institute of Arthritis, Musculoskeletal, and Skin Diseases, National Institutes of Health. Workshop deliberations affirmed the need to develop strategies aimed at the protection of children from over exposure to the sun and the recommendations reflected this. The previously mentioned activities have provided guidance and focus to CDC's advances in skin cancer prevention. As a result, CDC will continue to focus efforts on primary prevention strategies that support the initiation, growth, and maintenance of the NSCPEP, partnerships with national professional organizations, agencies, institutions, and the media.

Purpose

This program will assist in developing and building upon efforts that are consistent with the NSCPEP. The primary goal of this program is to develop, conduct, and evaluate strategies that effectively reach children, parents, and caregivers, and are aimed at reducing skin cancer through the adoption of preventive behaviors and the institution of sun protection measures. These measures may include environmental interventions, such as physical/structural modifications or incentives. Such strategies could include providing physical structures and accompanying incentives to seek shade, and requiring the use of hats, protective clothing, etc., when outside or altered times for outdoor activities.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities) and CDC will be responsible for the activities under B. (CDC Activities).

A. Recipient Activities

Option One: Develop and conduct a skin cancer primary prevention intervention.

1. Seek input from persons in the targeted population, representative interest groups, and persons who can complement activities and provide expertise such as medical, behavioral, and public health perspectives.

2. Inventory resources needed to develop, conduct, and evaluate the intervention, such as hardware, software, skills, capabilities, and material and logistic resources, e.g. training materials, transportation, etc.

3. Develop the intervention.

4. Develop procedures and tools for collecting pre-intervention data, intervention process data, and post intervention data.

5. Create a marketing plan. Include testing of the plan to ensure that adequate numbers of the targeted population are informed and have the opportunity to participate.

6. Pilot test the intervention among a representative sample of the targeted population.

7. Conduct the intervention in a defined targeted population, taking into account modifications and adjustments identified during the pilot test.

8. Analyze and evaluate the results of the intervention using appropriate qualitative or quantitative methods. Include an assessment of the fidelity of the methodology and protocol, and a description of results with respect to awareness, knowledge, and to the degree possible, behavioral change attributed to the intervention in the targeted population.

9. Participate in conferences, workshops, and meetings convened by CDC.

Option Two: Develop partnerships, coalitions, or interest groups with the lay, professional, and scientific community that supplement and support the primary prevention efforts of the NSCPEP.

1. Define and provide justification for the scope of the proposed partnerships, coalition(s), or interest group(s). The scope can be a diverse group of interested agencies and organizations, including public health; public and private education agencies; voluntary organizations; advocacy groups; not-for-profit and for profit organizations, etc., or a more narrowly defined group of interested agencies and organizations that has as their constituent base the populations for which this program is intended, for example, children and youth organizations; schools; media and private sector partners; parks and recreation organizations; U.S. sport and athletic organizations, parent organizations, etc. The magnitude of reach should describe the level at which the activities will occur (local, State, regional, or national).

2. Develop the purpose, mission, objectives, and expected outcomes of the partnerships, coalition(s), or interest group(s).

3. Develop criteria for selecting members based on #2, include length of the term and ways to optimize member involvement and buy in.

4. Define the level of involvement and expected contributions of members. Address issues related to organizational structure and function; composition of subcommittees and ad hoc committees; decision making processes, etc.

5. Identify ways to enhance process efforts, such as building infrastructure, facilitating group process and communication, and planning and attending to meeting logistics.

6. Establish an initial agenda for action and facilitate group process to develop a purpose, short-and long-term goals, and activities.

7. Develop a strategy to sustain partnerships, coalition(s), or interest group(s).

8. Describe plans for integrating efforts and activities into ongoing national efforts.

9. Develop a mechanism for monitoring and reporting coalition activities and accomplishments. This may include, but is not limited to, meeting minutes, attendance logs, operational and procedural manuals, etc.

10. Participate in conferences, workshops, and meetings convened by CDC.

B. CDC Activities

1. Provide scientific and programmatic technical assistance.

2. Participate with and assist recipient in identifying appropriate agencies and organizations that will enhance project activities.

3. Collaborate with recipients to develop, implement, evaluate, and disseminate project activities designed to improve and change the knowledge, attitude, and impact on behaviors of the targeted groups.

4. Monitor the recipient's performance of project activities, attainment of project objectives, and compliance with other CDC requirements.

5. Provide periodic updates about skin cancer prevention public knowledge, attitudes, and practices, and scientific data when available.

6. Assist with the design and conduct of the evaluation plan, including project outcomes and process measures, and modifications, as deemed necessary.

7. Coordinate dissemination of recipients' experiences and results through grantee meetings, workshops, and conferences with other CDC recipients, other NSCPEP projects, and CDC.

8. Assist recipients with dissemination of project results in the public domain, through venues such as professional publications, presentations at conferences, etc.

Technical Reporting Requirements

Semi-annual progress reports are required and must be submitted no later than 30 days after each semi-annual reporting period. The semi-annual progress reports must summarize the following: (1) A comparison of actual accomplishments to the goals and objectives established for the reporting period; (2) the reasons for slippage if established goals were not met; and (3) other pertinent information, including, when appropriate, analysis and explanation of unexpectedly high costs for performance.

An annual financial status report must be submitted no later than 90 days after the end of each budget period. Final financial and performance reports are required no later than 90 days after the end of the project period. All reports must be submitted to the Grants Management Branch, Procurement and Grants Office, CDC.

Application Content

All applicants must develop their applications in accordance with PHS Form 5161–1 (Revised 7/92, OMB Number 0937–0189), information contained in this program announcement, and the instructions outlined below. Applicants are required to submit an original and two copies of the application. Pages must be clearly numbered, and a complete index to the application and its appendixes must be included. Begin each separate section on a new page. The original and each copy of the application must be submitted unstapled and unbound. All materials must be typewritten, single-spaced, with unreduced type on 8½ by 11'' paper, with at least 1'' margins, headers and footers, and printed on one side only.

Appendixes should be of a reasonable length; only include documents necessary to support the application, such as Letters of Support and examples of relevant work, as requested.

Applicants should discuss technical, programmatic, and public health expertise they can offer in the development of national skin cancer prevention efforts and in participation in national meetings and on committees and task forces. An evaluation plan should be included with the application.

Applicants may elect to submit proposals that address one or both of the options. Each option must be treated as a separate submission or application and the application(s) should not exceed 30 pages, excluding appendixes.

Option One: Develop and conduct a skin cancer primary prevention intervention.

Option Two: Develop partnerships, coalitions, or interest groups with the lay, professional, and scientific community that supplement and support the primary prevention efforts of the NSCPEP.

A. Executive Summary

Provide a clear, concise, one-page summary of: (1) The capabilities and experience in conducting activities related to the Option selected. Include any activities conducted in skin cancer prevention; (2) the major objectives of the proposed project; (3) roles and responsibilities of proposed project personnel, including collaborators; and (4) the estimated total cost of the project, including the total funds requested.

B. Demonstrated Capabilities

Provide evidence, based on previous projects, of the ability to:

Option One: Develop and conduct a skin cancer primary prevention intervention.

1. Describe examples of previous primary prevention intervention work, including those in skin cancer prevention or in other health areas. Discuss organization capability, scope, magnitude of reach (local, State, regional, national), targeted population, process and evaluation methodology, and description of the outcomes and efficacy.

2. Include evidence of adequate resources to develop, conduct and evaluate interventions, such as staff expertise, facilities, hardware, and software. Describe the capabilities available to obtain additional resources when appropriate.

3. Include evidence of direct work with children, parents, and caregivers, and/or evidence of collaborative efforts on projects with interest groups and organizations, representing children, parents, and caregivers, that have conducted primary prevention interventions, including those in skin cancer prevention or in other health areas.

Option Two: Develop partnerships, coalitions, or interest groups with the lay, professional, and scientific community that supplement and support the current efforts of the primary prevention educational activities of the NSCPEP.

1. Describe previous experiences and provide examples of development or substantive participation and sustain ability of previous partnerships, coalition(s), or interest group(s). Include names or types of members, scope, magnitude of reach (local, State, regional, national), process and evaluation methodology, and a description of outcomes and efficacy.

2. Describe the organizational role and processes employed to ensure adequate

resources to develop, implement, evaluate, and sustain partnerships, coalition(s), or interest group(s).

3. Describe and include evidence of past or current experience and participation in partnerships, coalition(s), or interest group(s) that have children, parents, or caregivers as constituents, and that have conducted prevention activities.

4. Include final reports, proceedings, materials developed, or a list of accomplishments resulting from group activities in the appendix.

C. Project Objectives

Submit overall project objectives that are specific, measurable, realistic, and time-phased. Activities during year 01 through year 03 should be related and build on previous work. This should be reflected in the overall project objectives. The objectives and activities related to year 01 should be described in detail. Year 02 and 03 objectives and activities should be briefly described. End-of-year and end-of-project expected outcomes should be included.

D. Operational Plan

Describe the operational plan for achieving each of the objectives established in section C. Provide a concise description of each major activity, and how it will be carried out. Include proposed collaborative efforts. Include relevance to the National Skin Cancer Prevention Education Program efforts. The plan must have a timeline for completion of each major activity. The year 01 timeline must include *specific* process steps and include CDC review and approval.

Letters of support that specify the precise nature of proposed collaboration, and the products, services, capabilities, or other activities that will be provided through the collaboration should be included in the appendix.

Specifically for the Option selected, the Operational Plan should include the following:

Option One: Develop and conduct a skin cancer primary prevention intervention.

1. Describe and provide a rationale for the proposed intervention. Include specific process steps that will be undertaken to accomplish the proposed project. These steps should include, but are not limited to:

(a) The extent of problem; targeted population selection and rationale; baseline data on knowledge, attitudes, and practices; literature review; incorporation of existing primary prevention or skin cancer prevention efforts; theoretical framework; goals and objectives; development of intervention and marketing plan, including testing of the intervention, to ensure that adequate numbers of the targeted population are informed and have the opportunity to participate, and development of data collection tools. Include the availability of resources to be used on this project, such as skills, capabilities, materials, and facilities.

(b) Plans for the implementation of the intervention, following the pilot or pretesting of the intervention in a sample population. Include sampling, mechanisms for modification and retesting, and conduct of the intervention in the population.

(c) The formative, outcome, and process measures proposed, and the methodology used to evaluate these measures.

(d) The expected impact on the efforts of the NSCPEP.

2. Include specific plans to collaborate with key agencies and organizations representing targeted populations, CDC, other grantee recipients, and current NSCPEP efforts. Include letters of support (in the appendixes) from agencies and organizations with a substantive role in the proposed activities.

3. Include a detailed timeline for all proposed activities.

4. Include evaluation methodology of the intervention by using appropriate qualitative or quantitative methods. Include an assessment of the fidelity of the selected methodology and protocol, and a description of proposed results with respect to awareness, knowledge, and to the degree possible, behavioral change attributed to the intervention in the targeted population.

Option Two: Develop partnerships, coalitions, or interest groups with the lay, professional, and scientific community that supplement and support the primary prevention efforts of the NSCPEP.

1. Include the scope of partnerships, coalition(s), or interest group(s). This should include the proposed composition (diverse versus narrow) and the proposed magnitude of reach (local, State, regional, or national).

2. Include the proposed purpose, objectives, and expected outcomes of the partnerships, coalition(s), or interest group(s).

3. Include criteria used for selecting members, ways to use and optimize member involvement, plans to sustain membership and proposed members or types of members. Include in the appendix, Letters of Support from persons interested and willing to participate.

4. Include process steps used to conduct the meetings; facilitate group process; build group infrastructure; communicate with the group before, during, after, and between meetings; and manage and plan for meeting activity logistics, including travel, meeting space, etc.

5. Include an initial plan for action and methods for facilitating the group to develop the purpose; short- and long-term goals; and activities of the group.

6. Include a detailed timeline for all proposed activities.

7. Include plans to coordinate with other grantees, and other NSCPEP skin cancer prevention coalitions currently in progress, and CDC.

E. Project Management

Describe the capabilities, function, time dedication, and qualifications required for each position. Include collaborators, their qualifications, and reason for their selection.

Specifically for Option selected, Project Management should include the following:

Option One: Provide evidence that a well-balanced team of experts has been assembled to assure that the intervention selected will be designed and developed by using necessary sciences. Include behavioral scientists, evaluation scientists, dermatologists, public health personnel, and the targeted audience in all steps of the process.

Option Two: Provide evidence that a staff person or a consultant has been retained who has expertise in group process and facilitation, as well as substantive experience in coalition development, management, and evaluation. Include evidence of strong management, organizational, and human relations skills.

F. Budget

Provide a detailed budget request (using Standard Form 424A ''Budget Information'') and line-item justification of all proposed operating expenses consistent with the option selected and the proposed activities. Use the sample budget included in the application kit as a guide to budget development. Include the following:

1. Travel plans in year 01: Budget two trips to CDC in Atlanta, Georgia, for conferences, workshops, or a reverse site visit. Plan to travel one or two persons, for one to three days.

2. All proposed contracts must indicate the following: (1) Name of contractor, (2) Method of selection, (3) Period of performance, (4) Scope of work, (5) Method of accountability, and

(6) Detailed budget with a justification for costs.

Evaluation Criteria (Total of 100 Points)

The application will be reviewed and evaluated according to the following criteria:

A. Demonstrated Capabilities (20 Points Each)

The extent to which all items in the application content are addressed for Option selected including:

1. Provides examples of previous work similar to the nature of Option selected. Includes targeted populations, scope, magnitude of reach (local, State, regional, national), evaluation methodology, and outcomes and efficacy.

2. Provides evidence of adequate resources to develop, conduct, and evaluate activities, such as staff expertise, working knowledge of Option selected, facilities, logistical support, and hardware and software.

3. Provides evidence of direct work with children, parents and caregivers, or evidence of collaborative efforts on projects with interest groups and organizations representative of these that have conducted prevention activities.

B. Project Objectives (20 Points)

The extent to which all items in the application content are addressed for Option selected including:

The appropriateness of proposed objectives that are specific, measurable, time-phased, and realistic for year 01 activities, and a brief description of proposed objectives for years 02 and 03, and the extent to which end-of-year, and end-of-project expected outcomes are described and effect the effort of the National Skin Cancer Prevention Education Program. Epidemiologic data should be included to support and prioritize the need for a targeted primary prevention activity in the Option selected.

C. Operational Plan (Option One: 40 Points Total, 25 Points for the General Operational Plan and 15 Points for the Evaluation Plan; Option Two: 35 Points Total, 25 Points for the General Operational Plan and 10 Points for the Evaluation Plan)

The extent to which all items in the application content are addressed for Option selected including:

1. Provides evidence of a planning process that includes data and needs assessment, literature review, activity selection, and selection of the targeted population (Option One), partnerships, coalition(s), or interest group(s) (Option Two).

2. Provides a cogent, logical, complete description and process steps of activities.

3. Provides goals, project objectives, and expected outcomes.

4. Provides a timeline that includes CDC review and approval at critical decision-making and work-related steps.

5. Provides evidence of resources necessary to successfully address the activities, such as skills, capabilities and staff, logistical support, and hard and software necessary to carry out Option selected.

6. Provides a plan to market and disseminate activities.

7. Provides an Evaluation Plan that includes the methodology for monitoring formative process, and outcome measures. Includes a description of data collection tools; CDC collaboration, review and approval; Human Subjects, Minorities and Women Research review and other agency review.

D. Project Management (Option One: 20 Points Each; Option Two: 25 Points)

The extent to which all items in the application content are addressed for Option selected including:

Provides a description of the capabilities, function, and qualifications of the proposed staff, staff functions, and other resources needed to effectively perform requested activities in selected Option.

E. Budget (Not Weighted)

The extent to which the applicant provides a detailed budget and justification consistent with the stated objectives and proposed project activities for Option selected included in the application content and with this program announcement.

F. Human Subject (Not Weighted)

Whether or not exempt from the Department of Health and Human Services (DHHS) regulations, are procedures adequate for the protection of human subjects? Recommendations on the adequacy of protections include: (1) Protections appear adequate and there are no comments to make or concerns to raise; (2) protections appear adequate, but there are comments regarding the protocol, (3) protections appear inadequate and the Objective Review Group (ORG) has concerns related to human subjects; or (4) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable.

Noncompeting Continuation Application Content

In compliance with 45 CFR 74.121(d) and 92.10(b)(4), as applicable, noncompeting continuation applications submitted within the project period need only include:

A. A brief progress report that describes the accomplishments of the previous budget period.

B. Any new or significantly revised items or information (objectives, scope of activities, operational methods, evaluation, etc.) not included in the Year 01 application.

C. An annual budget and justification. Existing budget items that are unchanged from the previous budget period do not need re-justification. Simply list the items in the budget and indicate that they are continuation items. Supporting justification should be provided where appropriate.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, no later than 60 days after the application deadline date. The Program Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to ''accommodate or explain'' State process recommendations it receives after that date.

Indian tribes are strongly encouraged to request tribal government review of the proposed application. If tribal governments have any tribal process recommendations on applications submitted to CDC, they should forward them to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and

Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305.

This should be done no later than 60 days after the application deadline date. The granting agency does not guarantee to ''accommodate or explain'' for tribal process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements. Under these requirements, all community-based nongovernmental applicants must prepare and submit the items identified below to the head of the appropriate State and/or local health agency(s) in the program area(s) that may be impacted by the proposed project no later than the receipt date of the Federal application. The appropriate State and/or local health agency is determined by the applicant. The following information must be provided:

a. A copy of the face page of the application (SF 424).

b. A summary of the project that should be titled ''Public Health System Impact Statement'' (PHSIS), not exceed one page, and include the following:

(1) A description of the population to be served;

(2) A summary of the services to be provided; and,

(3) A description of the coordination plans with the appropriate State and/or local health agencies.

If the State and/or local health official should desire a copy of the entire application, it may be obtained from the state Single Point of Contact (SPOC) or directly from the applicant.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

Women, Racial, and Ethnic Minorities

It is the policy of the CDC and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. In conducting review for scientific merit, review groups will evaluate proposed plans for inclusion of minorities and both sexes as part of the scientific assessment of scoring.

This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, dated Friday, September 15, 1995.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Number 0937–0189), must be submitted to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, on or before July 29, 1997.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Application which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information, call (404) 332–4561. You will be asked to leave your name, address, and telephone number. Please refer to Announcement 775. You will receive a complete program description, information on application procedures and application forms. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Glynnis D. Taylor, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 255 East Paces Ferry Road, NE., Room 314, Mailstop E–18, Atlanta, GA 30305, telephone (404) 842–6593, or Internet or CDC WONDER electronic mail at gld1@cdc.gov.

Programmatic technical assistance may be obtained from Barbara A. Bewerse, M.N., M.P.H., Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop K–57, Atlanta, GA 30341–3724, telephone (404) 488–4347, or Internet or CDC WONDER electronic mail at byb0@cdc.gov.

Please refer to Announcement 775 when requesting information and submitting an application.

You may obtain this and other announcements from one of two sites on the actual publication date: CDC's homepage at http://www.cdc.gov or the Government Printing Office homepage (including free on-line access to the **Federal Register** at http://www.access.gpo.gov).

Potential applicants may obtain a copy of ''Healthy People 2000'' Full

Report, Stock No. 017–001–00474–0) or ''Healthy People 2000'' Summary Report, Stock No. 017–001–00473–1) referenced in the ''Introduction'' through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: June 4, 1997.

Joseph R. Carter,

Acting Associate Director for Management and Operations Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–15062 Filed 6–9–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: 8:30 a.m.–6 p.m., June 25, 1997; 8:30 a.m.–4:15 p.m., June 26, 1997.

Place: CDC, Auditorium B, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the Page 2 appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters to be Discussed: Under the authority of 42 U.S.C. 1396s, the Committee will consider adoption of resolutions to clarify cohorts covered by the VFC program for particular vaccines, including varicella for infants and adolescents, MMR second dose, and tetanus/diphtheria booster dose at age 11–12 years.

Other topics to be discussed include: update on the National Vaccine Program; update on the Vaccine Injury Compensation Program; progress of the Procedures and Practices Work Group; ACIP guidelines and approaches to combination vaccines; progress in development of immunization registries; computer algorithms for immunization registries; lyme disease: public health considerations; varicella vaccine update; rabies postexposure prophylaxis—rabies immunoglobulin (RIG) administration; data from Sweden II study on combined DtaP-Hib for infants; recommendations on the use of Rotashield® (Rotavirus vaccine) as part of the routine childhood immunization schedule; vaccination of health care workers; vaccination of bone marrow transplant recipients; respiratory syncytial virus (RSV) IVIG; and influenza in children. Other matters of relevance among the Committee's objectives may be discussed.

Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Gloria A. Kovach, Committee Management Specialist, CDC, 1600 Clifton Road, NE, M/S D50, Atlanta, Georgia 30333, telephone 404/639–7250.

Dated: June 4, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–15065 Filed 6–9–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Regional Offices; Statement of Organization, Functions, and Delegations of Authority

This Notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KD, The Regional Offices of the Administration for Children and Families (62 FR 15897), as last amended, April 3, 1997. This Notice reflects the organizational changes for Region 8 and the reorganization of Region 9. This Chapter is amended as follows:

a. KD.10 Organization. Delete in its entirety and replace with the following:

KD.10 Organization. Region 8 is organized as follows:

Office of the Regional Administrator (KD8A)
Office of Financial Operations (KD8B)
Office of Family Security (KD8C)
Office of Family Supportive Services (KD8D)

b. After the end of KD7.20 Functions (61 FR 3937, 02/02/96), Paragraph D and before KDX.10 Organization (61 FR 68045, 12/26/96), insert the following:

KD9.10 Organization. The Administration for Children and Families, Region 9, is organized as follows:

Office of the Regional Hub Director (KD9A)
Program Support Unit (KD9B)
Self-Sufficiency Unit (KD9C)
Children and Youth Development Unit (KD9D)

KD9.20 Functions. A. The Office of the Regional Hub Director is headed by a Director, who reports to the Assistant Secretary for Children and Families through the Director, Office of Regional Operations. The Office is responsible for the Administration for Children and Families' (ACF) key national goals and priorities. It represents ACF's regional interests, concerns, and relationships within the Department of Health and Human Services (DHHS) and among other Federal agencies, and focuses on State agency culture change, effective partnerships which focus on outcomes/results, and quality customer service. It provides executive leadership and direction to state, county, city, territorial and tribal governments, as well as to other public and private local grantees to ensure effective and efficient program and financial management. The Office ensures that these entities conform to federal laws, regulations, policies and procedures governing the programs, and exercises all delegated authorities and responsibilities for oversight of the programs.

The Office is responsible for approval of state plans and submission of recommendations to the Assistant Secretary for Children and Families for state plan disapproval. The Office contributes to the development of national policy based on regional perspectives on all ACF programs. It oversees ACF regional operations and the management of regional staff; coordinates activities across regional programs; and assures that goals and objectives are met and departmental and agency initiatives are carried out. The Office alerts the Assistant Secretary for Children and Families to problems and issues that may have significant regional or national impact. The Office represents ACF at the regional level in executive communications within ACF, with the DHHS Regional Director, other DHHS operating divisions, other federal agencies, and public or private organizations representing children and families.

B. The Program Support Unit is headed by a manager who reports to the Regional Hub Director. It supports the Office of the Regional Hub Director and the Self-Sufficiency and Children and Youth Development Units and their grantees in the areas of quality concepts and performance measurement, including the reengineering of work processes and the development of computer applications, customer

surveys, statistical applications, and performance measurement models. The Unit directs the development of regional work plans related to the overall ACF strategic plan and tracks, monitors and reports on regional progress in the attainment of ACF national goals and objectives. It manages and/or coordinates special, sensitive and/or cross-cutting projects and initiatives. The Unit serves as the focal point for public affairs and contacts with the media, public awareness activities, information dissemination and education campaigns in conjunction with the ACF Office of Public Affairs and the DHHS Regional Director.

The Unit provides day-to-day support for regional administrative functions, oversees the management and coordination of internal automated systems in the region, and provides data management support to all Regional Office components. Administrative functions include budget planning and execution, facility and space management, procurement, and human resources development and training. Data management responsibilities include the development of automated systems applications to support and enhance program, fiscal and administrative operations, and the compilation of data on demographic and service trends that assist in program monitoring and technical assistance responsibilities.

The Unit performs grants officer functions, including grants and fiscal oversight to ensure consistent policy application across the Regional Office units. The Unit assures that audit clearance and other financial management processes are implemented consistently and timely throughout the Regional Office. Provides expert grants management technical support to the Self-Sufficiency and Children and Youth Development Units to resolve complex problems in such areas as cost allocation, accounting principles, audit, deferrals and disallowances. As Grants Officer, approves and signs all discretionary grants.

The Unit represents the Regional Hub Director in dealing with ACF Offices on all program and financial policy matters under its jurisdiction. Early alerts are provided to the Regional Hub Director regarding problems or issues that may have significant implications for the programs.

C. The Self-Sufficiency Unit is headed by a manager who reports to the Regional Hub Director. The Unit is responsible for providing program and financial management services, and for technical administration of ACF formula, block and entitlement grant programs such as Temporary Assistance for Needy Families (TANF), Child Support Enforcement (CSE), Child Care and Development Fund, Foster Care and Adoption Assistance, Child Welfare, Child Abuse and Neglect and Developmental Disabilities. The Unit provides policy guidance to state, county, city, territorial and tribal governments, as well as to other public and private organizations to assure consistent and uniform adherence to federal requirements governing formula, block and entitlement grant programs. State plans are reviewed and approved and/or recommendations concerning state plan approval or disapproval are made to the Regional Hub Director. The Unit provides technical assistance to entities responsible for administering these programs to resolve identified problems; ensures that appropriate procedures and practices are adopted; monitors the programs to ensure their efficiency and effectiveness; establishes regional financial management priorities; reviews cost allocation plans; and provides technical assistance to and monitors state systems projects for designated ACF programs.

The Unit provides financial management services for ACF formula, entitlement, and block grants in the region. It also reviews cost estimates and reports for these grant programs and recommends funding levels. The Unit performs systematic fiscal reviews and makes recommendations to approve, defer or disallow claims for federal financial participation in ACF formula, entitlement and block grant programs. As applicable, recommendations are made on the clearance and closure of audits of state programs, paying particular attention to financial management deficiencies that decrease the efficiency and effectiveness of ACF programs and to monitoring the resolution of such deficiencies. The Unit represents the Regional Hub Director in dealing with the ACF Program Offices on all program and financial policy matters under its jurisdiction. Early alerts are provided to the Regional Hub Director regarding problems or issues that may have significant implications for the programs.

D. The Children and Youth Development Unit is headed by a manager who reports to the Regional Hub Director. The Unit is responsible for providing program and financial management services, and for technical administration of ACF discretionary grant programs such as Head Start (HS) and Runaway and Homeless Youth (RHY) Programs. In that regard, the Unit provides policy guidance to public and private organizations, as well as to state, county, city, territorial and tribal governments to assure consistent and uniform adherence to federal requirements. The Unit provides technical assistance to and coordinates various training activities for entities responsible for administering these programs to ensure that appropriate procedures and practices are adopted, and monitors the programs to ensure their efficiency and effectiveness. The Unit administers a system of fiscal reviews; reviews costs for allowability; and makes recommendations to disallow costs under ACF discretionary grant programs. It issues certain discretionary grant awards based on a review of project objectives, budget projections, and proposed funding levels. As applicable, recommendations are made on the clearance and closure of audits of grantee programs, paying particular attention to financial management deficiencies that decrease the efficiency and effectiveness of the ACF programs and to monitoring the resolution of such deficiencies.

The Unit represents the Regional Hub Director in dealing with ACF Program Offices on all program policy and financial matters under its jurisdiction. Early alerts are provided to the Regional Hub Director regarding problems or issues that may have significant implications for the programs.

Dated: June 2, 1997.

Olivia A. Golden,

Principal Deputy Assistant Secretary for Children and Families.

[FR Doc. 97–15113 Filed 6–9–97; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Retail Food Program Standards; Notice of Grassroots Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is sponsoring six grassroots meetings with the Centers for Disease Control and Prevention (CDC) and the United States Department of Agriculture (USDA). The topics of the meetings involve identification and discussion of factors considered central to the operation of effective retail food control programs.

DATES: See Table 1 in the "**SUPPLEMENTARY INFORMATION**" section of this document.

ADDRESSES: See Table 1 in the "**SUPPLEMENTARY INFORMATION**" section of this document.

FOR FURTHER INFORMATION CONTACT: Robert H. Brands, Office of Regulatory Affairs, Division of Federal State Relations (HFC–150), Food and Drug Administration, 5600 Fishers Lane, rm. 12–07, Rockville, MD 20857, 301–827–2908 or FAX 301–443–2143.

SUPPLEMENTARY INFORMATION: The U.S. Department of Health and Human Services, through FDA and CDC, and USDA, through the Food Safety Inspection Service, will convene six 1-day public meetings to discuss the development of national program standards for State and local retail food protection programs.

Each meeting will feature a general session at which Federal retail food safety goals, including FDA's retail food protection strategic goals and the President's Food Safety Initiative, will be presented.

There will be three concurrent breakout sessions in the morning and three concurrent breakout sessions in the afternoon. Participants will be asked to discuss and provide input on factors considered central to retail food programs.

The morning breakout sessions will address the following: (1) Regulation equivalency—discussions will concern factors considered essential to provide adequate systems of control and coverage based on the Food Code; (2) trained inspection staff—discussions will concern the development of a national model retail food training curriculum; and (3) program resources—discussions will concern the determination of adequate levels of staffing and significant factors influencing successful application of necessary controls.

The afternoon breakout sessions will address the following: (1) Elements of a Hazard Analysis Critical Control Point (HACCP)-based inspection program—discussions will concern application of HACCP principles in retail food inspection and followup activities; (2) enforcement, compliance/program assessment and recognition—discussions will concern the identification of those elements that support a successful compliance and enforcement program. The possible benefits of program recognition in regard to meeting or exceeding minimum standards will also be explored; and (3) foodborne illness response systems—discussions will concern the program elements necessary to effectively identify and investigate consumer complaints of foodborne illness.

To facilitate meaningful discussions, the meetings will be limited to 75 participants. Preregistration for the meeting is required. An information packet will be available to the public. All comments will be considered and used to develop a summary from each of the regional meetings.

Summaries of the regional meeting will be provided to all registered participants. The public may request copies of these summaries by submitting a written request to the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857.

Specific Information Regarding Each of the Meetings

FDA, CDC, and USDA desire a wide range of participants including, but not limited to local, State, and tribal regulatory officials; industry representatives; academicians; and consumers.

Participants will be limited at each of the meeting sites to 75. Preregistration as specified in the following list of sites is required because seating is limited. Persons interested in attending should telephone their name, organization, address, and telephone number to the FDA contact person listed in Table 1.

TABLE 1

Meeting Address	Date and Local Time	FDA Contact Person
ATLANTA: Wyndham Hotel Midtown, 125 10th St. NE., Atlanta, GA	June 26, 1997, Thursday 8 a.m. to 5:30 p.m., register by Monday, June 23, 1997	Nan Kelemen, 404–347–3576, ext. 5247
DALLAS: Wilson World Hotel/DFW Airport South, 4600 Airport Fwy., Irving, TX	July 22, 1997, Tuesday 8 a.m. to 5:30 p.m., register by Tuesday, July 15, 1997	Derrick Fountain, 214–655–8100, ext. 156
PITTSBURGH: Holiday Inn—Greentree, 401 Holiday Dr., Pittsburgh, PA	August 14, 1997, Thursday 8 a.m. to 5:30 p.m., register by Thursday, August 7, 1997	Kim Crayton, 215–597–4390
PORTLAND: DoubleTree Hotel, 1230 Congress St., Portland, ME	August 19, 1997, Tuesday 8 a.m. to 5:30 p.m., register by Tuesday, August 12, 1997	Linda Carota, 617–279–1675, ext. 165
PORTLAND: Portland State Office Bldg., 800 NE. Oregon, rm. 120C, Portland, OR	August 21, 1997, Thursday 8 a.m. to 5:30 p.m., register by Friday, August 15, 1997	Carolyn Swanson, 206–553–7001, ext. 26
CHICAGO: American Management Association, 8655 West Higgins Rd., rm. 201, Chicago, IL	August 27, 1997, Wednesday 8 a.m. to 5:30 p.m., register by Wednesday, August 20, 1997	John Powell, 312–353–9400, ext. 17

Dated: June 2, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–15012 Filed 6–9–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1763]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment.

Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Request for Termination of Premium Hospital and/or Supplementary Medical Insurance and Supporting Regulations in 42 CFR 406.28 and 407.27; *Form No.:* HCFA–1763; *Use:* The HCFA–1763 is used by beneficiaries to request voluntary termination from premium hospital and/or supplementary medical insurance. *Frequency:* One time only; *Affected Public:* Individuals or Households and Federal Government; *Number of Respondents:* 14,000; *Total Annual Hours:* 7,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's web site address at http://www.hcfa.gov/regs/prdact95.htm, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Analysis and Planning Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 4, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff Office of Financial and Human Resources.

[FR Doc. 97–15120 Filed 6–9–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–216 and HCFA–2088]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Organ Procurement organization/Histocompatibility Laboratory Statement of Reimbursable Cost; *Form No.:* HCFA–216; *Use:* This form is required by statute for participation in the Medicare program. The information is used to determine reasonable costs incurred to furnish treatment to end stage renal disease patients by Organ Procurement Organizations and Histocompatibility Laboratories. *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government; *Number of Respondents:* 100; *Total Annual Hours:* 4,500.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Outpatient Rehabilitation Cost Report and Supporting Regulations in 42 CFR 413.20 and 413.24; *Form No.:* HCFA–2088; *Use:* This form is used by Outpatient Rehabilitation Facilities to report their health care costs to determine the amount reimbursable for services furnished to Medicare beneficiaries. *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government; *Number of Respondents:* 4,298; *Total Annual Hours:* 429,800.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's web site address at http://www.hcfa.gov/regs/prdact95.htm, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Analysis and Planning Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 3, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources.

[FR Doc. 97–15121 Filed 6–9–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[1965, 2649, 5011A, 5011B and 9049]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Hearing—Part B Medicare Claim and Supporting Regulations in 42 CFR 405.821; *Form No.:* HCFA–1965; *Use:* Section 1869 of the Social Security Act authorizes a hearing for any individual who is dissatisfied with any determination and amount of benefit paid. This form is used so that a party may request a hearing by a Hearing Officer because the review determination failed to satisfy the appellant. *Frequency:* Annually, Quarterly and Monthly; *Affected Public:* Individual or Households, and Not-for-profit institutions; *Number of Respondents:* 55,000; *Total Annual Hours:* 9,167.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Reconsideration of Part A Insurance Benefits and Supporting Regulations in 42 CFR 405.711; *Form No.:* HCFA–2649; *Use:* Section 1869 of the Social Security Act authorizes a hearing for any individual who is dissatisfied with the intermediary's Part A determination or the benefit amount paid. This form is used by a party to request a reconsideration of the initial determination of benefits. *Frequency:* Annually, Quarterly and Monthly; *Affected Public:* Individuals or Households, and Not-for-profit institutions; *Number of Respondents:* 62,000; *Total Annual Hours:* 15,500.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Part A Medicare Hearing by an Administrative Law Judge and Supporting Regulations in 42 CFR 498 Subpart D and E; *Form No.:* HCFA–5011A–U6; *Use:* Section 1869 of the Social Security Act authorizes a hearing for any individual who is dissatisfied with the intermediary's Part A determination or the amount paid. This form is used by the beneficiary or other qualified appellant to request a hearing by an Administrative Law Judge if the reconsideration determination fails to satisfy the appellant. *Frequency:* Annually, Quarterly and Monthly; *Affected Public:* Individuals or Households, and Not-for-profit institutions; *Number of Respondents:* 10,000; *Total Annual Hours:* 2,500.

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Part B Medicare Hearing by an Administrative Law Judge and Supporting Regulations in 42 CFR 498 Subpart D and E; *Form No.:* HCFA–5011B–U6; *Use:* Section 1869 of the Social Security Act authorizes a hearing for any individual who is dissatisfied with the carrier's Part B determination or the amount paid. This form is used by the beneficiary or other qualified appellant to request a hearing by an Administrative Law Judge if the hearing officer's decision fails to satisfy the appellant. *Frequency:* Annually, Quarterly and Monthly; *Affected Public:* Individuals or Households, and Not-for-profit institutions; *Number of Respondents:* 10,000; *Total Annual Hours:* 2,500.

5. *Type of Information Collection Request:* Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Information on Provider Refunds and Supporting Regulations in 42 CFR 489.40–41; *Document No.:* HCFA–9049; *Use:* When a Medicare claim is denied and then paid as a result of a reconsideration, there is a possibility that the provider has already been paid by the beneficiary. These questions on provider refunds will be used on intermediary forms to verify that the provider has refunded the beneficiary's money. *Frequency:* On occasion; *Affected Public:* Business or other for-profit; *Number of Respondents:* 4,236; *Total Annual Hours:* 1,059.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: June 3, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 97–15027 Filed 6–9–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA-R–204]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection; *Title of Information Collection:* Data Collection for the Second Generation Social Health Maintenance Organization Demonstration; *Form No.:* HCFA–R–204; *Use:* The data collected under this effort will be used to support the operational and evaluation needs of the Congressionally-Mandated Second Generation of the Social Health Maintenance Organization Demonstration (S/HMO). The S/HMO is designed to integrate health and social services and reduce fragmentation of care through better coordination and more appropriate use of services. The S/HMO model of care combines the features of HMOs with those of long-term-care demonstration projects and offers Medicare beneficiaries the opportunity to receive a wide range of services to meet both acute and long-term-care needs. *Frequency:* On occasion, Annually; *Affected Public:* Individuals or Households; *Number of Respondents:* 157,056; *Total Annual Responses:* 137,271; *Total Annual Hours:* 133,652.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's web site address at http://www.hcfa.gov/regs/prdact95.htm, or to obtain the supporting statement and any

related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Date: May 19, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 97–15119 Filed 6–9–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: A Data Resource for Analyzing Blood and Marrow Transplants.

Date: July 16, 1997.

Time: 1:00 p.m. To 4:00 p.m.

Place: Teleconference, National Cancer Institute, Executive Plaza North, 6130 Executive Boulevard, Bethesda, MD 20892.

Contact Person: Ray Bramhall, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 643, 6130 Executive Boulevard, MSC 7410, Bethesda, MD 20892–7410, Telephone: 301/496–3428.

Purpose/Agenda: To evaluate and review 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 the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: June 4, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–15147 Filed 6–9–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Epidemiological Studies of Cancer Among Atomic Bomb Survivors.

Date: June 20, 1997.

Time: 1:00 p.m.

Place: Teleconference, National Cancer Institute, Executive Plaza North, Suite 640, 6130 Executive Boulevard, Bethesda, MD 20892.

Contact Person: Courtney M. Kerwin, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 609, 6130 Executive Boulevard, MSC 7410, Bethesda, MD 20892–7410, Telephone: 301/496–7421.

Purpose/Agenda: To evaluate and review grant applications.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

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 the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: June 4, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–15148 Filed 6–9–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute, Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Eye Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Clinical Research.

Date: June 27, 1997.

Time: 9:00 a.m.

Place: National Eye Institute, Executive Plaza South, Suite 350, 6120 Executive Blvd., Bethesda, MD 20892–7164.

Contact Person: Andrew P. Mariani, Ph.D., Executive Plaza South, Room 350, 6120 Executive Blvd. Bethesda, MD 20892–7164, (301) 496–5561.

Purpose/Agenda: Review of Grant Applications.

The meeting will be closed in accordance with 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. 93.867, Vision Research: National Institutes of Health.)

Dated: June 4, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–15149 Filed 6–9–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Eye Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Clinical Research.

Date: June 24, 1997.

Time: 8:30 a.m.

Place: National Eye Institute, Executive Plaza South, Suite 350, 6120 Executive Blvd., Bethesda, MD 20892–7164.

Contact Person: Andrew P. Mariani, Ph.D., Executive Plaza South, Room 350, 6120 Executive Blvd., Bethesda, MD 20892–7164, (301) 496–5561.

Purpose/Agenda: Review of Grant Applications.

The meeting will be closed in accordance with 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. 93.867, Vision Research: National Institutes of Health.)

Dated: June 4, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–15150 Filed 6–9–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code, Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

Date: June 30—July 1, 1997.

Time: 8 am—5 pm.

Place: Bethesda Ramada Hotel, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Melissa Stick, Ph.D., M.P.H., Scientific Review Administrator, NIDCD/DEA/SRB, EPS Room 400C, 6120 Executive Boulevard, MSC 7180, Bethesda MD 20892–7180, 301–496–8683.

Purpose/Agenda: To review and evaluate Small 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, United States Code. The applications and/or proposals and the discussion 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 could constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: June 4, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–15144 Filed 6–9–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed 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 National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meeting:

Name of SEP: Lipid & Protein Traffic and Dynamics in Epithelial Cells-2.

Date: June 29–30, 1997.

Time: 7:30 p.m.

Place: Residence Inn Marriott Hotel, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

Contact Person: Francisco O. Calvo, Ph.D., Chief, Special Emphasis Panel Section, Review Branch, DEA, NIDDK, Natcher Building, Room 6as-37E, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8897.

Purpose/Agenda: To review and evaluate grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 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. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health.)

Dated: June 4, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–15145 Filed 6–9–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed 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 SEP: National Institute on Aging Special Emphasis Panel, Minority Dissertation in Aging Applications (Telephone conference).

Date of Meeting: June 24, 1997.

Time of Meeting: 1:00 p.m. to adjournment.

Place of Meeting: Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, Maryland 20892.

Purpose/Agenda: To review five minority dissertation in aging grant (R03) applications.

Contact Person: Dr. Paul H. Lenz, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

This 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. 93.866, Aging Research, National Institutes of Health.)

Dated: June 4, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–15146 Filed 6–9–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke, Division of Extramural Activities; 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: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: July 31, 1997.

Time: 8:30 a.m.

Place: ANA Hotel—Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Dr. Lillian Pubols, Chief, Scientific Review Branch, NINDS, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

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 application and/or proposals, the disclosure

of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: June 1, 1997.

La Verne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–15152 Filed 6–9–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 National Library of Medicine Special Emphasis Panel (SEP) meetings.

Name of SEP: National Library of Medicine Special Emphasis Panel.

Date: June 16, 1997.

Place: Conference Call, 8600 Rockville Pike, Bldg. 38A, Rm. 5S–522, Bethesda, Maryland 20894.

Contact: Dr. Roger W. Dahlen, Chief, Biomedical Information Support Branch, EP, 8600 Rockville Pike, Bldg. 38A, Rm. 5S–522, Bethesda, Maryland 20894, 301/496–4221.

Purpose/Agenda: To review IAIMS grant applications.

Name of SEP: National Library of Medicine Special Emphasis Panel.

Date: June 20, 1997.

Place: Conference Call, 8600 Rockville Pike, Bldg. 38A, Rm. 5S–522, Bethesda, Maryland 20894.

Contact: Dr. Roger W. Dahlen, Chief, Biomedical Information Support Branch, EP, 9600 Rockville Pike, Bldg. 38A, Rm. 5S–522, Bethesda, Maryland 20894, 301/496–4221.

Purpose/Agenda: To review biotechnology grant applications.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

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 No. 93–879—Medical Library Assistance, National Institutes of Health.)

Dated: June 4, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–15151 Filed 6–9–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the teleconference meeting of the Substance Abuse and Mental Health Services Administration (SAMHSA) Council in June 1997.

A portion of the meeting will be open and include roll call, general announcements and a discussion of policy pertaining to co-occurring mental and substance abuse illness. Attendance by the public will be limited to space available. Public comments are welcome during the open session. Please communicate with the individual listed as contact below for guidance.

The meeting will also include the review, discussion and evaluation of individual contract proposals. Therefore, a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA in accordance with Title 5 U.S.C. 552b(c)(3), (4), and (6) and 5 U.S.C. App. 2, section 10(d).

A summary of the meeting and a roster of Council members may be obtained from: Ms. Susan E. Day, Program Assistant, SAMHSA National Advisory Council, 5600 Fishers Lane, Room 12C–15, Rockville, Maryland 20857. Telephone: (301) 443–4640.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: SAMHSA National Advisory Council.

Meeting Date: June 23, 1997.

Place: Substance Abuse and Mental Health Services Administration, Parklawn Building, Conference Room ''P'', 5600 Fishers Lane, Rockville, Maryland 20857.

Open: June 23, 1997, 2:00 p.m. to 2:30 p.m.

Closed: June 23, 1997, 2:30 p.m. to 3:30 a.m.

Contact: Toian Vaughn, Executive Secretary, Room 12C–15, Parklawn Building, Telephone: (301) 443–4640 and FAX: (301) 443–1450.

Dated: June 4, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–15078 Filed 6–9–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panel I and Special Emphasis Panel II in June.

A summary of the meetings and rosters of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–4783.

Substantive program information may be obtained from the individual named as Contact for the meetings listed below.

The meeting of the Special Emphasis Panel I will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, section 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: June 16–18, 1997.

Place: Sheraton City Center Hotel, City Centre II Room, 1143 New Hampshire Avenue, NW, Washington, DC 20037.

Closed: June 16–17, 1997, 8:00 a.m.–5:00 p.m., June 18, 1997, 8:00 a.m.–adjournment.

Panel: Center for Substance Abuse Prevention Starting Early, Starting Smart Program.

Contact: Sandra E. Stephens, Room 17–89, Parklawn Building, Telephone: 301–443–9915 and FAX: 301–443–3437.

The meetings of the Special Emphasis Panel II will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. These discussions may also reveal information

about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(3),(4), and (6) and 5 U.S.C. App. 2, section 10(d).

Committee Names: SAMHSA Special Emphasis Panel II (SEP II).

Meeting Dates: June 25, 1997.

Place: Embassy Suites, 1250 22nd Street, NW, Ambassador Room, Washington, DC 20037.

Closed: June 25, 1997, 8:30 a.m.–5:00 p.m.

Contact: Ray Lucero, 17–89, Parklawn Building, Telephone: 301–443–9917 and FAX: 301–443–3437.

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Dates: June 26, 1997.

Place: Embassy Suites, 1250 22nd Street, NW, Ambassador Room, Washington, DC 20037.

Closed: June 26, 1997, 8:30 a.m.–5:00 p.m.

Contact: Ray Lucero, 17–89, Parklawn Building, Telephone: 301–443–9919 and FAX: 301–443–3437.

This notice of the SEP I meeting is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: June 4, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental, Health Administration.

[FR Doc. 97–15079 Filed 6–9–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Revised Recovery Plan for the Okaloosa Darter for Review and Comment

AGENCY: Fish and Wildlife Service, Interior

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft revised recovery plan for the Okaloosa darter. This endangered fish occurs in six stream systems flowing from Eglin Air Force Base through or near the cities of Niceville and Valparaiso into Boggy and Rocky bayous on Choctawhatchee Bay, in Okaloosa and Walton counties, Florida. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft revised recovery plan must be received on or before August 11, 1997 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft revised recovery plan may examine a copy at the U.S. Fish and Wildlife Service's Panama City Field Office, 1612 June Avenue, Panama City, Florida 32405, between 7:30 AM and 4:30 PM Central Time; or may obtain a copy by contacting Frank Parauka, Panama City Field Office, 904/769–0552 ext. 237. Written comments and materials regarding the plan should be addressed to Frank Parauka at the Panama City Field Office. Comments and materials received are available on request for public inspection, by appointment, during the previously stated hours at the Panama City Field Office.

FOR FURTHER INFORMATION CONTACT: Lloyd Stith or Frank Parauka, at the Panama City Field Office address given above, at 904/769–0552, ext. 234 or 237, respectively.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate the time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The draft revised recovery plan for the Okaloosa darter updates the original 1981 plan. The Service listed this species in 1973 due to its extreme limited range, habitat degradation, and apparent competition from a possibly introduced related species, the brown darter. Studies recommended in the original plan have been completed. Eglin Air Force Base is implementing habitat conservation measures, and plans to implement others. Okaloosa darter populations have apparently stabilized. Downlisting this species from endangered to threatened could be considered in 2001 if Okaloosa darter populations in all six inhabited stream systems remain stable or increase, and if effective interagency agreements are established to protect the quality and quantity of water in these streams. Complete delisting may be considered when populations in all stream systems remain stable or increase for 20 years, and when effective and apparently permanent cooperative agreements to protect stream water quantity and quality have functioned for several years. Inhabited streams are the main stems and tributaries of Toms, Turkey, Mill, Swift, East Turkey, and Rocky creeks. The watersheds of these streams, located on Eglin Air Force Base and in the cities of Niceville and Valparaiso, are also in the planning area. Comments received during the review period will be used as appropriate for developing a final revised recovery plan. The Panama City Field Office will then forward the final plan to the Service's Regional Office in Atlanta, Georgia, for approval.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: May 29, 1997.

Gail A. Carmody,

Project Leader.

[FR Doc. 97–15117 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letters of Authorization to Take Marine Mammals

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Notice of issuance of letters of authorization to take marine mammals

incidental to oil and gas industry activities.

SUMMARY: In accordance with section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regulations [50 CFR 18.27(f)(3)], notice is hereby given that Letters of Authorization to take polar bears and Pacific walrus incidental to oil and gas industry exploration, development, and production activities have been issued to the following companies:

Company	Activity	Date issued
BP Exploration (Alaska) Inc.	Exploration	May 2, 1997.
BP Exploration (Alaska) Inc.	Exploration	May 16, 1997.
BP Exploration (Alaska) Inc.	Development	May 16, 1997.
Fairweather E&P Services	Exploration	May 21, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska, 99503, (800) 362–5148 or (907) 786–3810.

SUPPLEMENTARY INFORMATION: Letters of Authorization were issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations ''Marine Mammals; Incidental Take During Specified Activities (58 FR 60402; November 16, 1993); modified and extended (60 FR 42805; August 17, 1995).

Dated: May 29, 1997.

David B. Allen,

Deputy Regional Director.

[FR Doc. 97–15123 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–M–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–910–0777–38; AZA 29960]

Notice of Availability of the Environmental Assessment (EA) and Finding of No Significant Impacts (FONSI) for the Saguaro National Park Exchange Proposal, Maricopa and Pima Counties, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability and public open house meetings.

SUMMARY: This notice advises the public that the Bureau of Land Management has completed an EA and FONSI for the proposed exchange of lands in Maricopa County, Arizona for private lands of equal value in Pima County, Arizona.

1. The approximately 4,322 acres of public lands (selected lands) involved in the proposed exchange are currently managed by the Bureau of Land Management, and is located southwest of Lake Pleasant (south of State Highway 74) near Phoenix, Arizona. The approximately 530 to 700 acres of private lands (offered lands) involved in the proposed exchange are currently owned by Tucson Mountain Associates, LLC and are within the Saguaro National Park boundaries as established by Public Law 103–364, October 14, 1994.

2. A No Action and Proposed Action alternative have been analyzed in the EA.

3. Issues analyzed in the EA consist of vegetative communities, wildlife and wildlife habitat, threatened and endangered species, sensitive species, surface water, groundwater, water rights, floodplains, hazardous waste, minerals, public and private land ownership, access, grazing, recreation, urban sprawl and open space, cultural resources, Native American Consultation, population, and demographics, local and regional economy, and environmental justice.

DATES: Public opening house meetings will be held at the following locations and times: Tucson Open House: July 1, 1997, 4–8 p.m. at the Red Hills Visitor Center, Tucson, Mountain District, Saguaro National Park, 2700 N. Kinney Road, Tucson, Arizona. Phoenix Open House: July 2, 1997, 4–8 p.m. at the Bureau of Land Management, Phoenix Field Office Conference Room, 2015 West Deer Valley Road, Phoenix, Arizona (602) 780–8090. Public comments must be submitted or postmarked no later than 30 days after publication of this notice.

ADDRESSES: Written comments may be submitted during the public meetings or may be submitted to the Bureau of Land Management, Attn. Bill Childress, Project Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

FOR FURTHER INFORMATION CONTACT: Bill Childress, Project Manager, BLM, Phoenix Field Office, 2015 West Deer Valley Road, Phoenix, AZ 85027 or Telephone (602) 780–8090.

Dated: June 4, 1997.

Michael A. Taylor,

Field Manager.

[FR Doc. 97–15067 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–036–97–1060–00]

Notice of Intent

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to roundup wild horses.

SUMMARY: The Lander Resource Area plans to gather 150 wild horses in the Green Mountain Herd Management Area, and 150 wild horses in the Muskrat Basin Herd Management Area. This is in accordance with WY036–EA3–010, Lander Wild Horse Herd Areas Evaluation of Wild Horse Herd Areas and WY036–EA3–013, Lander Wild Horse Capture Plan for the Gathering of Wild Horses Inside and Outside of the Lander Wild Horse Herd Management Areas. The relevant documents can be reviewed at the Lander Resource Area office until July 15, 1997. The planned gathering period will extend from July 15, 1997 through August 20, 1997.

Comments, including names and street addresses of respondents, will be available for public review at the address listed below during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays, and may be published as part of the EA, the EIS, or other related documents. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

DATES: June 15, through July 15, 1997.

ADDRESSES: 1335 Main Street, Lander, Wyoming.

FOR FURTHER INFORMATION CONTACT: Jack Kelly, (307)–332–8400.

Jack Kelly,

Area Manager.

[FR Doc. 97–15064 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–912–07–0777–52]

Notice of Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting of the Utah Resource Advisory Council (RAC).

SUMMARY: Utah's Resource Advisory Council will conduct a series of field meetings in the Uintah Basin area of Utah between June 30 and July 2, 1997. On June 30, the Council will meet at the BLM Vernal Office (170 South 500 East, Vernal, Utah) from 6:00 to 6:30 p.m. The primary purpose of this meeting is to hear from members of the public who wish to address the Council. The next morning the Council will depart from the Vernal Field Office (8:00 a.m.) for a field tour of the Green River/Brown's Park region where they will discuss recreation-related issues. On July 2, the Council will visit the Dry Fork Recreation Area focusing on issues and concerns related to encroaching urbanization to the area. In the afternoon, the Council will tour Pelican Lake to discuss water quality issues, past impacts to the lake fishery, the need to improve recreation facilities, and a proposal by the Americans with Disabilities Act (ADA) to develop facilities to provide fishing access for the disabled.

RAC meetings are open to the public; however, transportation, meals, and overnight accommodations are the responsibility of the participating public.

FOR FURTHER INFORMATION CONTACT: Any member of the public interested in attending the Vernal field tour or desiring an opportunity to address the Council should contact Sherry Foot, Special Programs Coordinator, Bureau of Land Management, 324 South State Street, Salt Lake City, Utah, 84111; phone (801) 539–4195, by June 23, 1997.

Dated: June 3, 1997.

Roger Zortman,

Acting, Utah BLM State Director.

[FR Doc. 97–15066 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–942–1430–01; UTU 42966; Public Land Order No. 7264]

Revocation of Secretarial Order Dated March 12, 1931, Which established Power Site Classification No. 259; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order in its entirety affecting 2,303.13 acres of public lands withdrawn for the Bureau of Land Management's Powersite Classification No. 259. The waterpower potential in these lands has been fully developed. The lands are no longer needed for waterpower purposes and the revocation is needed to dispose of the lands through either a land exchange or for recreation and public purposes. This action will open the lands to surface entry, subject to valid existing rights, except for 233.60 acres that have been conveyed out of Federal ownership. The lands, except those conveyed out of Federal ownership with no mineral reservation, have been open to mining under the provisions of the Mining Claims Rights Restoration Act of 1955, and to mineral leasing.

EFFECTIVE DATE: July 10, 1997.

FOR FURTHER INFORMATION CONTACT: Michael L. Barnes, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119, 801–977–4372.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Order dated March 12, 1931, which established Powersite Classification No. 259, is hereby revoked in its entirety:

Salt Lake Meridian

(a) Federal Land and Minerals

T. 39 S., R. 16 W.,
Sec. 21, E½SE¼;
Sec. 28, NW¼NE¼;
Sec. 31, SE¼SE¼;
Sec. 33, SW¼NW¼.
T. 40 S., R. 16 W.,
Sec. 5, lot 2, SW¼NE¼, NW¼SW¼, and SE¼SW¼;
Sec. 7, S½NE¼, SE¼SW¼, and NW¼SE¼;
Sec. 8, NE¼NW¼ and SW¼NW¼;
Sec. 18, lots 1, 2, and E½NW¼;
Sec. 19, SE¼NW¼.
T. 40 S., R. 17 W.,
Sec. 11, N½NE¼;
Sec. 24, S½NE¼ and N½SE¼;
Sec. 33, S½NE¼, SE¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 34, lots 3, 4, S½N½, and N½S½;
Sec. 35, lots 2, 3, NE¼, SE¼NW¼, NE¼SW¼, and NW¼SE¼.

The areas described aggregate 2,069.53 acres in Washington County.

(b) Private Surface and Minerals

T. 40 S., R. 16 W.,
Sec. 19, lot 2.

The area described contains 39.88 acres in Washington County.

(c) Private Surface, Federal Minerals Reserved

T. 39 S., R. 16 W.,
Sec. 28, NE¼NW¼ and S½NW¼.
T. 40 S., R. 17 W.,
Sec. 33, lots 2 and 3.

The area described contains 193.72 acres in Washington County. Total areas described in (a), (b), and (c) aggregate 2,303.13 acres in Washington County.

2. At 9 a.m. on July 10, 1997, the lands described in paragraph 1(a) will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. July 10, 1997 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands described in paragraph 1(a) and (c) have been open to mining under the provisions of the Mining Claims Restoration Act of 1955, 30 U.S.C. 621 (1994). However, since this act applies only to lands withdrawn for power purposes, the provisions of the act are no longer applicable.

4. The State of Utah, with respect to the lands described in paragraph 1(a), has waived its preference right to file for the public highway rights-of-way or material sites, as provided by the Act of June 10, 1920, Section 24 as amended, 16 U.S.C. 818 (1994).

Dated: May 30, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–15029 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–01; IDI–32319]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed

an application to withdraw 3,805.87 acres of National Forest System lands for protection of the Howell Canyon Recreation Complex. Publication of this notice in the **Federal Register** will close the lands for up to two years from location and entry under the United States mining laws. The lands will remain open to all uses, other than the mining laws.

DATES: Comments and requests for a meeting should be received on or before July 10, 1997.

ADDRESSES: Comments and meeting requests should be sent to the Idaho State Director, BLM, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3864.

SUPPLEMENTARY INFORMATION: On May 28, 1997, the United States Department of Agriculture, Forest Service, filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws, subject to valid existing rights:

Boise Meridian

T. 12 S., R. 24 E.,
Sec. 36, SW¼NW¼, W½SW¼ and S½SE¼.
T. 12 S., R. 25 E.,
Sec. 31, lot 4, NE¼NE¼, SW¼NE¼, W½SE¼NE¼, SE¼SW¼ and SE¼;
Sec. 32, S½SE¼SW¼NW¼, SE¼NW¼ and N½SW¼.
T. 13 S., R. 24 E.,
Sec. 1, N½ lot 1, lots 2 to 4 inclusive, S½NW¼ and SW¼;
Sec. 2;
Sec. 3, lots 1 to 4 inclusive, S½N½, N½S½, SW¼SW¼ and SE¼SW¼;
Sec. 4, lots 1 and 2, S½NE¼, NE¼SW¼, S½SW¼, NW¼SW¼ and SE¼;
Sec. 5, SE¼;
Sec. 9, N½NE¼, SW¼NE¼, E½NW¼, NW¼NW¼, NE¼SW¼, N½SE¼ and SE¼NE¼;
Sec. 10, W½NW¼;
Sec. 11, NE¼;
Sec. 12, NW¼.
The areas described aggregate 3,805.87 acres in Cassia County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with this proposed withdrawal may present their views in writing to the Idaho State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Idaho State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to this date. The temporary uses which may be permitted during this segregation period, are leases, permits, rights-of-way, etc.

The temporary segregation of the lands in connection with this withdrawal application shall not have the effect of authorizing any use of the lands by the Department of Agriculture.

Dated: June 2, 1997.

Dave Holman,

Acting Branch Chief, Lands and Minerals.

[FR Doc. 97–15030 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Alaska Region, Beaufort Sea Lease Sale 170

AGENCY: Minerals Management Service, Interior.

ACTION: Reschedule of public hearing date.

On May 21, 1997, Minerals Management Service (MMS) announced in the **Federal Register** (Vol. 62, No. 98, pages 27774–5) the availability of the draft Environmental Impact Statement and the location, dates, and times of public hearings for proposed oil and gas lease Sale 170 in the Beaufort Sea, Alaska.

In response to a subsequent schedule conflict in Barrow, Alaska, MMS has rescheduled the July 8, 1997, hearing in Barrow as follows:

July 10, 1997: North Slope Borough Assembly Chambers, Barrow, Alaska, 7:30 p.m.

The dates and times for the hearings in Nuiqsut, Kaktovik, and Anchorage, Alaska, remain unchanged.

If you wish to testify at the Barrow hearing, contact the Regional Director at the Alaska Regional Office, 949 East 36th Avenue, Anchorage, Alaska 99508–4302, or Ray Emerson by telephone (907) 271–6650 or toll free 1–800–764–2627 by July 7, 1997. An oral statement may be supplemented by a more complete written statement which may be submitted to a hearing official at the time of the oral presentation or by mail until July 18, 1997.

Dated: June 4, 1997.

Thomas A. Readinger,

Deputy Associate Director for Offshore Minerals Management.

[FR Doc. 97–15019 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF INTERIOR

National Park Service

Notice of Intent To Extend Existing Concession Permits; and Notice of Intent To Issue a Concession Contract at Grand Teton National Park

AGENCY: National Park Service.

ACTION: Public notice.

SUMMARY: Pursuant to the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20 *et seq.*), notice is hereby given that the National Park Service intends to extend the following concession permits. These extensions are necessary to allow the continuation of public services during the completion of planning documents for Grand Teton National Park. The current concessioners have performed their obligations to the satisfaction of the Secretary and retain their rights of preference under this administrative action.

Pursuant to the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20 *et seq.*), notice is hereby given that the National Park Service intends to issue a concession contract at Grand Teton National Park with a term of three years. This short term contract is necessary to allow the continuation of public services during the completion period of planning documents for Grand Teton National Park. The current concessioner has performed its obligation to the satisfaction of the Secretary of Interior and retains its right of preference under this administration action.

EFFECTIVE DATE: On or before July 10, 1997, a notice will be published in the Commerce Business Daily. Anyone interested in making an offer for the new contract must do so within 60 days of the date of publication of the Commerce Business Daily announcement.

INFORMATION: Information regarding this notice can be obtained from: Program

Leader, Intermountain Office of Concessions Management Support, Attention: Judy Jennings, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Denver, Colorado, 80225–0287, or call: (303) 969–2661.

The following concession permit will be extended for one year: Rex G. Maughan and Ruth G. Maughan d/b/a/ Signal Mountain Lodge, CP–GRTE050–91.

The following concession permits will be extended for two years:

Great Salt Lake Council, Inc. d/b/a Boy Scouts of America, LP–GRTE043–91
Lost Creek Ranch, LP–GRTE040–91
C-H Corporation, LP–GRTE045–91
Gros Ventre River Ranch, LP–GRTE046–92
Trail Creek, LP–GRTE037–91

Concession contract CC–GRTE003–66 has expired. The National Park Service will not renew this contract for an extended period until planning can be completed to determine the future direction of concession services at Grand Teton National Park. This necessary planning process has begun and will have a direct affect on future concession activities. Included in this planning process is the development of a commercial services plan. It is anticipated that the park commercial services plan will be completed in 1999. Until planning is completed, it is not in the best interest of the park to enter into a long term concession contract. For these reasons, it is the intention of the National Park Service to issue a short term contract at this time, complete the planning process then conduct a public solicitation and selection of a concessioner for a longer contract period.

Dated: May 22, 1997.

John E. Cook,

Director, Intermountain Region.

[FR Doc. 97–15128 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent

AGENCY: National Park Service, U.S. Department of the Interior.

ACTION: Notice of intent to prepare an Oil and Gas Management Plan/ Environmental Impact Statement for Padre Island National Seashore, Texas.

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service is proposing to prepare an Oil and Gas Management Plan/ Environmental Impact Statement for Padre Island National Seashore in Kleberg, Kenedy, and Willacy Counties, Texas, and is initiating the scoping process for this document.

The Oil and Gas Management Plan/ Environmental Impact Statement is needed to address the issues of how the National Park Service can best protect resources and visitor use activities at Padre Island National Seashore while at the same time permitting surface use for oil and gas exploration, development, and transportation operations in the exercise of nonfederal oil and gas mineral rights. In the Oil and Gas Management Plan/Environmental Impact Statement and its accompanying public review process, the National Park Service will formulate and evaluate the environmental impacts of a reasonable range of alternatives that will provide the greatest protection for sensitive resources and values at Padre Island National Seashore while allowing for cost-effect exploration of the private mineral estate. Distinct management issues include identifying which park resources and values are most sensitive to oil and gas exploration and development disturbance, defining impact mitigation requirements to protect such resources and values, establishing reasonable performance standards and providing pertinent information to oil and gas owners and operators that will facilitate operations planning and approval.

A public scoping newsletter will be mailed in June 1997; this newsletter will describe the planning process and seek public and agency input and suggestions. The general public and affected and interested parties are encouraged to identify issues and other reasonable alternatives that should be addressed in the Oil and Gas Management Plan/Environmental Impact Statement.

An Open House meeting will be held on July 9, 1997, at the Onmi Bayfront, 900 N. Shoreline, Corpus Christi, Texas, in the Laguna Madre Room from 5:00–7:00 p.m.; the public and affected interested parties may request additional meetings in other Texas cities. These requests should be made no later than July 25, 1997.

If you would like to be placed on the mailing list or request a meeting in your city, contact: Project Coordinator PAIS O&GMP/EIS, c/o Lyndon B. Johnson National Historical Park, P.O. Box 329, Johnson City, TX 78636 or (e:mail) Donna__O'Leary@nps.gov.

Dated: May 28, 1997.

Paul Eubank,

Acting Superintendent, Padre Island National Seashore.

[FR Doc. 97–15129 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces as upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

Meeting Date and Time: Wednesday, June 18, 1997; 6:00 p.m.

Address: Hugh Moore Park, Josiah White II Canal Boat, Lehigh Drive, Easton, PA 18042.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Director of Finance and Development, Delaware and Lehigh Navigation Canal, National Heritage Corridor Commission, 10 E. Church Street, Room P–208, Bethlehem, PA 18018, (610) 861–9345.

Gerald R. Bastoni,

Executive Director, Delaware and Lehigh Navigation Canal NHC Commission.

[FR Doc. 97–15068 Filed 6–9–97; 8:45 am]

BILLING CODE 6820–PE–M

DEPARTMENT OF THE INTERIOR

National Park Service

Mojave National Preserve Advisory Commission Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Mojave National Preserve Advisory Commission will be held June 19, 1997; assemble at 9:00 AM at the Hole-in-the-Wall Campground, Mojave National Preserve, California.

The agenda: General Management Plan Alternatives; Hunting; Private Land within the Preserve.

The Advisory Commission was established by PL #03–433 to provide for the advice on development and implementation of the General Management Plan.

Members of the Commission are:

Michael Attaway
Irene Ausmus
Rob Blair
Peter Burk
Dennis Casebier
Donna Davis
Kathy Davis
Nathan ''Levi'' Esquerra
Gerald Freeman
Willis Herron
Eldon Hughes
Claudia Luke
Clay Overson
Norbert Riedy
Mal Wessel

This meeting is open to the public.

David A. Paulessen,

Superintendent, Mojave National Preserve.

[FR Doc. 97–15116 Filed 6–9–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree; Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

In accordance with Departmental policy, 28 C.F.R. 50.7, and with Section 122 of CERCLA, 42 U.S.C. 9622, notice is hereby given that a consent decree in *United States* v. *Olin Corporation,* Civ. Action No. 97–0090–A (W.D. Va.) was lodged on May 15, 1997, with the United States District Court for the Western District of Virginia, Abingdon Division. The consent decree resolves the claims of the United States under Sections 106(a), 107(a), and 113(g)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), for reimbursement of response costs incurred at the Saltville Waste Disposal Ponds Superfund Site located in Saltville, Virginia and for declaratory judgment as to liability that will be binding in actions to recover response costs related to the Site. The consent decree obligates Olin Corporation to reimburse $379,000 of the United States' past response costs and to perform the remedial design and remedial action the U.S. Environmental Protection Agency has selected for the second operable unit at the site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed amendment to the consent decree. Comments should be addressed to be Assistant Attorney General for the Environmental and Natural Resources Division, Department of Justice, Washington, D.C., 20530, and should refer to *United States* v. *Olin Corporation,* DOJ Ref. # 90–11–283A.

The consent decree may be examined at the office of the United States Attorney, 105 Franklin Road, S.W., Roanoke, Virginia; the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA; and at the Consent Decree Library, 1120 G Street, NW 4th Floor, Washington, D.C. 20005, (202 624–0892. A copy of the consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $25.00 (25 cents per page reproduction cost), payable to the Consent Decree Library. Attachments to the consent decree can be obtained for an additional $27.75.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–15016 Filed 6–9–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: New Collection; Comment Request

ACTION: Notice of information collection under review; report of mail order transactions.

Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 10, 1997 at 62 FR 6012, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comments until July 10, 1997.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Office, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Office, Suite 850, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to (202) 514–1590.

Written comments and suggestions from the public and affected agency concerning the proposed collection of information should address one or more of the following four points:

1. 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;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

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

Overview of the information collection:

1. *Type of Information Collection:* New collection.

2. *Title of the Form/Collection:* Report of Mail Order Transactions.

3. *Agency form number:* None, if any, and the applicable component of the Department of Justice sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief*

abstract: Primary: Business or other for-profit.

''The Comprehensive Methamphetamine Control Act of 1996 (Public Law 104–237) (MCA) amended the Controlled Substances Act to require that each regulated person who engages in a transaction with a non-regulated person which involves ephedrine, pseudoephedrine, or phenylpropanolamine (including drug products containing these chemicals) and uses or attempts to use the Postal Service or any private or commercial carrier shall, on a monthly basis, submit a report of each such transaction conducted during the previous month to the Attorney General.''

5. *An estimate of the total public burden (in hours) associated with the collection:* 1500 annual burden.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: June 4, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–15020 Filed 6–9–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; 1996 National Youth Gang Survey.

The proposed information collection is published to obtain comments from the public and affected agency's. Comments are encouraged and will be accepted until August 11, 1997. This process is conducted in accordance with 5 CFR 1320.10.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

1. 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;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

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

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to Ms. D. Elen Grigg, Office of Juvenile Justice and Delinquency Prevention (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Ms. D. Elen Grigg, (202) 616–3651, Office of Juvenile Justice and Delinquency Prevention, Room 742, 633 Indiana Avenue, NW, Washington, DC 20531.

Overview of this information collection:

1. *Type of information collection:* New Collection.

2. *The title of the form/collection:* 1996 National Youth Gang Survey.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None; Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State or Local law enforcement agencies (mainly police and sheriff's departments, and in rare cases, state law enforcement agencies). Other: None.

Abstract: This collection will gather information related to youth and their activities for research and assessment purposes.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Survey-Version A: 4,000 respondents; 5 minutes to respond. Survey-Version B; 4,000 respondents; 10 minutes to respond.

6 *An estimate of the total public burden (in hours) associated with the collection:* 1000 hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: June 4, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–15021 Filed 6–9–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 4,1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley ([202] 219–5096 ext. 143) or by E-Mail to TOMalley@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call [202] 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ([202] 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Exemption 78–6, Class Exemption for Transactions Involving Collectively Bargained Multiple Employer Apprenticeship and Training Plans.

OMB Number: 1210–0080 (reinstatement without change).

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Number of Responses: 5,000.

Estimated Time Per Respondent: 5 minutes.

Total Burden Hours: 5,000.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: This class exemption exempts from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) certain transactions between collectively bargained multiple employer apprenticeship plans and employers making contributions to these plans or employee organizations any of whose members are covered by the plans if certain conditions are met.

Agency: Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Exemption 94–20, Class Exemption Relating to Certain Employee Benefit Plan Foreign Exchange Transactions.

OMB Number: 1210–0085 (reinstatement without change).

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Number of Responses: 175.

Estimated Time Per Respondent: 0 (marginal over and above records kept in the normal course of business by banks and their affiliates).

Total Burden Hours: 1.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: This class exemption permits the purchase and sale of foreign currencies between an employee benefit plan and a bank or a broker-dealer or an affiliate thereof which is part in interest with respect to such plan.

Agency: Employment and Training Administration.

Title: Work Opportunity Tax Credit (WOTC).

OMB Number: 1205–0371 (revision).

Agency Form Numbers: 9061, 9062, 9063, 9065.

Frequency: Quarterly.

Affected Public: State, Local or Tribal Government.

Number of Responses: 52.

Estimated Time Per Respondent: 20 minutes per form.

Total Burden Hours: 59,436.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The data and information provided the States on these forms are used for program planning and evaluation and for oversight or verification activities as mandated by the Revenue Act of 1978, Tax Equity and Fiscal Responsibility Act of 1982, Omnibus Budget Reconciliation Act of 1992, Section 51, Internal Revenue System Code, and Small Business Job Protection Act of 1996.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–15141 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–29–M; 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

June 4, 1997.

The Department of Labor has submitted the following (see below) emergency processing public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by June 30, 1997. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5096 ext. 143).

Comments and questions about the ICR listed below should be forwarded to Office Information and Regulatory Affairs, Attn: OMB Desl Officer for the U.S. Department of Labor, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316).

The Office of Management and Budget is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of response.

Agency: Employment and Training Administration, Office of Job Training Programs.

Title: Mid-Summer Report.

OMB Number: 1205–XXXX.

Frequency: One-time Report.

Affected Public: State and Local Job Training Partnership Act Agencies.

Number of Respondents: 56.

Estimated Time Per Respondent: Two hours.

Total Burden Hours: 112.

Total Burden Cost (capital/startup): N/A.

Total Burden Cost (operating/maintaining): $750.

Description: The information collected would consist of information on both funding and enrollment levels. The information collected by the State would be rolled up into a summary report for each State. The information would be an update of the planned funding and enrollment data, except the planned figures would be reflected with preliminary actual data. There are only eleven data elements requested from each State. The report would be prepared as of July 15, 1997. The report would be forwarded to the Department of Labor.

This data is needed in order to provide information on the summer youth employment program in response to concerns likely to be raised by the U.S. Congress, the media and the Administration. It has been the Department's experience that there is a consistent and continuing need for this limited information. Traditionally, Congress wants to know the numbers of youth being served as they make final adjustments to the budgets which are under development. The media wants to provide the public with data to go along with personal interest stories. The Administration wants to know whether the programmatic objectives are being realized. If the data were not collected by the Department in a uniform manner, it is likely that attempts would be made by various parties on an ad hoc basis without any concern for standard points of reference.

Such collections could be misleading.

In addition to the above, such data can be invaluable in identifying problems which will permit making mid-course corrections if a pattern of under expenditure or under enrollment exists. Since the program only operates for six-eight weeks for most youth, it is critical that information be collected in an orderly manner which allows corrections and provides a picture of what is happening in each State.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–15142 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,229]

Avesta Sheffield East, Incorporated Baltimore, Maryland; Notice of Revised Determination On Reconsideration

On April 2, 1997, the Department issued a Negative Determination Regarding Eligibility to Apply Worker Adjustment Assistance, applicable to all workers of Avesta Sheffield, Incorporated, Baltimore, Maryland. The notice was published in the **Federal Register** on April 15, 1997 (FR 62 18361).

Investigation findings show that the workers produced small and medium size stainless steel plates. The workers were denied TAA because the ''contributed importantly'' test of the Group Eligibility Requirements of the Trade Act was not met. This test is generally determined through a survey of the workers' firm's major declining customers.

By letter postmarked April 9, 1997, the United Steelworkers of America union representative requested administrative reconsideration of the Department's findings.

Findings on reconsideration show that the company closed in January 1997. The findings further revealed that major customers of the subject firm increased their purchases of imported small and medium size stainless steel plates in the relevant period.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the workers of Avesta Sheffield East, Incorporated of Baltimore, Maryland were adversely affected by increased imports of articles like or directly competitive with small and medium size stainless steel plates produced at the subject firm.

''All workers of Avesta Sheffield East, Incorporated of Baltimore, Maryland who became totally or partially separated from employment on or after February 13, 1996 through two years from the date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 27th day of May 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–15130 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–31,385]

Johnson Controls Battery Group, Inc. Louisville, Kentucky; Notice of Negative Determination of Reconsideration On Remand

The United States Court of International Trade (USCIT) remanded for further investigation the Secretary of Labor's negative determination in *International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW Local 1288 and Employees and Former Employees of Johnson Controls Battery Group, Inc.* v. *Robert Reich, Secretary of Labor* (96–04–01141).

The Department's initial denial of the petition for employees of Johnson Controls Battery Group Inc., Louisville, Kentucky was issued on October 13, 1995 and published in the **Federal Register** on October 27, 1995 (60 FR 55063). The denial was based on the fact that criterion (3) of the Group Eligibility Requirements of Section 222 of the Trade Act of 1974, as amended, was not met. The subject plant transferred production to another domestic location. Therefore, increased imports did not contribute importantly to worker separations.

On November 13, 1995, the petitioners requested administrative reconsideration of the Department's denial, which also resulted in affirmation of the initial negative decision. The determination was issued on February 6, 1996 and published in the **Federal Register** on February 21, 1996 (61 FR 6658).

In response to the UAW's request for judicial review of the Labor Department's finding in this case, on February 4, 1997, the USCIT remanded the case to the Department of Labor for further investigation.

On remand, the Department reviewed the previously certified adjustment assistance petitions for workers of Johnson Controls, Incorporated located in Bennington, Vermont (TA–W–29,403); Owosso, Michigan (TA–W–30,659); and Garland, Texas (TA–W–30,863). In each of these investigations customers of the respective subject firm were primarily aftermarket retailers. Each of these investigations resulted in a worker group certification because all of the Group Eligibility Requirements of Section 222 of the Trade Act of 1974, as amended, were met. There were declines in company sales and or production, employment declined and it was determined that imports ''contributed importantly'' to worker separations. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers. Customers of the Johnson Controls, Incorporated locations ion Bennington, Vermont, Owosso, Michigan and Garland, Texas reported increased imports of aftermarket automotive batteries in the relevant time periods.

Findings on remand show that the customer base at the Louisville plant was different from the above cited Johnson Control locations. In Louisville, new car producers were the primary customers, purchasing original equipment automotive batteries.

Remand findings affirmed that the automotive battery production at the Louisville, Kentucky plant was not shifted to a foreign country, but to another domestic facility of Johnson Controls.

Investigation findings on remand show that although criteria (1) and (2) of the Group Eligibility Requirements of Section 222 of the Trade Act of 1974, as amended, were met, criterion (3) was not met because the customers of the subject firm did not increase purchases of imported automotive batteries. Thus, increased imports of automotive batteries did not contribute to Johnson Control's decline in sales and production and employment at Louisville, Kentucky.

Conclusion

After reconsideration on remand, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers and former workers of Johnson Controls

Battery Group Inc., Louisville, Kentucky.

Signed at Washington, DC this 16th day of May 1997.

Curtis K. Kooser,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–15137 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–32,617 and TA–W–32,617A]

Jolie Handbag, Incorporated Hialeah, Florida and Jolie Handbag, Incorporated Laredo, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 as amended (19 U.S.C. 2273) the Department of Labor issued a Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on October 3, 1996 applicable to all workers of Jolie Handbag, Incorporated in Hialeah, Florida. The notice was published in the **Federal Register** on October 29, 1996 (61 FR 55821).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred at Jolie Handbag's Laredo, Texas facility when it closed during April, 1997. The workers were engaged in employment related to the production of ladies' handbags.

Accordingly, the Department is amending the certification to cover workers at the subject firms' Laredo, Texas location.

The intent of the Department's certification is to include all workers of Jolie Handbag adversely affected by increased imports.

The amended notice applicable to TA–W–31,617 is hereby issued as follows:

''All workers of Jolie Handbag, Hialeah, Florida (TA–W–32,617), and Laredo, Texas (TA–W–32,617A) who became totally or partially separated from employment on or after May 11, 1995, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington, DC this 22nd day of May, 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–15138 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,472]

Master Lock Company, Milwaukee, Wisconsin; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 12, 1997 in response to a worker petition which was filed on behalf of workers at Master Lock Company, Milwaukee, Wisconsin.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 22nd day of May, 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–15139 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,525]

Xerox Corporation, Oklahoma City, Oklahoma; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on May 27, 1997, in response to a worker petition which was filed on behalf of workers at Xerox Corporation, Oklahoma City, Oklahoma.

A negative determination applicable to the petitioning group of workers was issued on February 14, 1997 (TA–W–33,141). No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 27th day of May, 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services Office of Trade Adjustment Assistance.

[FR Doc. 97–15136 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

ETA Data Validation Handbook No. 361; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the ETA Data Validation Handbook No. 361. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before August 11, 1997

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Wayne S. Gordon, U.S. Department of Labor, 200 Constitution Ave. NW, Room S–4231, Washington, DC 20210, (202) 219–5915 (this is not a toll-free number) and, where applicable wgordon@doleta.gov, or fax (202) 219–8506.

SUPPLEMENTARY INFORMATION:

I. Background

Under legal authority granted by Social Security Act, Title III, Section 303(a)(6), the State-Federal Unemployment Insurance Service (UIS) relies on the accurate counting and reporting of Federally defined workloads by State Employment Security agencies (SESAs) as:

- An input to determining the amount of dollars each State receives from DOL to fund the administrative costs of the UI system;
- An essential element in determining levels of unemployment which trigger on or off special unemployment compensation programs;
- Input to econometric models and research projects; and
- Data to evaluate State performance under the UI program.

The UIS funds the administrative costs of individual SESAs based on workload counts and on the time required to perform work related functions. The budgeted workload items are:

Initial Claims
Additional Claims
Continued Claims
Nonmonetary Determinations
Appeals
Subject Employers
Wage Records

States are required to report these items together with other data items on a monthly or quarterly basis on OMB approved forms. States have the responsibility for developing their own system of collecting data and compiling report items. As a result, there are almost as many different systems for developing data as there are States.

Prior to the inception of the UI Workload Validation process, investigation showed that workload definitions were being interpreted differently by the various SESAs. In order to correct these discrepancies, an effort was initiated to review and clarify workload item definitions on.

II. Current Actions

SESAs have made definite improvements since the beginning of the program. However, some States which did improve early developed problems again in later years. Identifying and correcting problems one year does not guarantee the problem is solved forever. Changes in staff, lack of continued training, and other variables, such as automating the reporting of items that were previously reported manually, effect the proper reporting over time. It is important to revalidate at intervals to assure problems have not resurfaced or that new problems have not developed.

Type of Review: Extension.

Agency: United States Department of Labor, Employment and Training Administration.

Title: Data Validation Handbook No. 361.

OMB Number: 1205–0055.

Agency Number: 1205.

Affected Public: State Government.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden (hours)
Data Validation Questionnaire	53	Annually	53	2	106
Worksheet No. 1	53	Annually	53	4	212
Worksheet No. 2	53	Annually	583	1.5	874.5
Worksheets A & B	<10	Annually	0	0	0
Worksheet No. 3	53	Annually	1060	.4	424
Worksheet No. 4	53	Annually	1060	.6	636
Worksheet No. 5	53	Annually	1060	.4	424
Worksheet No. 6	<10	Annually	0	0	0
Worksheet No. 7	53	Annually	1060	2	2120
Worksheet No. 8	53	Annually	530	2.4	1272
Worksheet No. 9	53	Annually	530	.8	424
Worksheet No. 10	53	Annually	53	4	212
Prepare Plan	53	Annually	53	1.5	79.5
Prepare Summary Report	53	Annually	53	4	212
Totals			6148		6996

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 4, 1997.

Grace A. Kilbane,

Director, Unemployment Insurance Service.

[FR Doc. 97–15140 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—01228]

Boise Cascade Corporation Paper Division Vancouver, Washington; Notice of Revised Determination on Reconsideration

On February 4, 1997, the Department, issued a Notice of Affirmative Determination Regarding Application for Reconsideration regarding the petition for workers of the subject firm.

The initial investigation resulted in a negative determination issued on December 6, 1996, because Boise Cascade did not import coated and security paper from sources located in Canada or Mexico, nor was there a shift of production to Canada of Mexico. Furthermore, a survey of the subject firm's customers revealed that none of the customers reported purchasing paper from Canada or Mexico during the relevant periods. The denial notice was published in the **Federal Register** on December 24, 1996 (61 FR 67858).

On reconsideration, the Department found that the customer survey

conducted for the initial investigation was limited to those customers purchasing coated and uncoated paper used to make business forms. Other findings on reconsideration show that prior to the closure of Boise Cascade's Paper Division in Vancouver, various paper products accounted for the primary output at the plant. Company officials supplied the Department a list of customers accounting for the sales decline at the subject plant. New findings show that some customers reported increased import purchases of paper products from Mexico and Canada (both direct and indirect) in 1995 compared to 1994, and in January through September 1996 compared to the same time period of 1995. Sales, production and employment declined during the relevant period.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles from Canada and Mexico like or directly competitive with paper products, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Boise Cascade Corporation, Paper Division, Vancouver, Washington. In accordance with the provisions of the Act, I make the following certification:

''All workers of Boise Cascade Corporation, Paper Division, Vancouver, Washington who become totally or partially separated from employment on or after September 9, 1995, are eligible to apply for NAFTA–TAA under section 250 of the Trade Act of 1974.''

Signed in Washington, DC this 27th day of May 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–15133 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01370 and NAFTA–1370A]

JH Collectibles; Milwaukee, Wisconsin and Pigeon Forge, Tennessee; Amended Certification Regarding Eligibility to Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on February 12, 1997, applicable to all workers of JH Collectibles located in Milwaukee, Wisconsin. The notice was published in the **Federal Register** on March 12, 1997 (62 FR 11474).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers provide support services related to the production of women's clothing. Information provided by the State agency shows that worker separations have occurred at the Pigeon Forge location of the subject firm. The workers provide support services related to the production of women's clothing. Based on this information, the Department is amending the worker certification to include the Pigeon Forge location of JH Collectibles.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports.

The amended notice applicable to NAFTA–01370 is hereby issued as follows:

''All workers of JH Collectibles, Milwaukee, Wisconsin (NAFTA–01370) and Pigeon Forge, Tennessee (NAFTA–01370), who became totally or partially separated from employment on or after November 22, 1995, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington, DC this 23rd day of May 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–15134 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01110 & 01110A]

Jolie Handbag, Incorporated; Hialeah, Florida and Laredo, Texas; Amended Certification Regarding Eligibility to Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on July 26, 1996 applicable to all workers of Jolie Handbag, Incorporated in Hialeah, Florida. The notice was published in the **Federal Register** on August 26, 1996 (61 FR 43792).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred at Jolie Handbag's Laredo, Texas facility when it closed during April, 1997. The workers were engaged in employment related to the production of ladies' handbags.

Accordingly, the Department is amending the certification to cover workers at the subject firms' Laredo, Texas location.

The intent of the Department's certification is to include all workers of Jolie Handbag who were adversely affected by increased imports from Mexico or Canada.

The amended notice applicable to NAFTA–01110 is hereby issued as follows:

All workers of Jolie Handbag, Hialeah, Florida (NAFTA–01110), and Laredo, Texas (NAFTA–01110A) who became totally or partially separated from employment on or after May 11, 1995, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 22d day of May, 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–15135 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01405]

McDonnell Douglas, Long Beach, California; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of February 6, 1997, counsel for United Automobile, Aerospace & Agricultural Implement Workers of America, Local 148, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply to NAFTA-Transitional Adjustment Assistance (NAFTA–01405) for workers of the subject firm. The denial notice was signed on January 23, 1997, and published in the **Federal Register** on February 13, 1997 (62 FR 6804).

The petitioner presents evidence that the subject firm increased reliance on subcontractors for the production of insulation blankets in Mexico and slat track assembly in Canada.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 22nd day of May 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97–15132 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01556]

Siebe, Incorporated a/k/a Ranco North America a/k/a Ranco Industries a/k/a Rantrol, Incorporated Quality Control Department Brownsville, Texas; Amended Certification Regarding Eligibility to Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on April 8, 1997, applicable to all workers of Ranco North America, A/K/A Siebe, Incorporated, Quality Control division, Brownsville, Texas. The notice was published in the **Federal Register** on May 2, 1997 (62 FR 24136).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of temperature and pressure controls. The investigation findings show that Siebe, Incorporated is the parent firm of Ranco North America. Findings also show that workers separated from employment at Ranco North America had their wages reported under four separate unemployment insurance (UI) tax accounts, Siebe, Incorporated, Ranco North America, Ranco Industries, and Rantrol, Incorporated. Accordingly, the Department is amending the certification to reflect this matter.

The amended notice applicable to NAFTA–01556 is hereby issued as follows:

''All workers of Siebe, Incorporated, also known as Ranco North America, also known as Ranco Industries, also known as Rantrol, Incorporated, Quality Control Department, Brownsville, Texas, who became totally or partially separated from employment on or after March 7, 1996, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington, DC this 22nd day of May, 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services Office of Trade Adjustment Assistance.

[Fr Doc. 97–15131 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–24; Exemption Application No. D–10253]

Grant of Individual Exemption for The Retirement Plan for Salaried and Certain Hourly Employees of Keebler Company

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of technical correction.

On May 20, 1997, the Department published in the **Federal Register** at 61 FR 27621 a notice of exemption containing a typographical error. On page 27622, column 3, in the first full paragraph that begins, ''A third commenter * * *,'' the last sentence therein should be revised to read, ''As of December 31, 1996, the Property, which is the Plan's sole real estate investment, represented 0.66% [not 66%] of the Plan's assets.''

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Signed at Washington, DC, this 5th day of June, 1997.

Ivan L. Strasfeld,

Director, Office of Exemption Determinations, Pension and Welfare Benefits Administration.

[FR Doc. 97–15086 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Prohibited Transaction Exemption 97–30; Exemption Application No. D–10345, et al.]

Grant of Individual Exemptions; Washington National Retirement Plan

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Washington National Retirement Plan (the Plan) Located in Lincolnshire, IL

[Prohibited Transaction Exemption 97–30; Exemption Application No. D–10345]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the

sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan of five venture capital limited partnership interests (the Venture Capital Funds) and a private placement bond issue (the Private Placement Bond Issue) * to Washington National Insurance Company (the Employer), a party in interest with respect to the Plan.

This exemption is subject to the following conditions:

(a) All terms and conditions of the sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

(b) The sale is a one-time transaction for cash.

(c) The fair market value of the Interests is determined by a qualified, independent appraiser.

(d) The Plan does not pay any commissions, costs or other expenses in connection with the sale.

(e) With respect to each Venture Capital Fund Interest, the Plan receives as consideration an amount that is no less than the greater of (1) its investment basis in such Interest or (2) the fair market value of the Interest on the date of the sale.

(f) With respect to the Private Placement Bond Issue, the Plan receives as consideration an amount that is no less than the greater of (1) the remaining principal balance of such Interest or (2) the fair market value of the Interest on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on April 9, 1997 at 62 FR 17210.

Written Comments

The Department received five written comments with respect to the proposed exemption and no requests for a public hearing. Of the comments received, four commenters said they were opposed to the proposed exemption primarily because they did not understand the substance of the subject transaction or its implications. These commenters subsequently withdrew their comments. The fifth commenter stated matters that were not germane to the transaction.

Thus, after giving full consideration to the entire record, including the written comments, the Department has decided to grant the exemption. The comment letters have been included as part of the public record of the exemption application. The complete application file, as well as all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pensionand Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Joint Apprenticeship Committee of Plumbers Local No. 27 (the Plan) Located in Pittsburgh, Pennsylvania

[Prohibited Transaction Exemption 97–31; Exemption Application No. L–10366]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act shall not apply to the sale by the Plan of certain improved real property located in Allegheny County, Pennsylvania (the Property) to the Local Union No. 27 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, a party in interest with respect to the Plan; provided that the following conditions are met:

(A) The Plan does not incur any expenses or suffer any loss with respect to the transaction; and

(B) The Plan receives a cash purchase price for the Property of no less than the greater of (1) the Plan's cost basis in the Property as of the date of the sale, or (2) the fair market value of the Property as of the date of the sale, as determined by an independent, qualified appraiser, and in no event less than $265,597.

For a more complete statement of the summary of facts and representations supporting the Department's decision to grant this exemption refer to the Notice of Proposed Exemption published on April 17, 1997 at 62 FR 18804.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Howes Leather Company, Inc. Employee Stock Ownership Plan (the Plan) Located in Curwensville, Pennsylvania

[Prohibited Transaction Exemption 97–32; Exemption Application No. D–10385]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan of an individual life insurance policy (the Policy) to the Howes Leather Company, Inc. (the Employer), the sponsor of the Plan; provided that the following conditions are satisfied:

(A) All terms and conditions of the transaction are at least as favorable to the Plan as those which the Plan could obtain in arm's-length transactions with unrelated parties;

(B) The Plan receives a purchase price for the Policy of no less than the greater of (1) the fair market value of the Policy as of the sale date, or (2) Policy's cash surrender value (as described in the Notice of Proposed Exemption) as of the sale date;

(C) The Plan does not incur any expenses or suffer any loss with respect to the transaction; and

(D) In the event the Employer recovers with respect to the Policy a total amount in excess of the purchase price paid to the Plan for the Policy, such excess amount shall be distributed prorata among the participants of the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice of Proposed Exemption published on April 17, 1997 at 62 FR 18805.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll free Number.)

Thrift Savings Plan and Trust (the Plan) Located in New York, New York

[Prohibited Transaction Exemption 97–33; Exemption Application No. D–10391]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the ''restoration payment'' (the Restoration Payment) to the Plan by The Kenzer Corporation (the Employer), in respect of certain defaulted notes (the Notes), and (2) the potential future receipt by the Employer of ''recapture payments'' (the Recapture Payments) from the Plan.

This exemption is subject to the following conditions:

(1) The Restoration Payment covers the face amount of the Notes and accrued interest as of the date of default, plus lost opportunity costs attributable to the Notes since the date of default;

(2) Any Recapture Payments are restricted solely to the amounts, if any, recovered by the Plan with respect to the Notes in litigation or otherwise; and

* The interests in the Venture Capital Funds and the Private Placement Bond Issue are collectively referred to herein as the Interests.

(3) The Employer receives a favorable ruling from the Internal Revenue Service that the Restoration Payment does not constitute a ''contribution'' or other payment that will disqualify the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on April 9, 1997 at 62 FR 17213.

For Further Information Contact: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 5th day of June, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 97–15087 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–29–P

LEGAL SERVICES CORPORATION

1997 Interim Grant Agreement to Recipient for Funds To Provide Civil Legal Services to Eligible Low-Income Clients in Schuylkill County, Pennsylvania

AGENCY: Legal Services Corporation.

ACTION: Announcement of 1997 Interim Grant Agreements.

SUMMARY: The Legal Services Corporation (LSC or Corporation) hereby announces its intention to award an interim contract to provide economical and effective delivery of high quality civil legal services to eligible low-income clients in service area PA–19 for Schuylkill County, Pennsylvania. The anticipated grant term is July 1, 1997 through December 31, 1997. The tentative grant amount is $61,879.

DATES: All comments and recommendations must be received on or before the close of business on July 10, 1997.

ADDRESS: Legal Services Corporation—Competitive Grants, 750 First Street NE, 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Merceria Ludgood, Deputy Director, Office of Program Operations, (202) 336–8848.

SUPPLEMENTARY INFORMATION: Pursuant to Section 1007(f) of the LSC Act, with a request for comments and recommendations within a period of thirty (30) days from the date of publication, LSC will award funds to the following organization to provide civil legal services in the indicated service area.

Service area	Applicant name
PA–19 ...	Central Pennsylvania Legal Services

Date Issued: June 4, 1997.

Merceria L. Ludgood.

Deputy Director, Office of Program Operations.

[FR Doc. 97–15154 Filed 6–9–97; 8:45 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors' Ad Hoc Committee on Grievances

TIME AND DATE: The Ad Hoc Committee on Grievances of the Legal Services Corporation Board of Directors will meet by teleconference on June 10, 1997, at 3 p.m. e.s.t.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a unanimous vote of the Board of Directors to hold an executive session. At the executive session, the committee will consider the qualifications and relative merits of several candidates for the position of fact-finder in an employee grievance, and select one of those individuals to serve as fact-finder and possibly two alternates. At this teleconference meeting, the committee will also consider and act on procedures to be utilized in processing the grievance. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. § 552b(c)(2) & (6)] and the corresponding provisions of the Corporation's implementing regulation [45 CFR § 1622.5 (a) & (e)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

LOCATION: Members of the Committee and directors wishing to participate, as well as members of the Corporation's staff and the public, will be able to hear and participate in the meeting by means of telephonic conferencing equipment set up for this purpose in the Corporation's Conference Room, on the 11th floor of 750 First Street, NE., Washington, DC 20002.

MATTERS TO BE CONSIDERED:

Open Session:

1. Approval of agenda.

Executive Session:

2. Consider and act on choice of fact-finder.
3. Consider and act on procedures to be utilized in processing the grievance.

Open Session:

4. Other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel & Secretary of the Corporation, (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Barbara Asante, at (202) 336–8800.

Dated: June 6, 1997.

Victor M. Fortuno,

General Counsel.

[FR Doc. 97–15319 Filed 6–6–97; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME: 9:30 a.m., Tuesday, June 17, 1997.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE DISCUSSED:

6664B Railroad Accident Report: Collision and Derailment of Maryland Rail Commuter Train 286 and National Railroad Passenger Corporation Train 29, Near Silver Spring, Maryland, February 16, 1996.

6785A Aviation Accident Report: Descent Below Visual Glidepath and Collision With Terrain, Delta Air Lines Flight 554, McDonnell Douglas MD–88, N914DL, LaGuardia Airport, New York, October 19, 1996.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 314–6065.

Dated: June 6, 1997.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 97–15285 Filed 6–6–97; 2:04 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–455 AND STN 50–457]

Commonwealth Edison Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity For a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–66 and NPF–77, issued to Commonwealth Edison Company (ComEd, the licensee), for operation of Byron Station, Unit 2, located in Ogle County, Illinois and Braidwood Station, Unit 2, located in Will County, Illinois.

The proposed amendments would revise the technical specifications (TS) and associated bases for TS 4.5.2.b.1 related to the requirement to vent the emergency core cooling system (ECCS) pump casing and high points outside containment. The proposed changes will revise the venting requirement to encompass the non-operating ECCS pumps and discharge piping which are provided with high point vent valves. Additionally, the wording of the surveillance will be revised to clearly indicate that the installed high point vent valves and pump casing vent valves will be utilized to accomplish the venting operation. A new requirement will be added to ultrasonically examine the discharge piping of the idle centrifugal pump and the portion of the piping upstream of the high head safety injection isolation valves adjacent to the vent valve every 31 days.

On May 22, 1997, during review of a Byron surveillance procedure for implementing TS 4.5.2.b.1 requirements for venting the ECCS, the staff identified that the licensee was not in literal compliance with the TS requirements for venting the centrifugal charging (CV) pumps (an ECCS subsystem) and discharge piping. The TS require the ECCS pumps and discharge piping to be vented every 31 days. Prior to questions raised by the staff, ComEd considered themselves to be in compliance with the TS by crediting the dynamic venting action of the operating CV pump as meeting the requirement to ensure that the ECCS piping is full of water. For the piping not directly in the flowpath, gas accumulation was judged not to be credible due to the pressure inside the piping. The idle CV pump was considered to be self-venting due to the system design and piping configuration. During the May 22, 1997, discussions, ComEd was informed that with regard to the high points in the CV pump discharge lines, discharge piping downstream of the standby CV pump and the piping upstream of the high head safety injection valves, that includes the high point vent valve are not subject to system flow and are, therefore, not flushed or vented. Although ComEd considered all CV pumps to be operable, it concluded that the plants were not in literal compliance with the TS and both trains of CV were declared inoperable at 7:00 p.m. CDT. The licensee subsequently requested a Notice of Enforcement Discretion (NOED) to continue operation. A NOED was granted on May 23, 1997. Subsequent to issuance of the NOED, on May 24, 1997, the licensee submitted, in accordance with NRC procedures, a request for exigent license amendments to bring the plant operating configuration and the TS into conformance.

The May 24, 1997, application was supplemented on May 31, 1997, by requesting an emergency license amendment for Byron, Unit 1, only. Amendment No. 90 was issued for Byron, Unit 1, on June 1, 1997.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendments requested involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes proposed in this request will align the surveillance requirements with the installed system design and normal operating conditions. No increase in the probability of an accident will occur as a result of this change. The conduct of surveillances required by the Technical Specifications are not postulated to result in accident initiation. The level of surveillance performed to date has provided confidence that the objective of the current surveillance requirement has been met. Ultrasonic examinations of CV piping which had not been manually vented show that the affected piping is water solid. The design of the pumps and installed piping configuration are such that the standby pump is maintained under a positive pressure. Evaluations previously performed in support of Amendment 36 confirmed that hydrogen introduced into the VCT [volume control tank] will not come out of solution in the CV pump suction line. Experience with performing the manual venting for all ECCS subsystems to date has not resulted in the identification of significant voiding. This was verified by a search of the station's Problem Identification database. The applicable surveillance procedure for performing the venting requires that a Problem Identification Form be generated if significant voiding is experienced. No such problems have been identified. As such, the proposed change does not result in a significant increase in the probability of occurrence of a previously analyzed accident.

The consequences of a previously analyzed accident are not increased. Operating experience has shown that the level of surveillance performed to date is sufficient to provide confidence that no significant voiding has occurred in the affected piping. Ultrasonic examinations have confirmed the water solid condition of the piping. Even though voiding is not expected, evaluation of postulated voided conditions confirm that

unacceptable dynamic loading would not occur, and therefore the integrity of the ECCS piping is not compromised. Thus, the ECCS will be capable of performing its design function. This will ensure that the consequences of a previously analyzed accident are not significantly increased.

Therefore, these proposed revisions do not result in a significant increase in the probability or consequences of an accident previously analyzed.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

These proposed changes do not create the possibility of a new or different kind of accident. ComEd has evaluated the piping configuration for the ECCS discharge piping of the ECCS subsystems. First, adequate controls have been implemented to provide assurance that air intrusion is unlikely. Second, a specific evaluation of both a voided 2″ and 8″ [Low Head Safety Injection] RH line was performed. This evaluation concluded that the piping can withstand the dynamic loads caused by the maximum credible air void. Due to the higher pressure rating and smaller size of the [Intermediate Head Safety Injection] SI and CV discharge piping, this evaluation is considered bounding for the ECCS subsystems. The results of the evaluation were submitted for staff review in a letter dated March 12, 1990, in support of Amendment 36 to the Braidwood Technical Specifications. This change will not result in new failure modes because no new equipment is installed, and installed equipment is not operated in a new or different manner. Manual venting operations have been performed as permitted by system operation and piping configuration. Accordingly, this change will not create the possibility of a new or different kind of accident.

3. The proposed change does not involve a significant reduction in a margin of safety.

The margin of safety is not significantly reduced because the proposed change will provide sufficient assurance that excessive voiding will not occur. This will assure proper system functioning. Venting of the idle subsystems in conjunction with the operating conditions of the subsystems in operation provide confidence that voiding is not present.

This has been confirmed by the performance of ultrasonic examinations of the piping of interest. This meets the objective of the surveillance requirement and thus preserves the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments requested involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 14-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 10, 1997, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room located at: for Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the

amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendments are issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendments requested involve no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments requested involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mr. Robert A. Capra: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Michael I. Miller, Esquire: Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated May 24, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at: for Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 3rd day of June 1997.

For The Nuclear Regulatory Commission.

George F. Dick, Jr.,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–15112 Filed 6–9–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–272 and 50–311]

Public Service Electric & Gas Company; Philadelphia Electric Company; Delmarva Power and Light Company; Atlantic City Electric Company; Salem Nuclear Generating Station, Unit Nos. 1 and 2; Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment Nos. 194 and 177 to Facility Operating License Nos. DPR–70 and DPR–75, respectively, to Public Service Electric & Gas Company, Philadelphia Electric Company, Delmarva Power and Light Company and Atlantic City Electric Company (the licensees), which revised the Technical Specifications for operation of the Salem Nuclear Generating Station, Units 1 and 2, located at the licensee's site in Salem County, New Jersey.

The amendments provide changes to Technical Specification (TS) 3.4.3, ''Relief Valves,'' for Salem Unit 1, and TS 3.4.5, ''Relief Valves,'' for Salem Unit 2, to ensure that the automatic capability of the power operated relief valves to relieve pressure is maintained when these valves are isolated by closure of the block valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate—2 -findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on April 4, 1997 (62 FR 16199). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (62 FR 25675).

For further details with respect to the action see (1) the application for amendment dated January 31, 1997, as supplemented by letters dated March 14, April 8, and April 28, 1997, (2) Amendment Nos. 194 and 177 to License Nos. DPR–70 and DPR–75, respectively, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Dated at Rockville, Maryland, this 4th day of June 1997.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Senior Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–15111 Filed 6–9–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–266 and 50–301]

Wisconsin Electric Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–24 and DPR–27 issued to Wisconsin Electric Power Company (the licensee), for operation of the Point Beach Nuclear Power Plant, Units 1 and 2, located in Manitowoc County, Wisconsin.

The proposed amendments would change Technical Specification requirements related to the service water system, component cooling water system, containment cooling and iodine removal systems, auxiliary electrical systems, and the control room emergency filtration system. The September 30, 1996, application was noticed in the **Federal Register** on November 19, 1996 (61 FR 58905). The November 26, and December 12, 1996, February 13, and March 5, 1997, applications were noticed in the **Federal Register** on April 9, 1997 (62 FR 17244). The supplemental applications dated April 2, April 16, May 9, and June 3, 1997, would eliminate separate requirements for the component cooling water system for single-unit and two-unit operation, revise the acceptance criteria for laboratory testing of the control room emergency filtration system charcoal adsorber banks from 90 percent to 99 percent, and supplement additional information on the basis for acceptability of equipment qualification analyses and dose assessments resulting from a loss-of-coolant accident.

The licensee's supplements of November 26, and December 12, 1996, February 13, March 5, April 2, April 16, May 9, and June 3, 1997, stated that the conclusions provided in the September 30, 1996, ''No Significant Hazards Consideration'' were not altered by the additional information provided.

The June 3, 1997, submittal requested the proposed amendments be handled on an exigent basis based on the current schedule which indicates that Unit 2 restart is scheduled for June 25, 1997, and Unit 1 restart is scheduled for July 1, 1997, and failure of the issuance of the amendments by these dates would result in prevention of Point Beach's resumption of operation. The licensee states that the circumstances of exigency were not avoidable, based on the need to refine and revise the submittals due to emergent issues, principally control room dose analyses. The NRC has determined that the licensee used its best efforts to make a timely application for the proposed changes and that exigent circumstances do exist and were not the result of any intentional delay on the part of the licensee.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes would increase the acceptance criteria for the efficiency of the control room emergency filtration system charcoal adsorbers from 90 percent to 99 percent, eliminate the designation of single-unit and two-unit operational requirements for the component cooling water system since four component cooling water pumps (two per unit) are required to be operable. The revised bases of the charcoal adsorber testing would reference ASTM [American Society for Testing and Materials] D3803–89. The revised operation of the containment cooling and iodine removal system, component cooling water system, and the service water system would be required because of changes in assumptions factored into revised design bases accident analyses and the resultant impact on containment heat removal analyses, dose assessment, and operation of the control room ventilation system. The proposed changes in system operations were evaluated to ensure equipment qualification requirements, post-accident sampling capability, and doses within dose limits specified in 10 CFR Part 50, Appendix A, General Design Criterion 19 were maintained within regulatory limits. The consequences or probability of a previously evaluated accident would, therefore, not significantly be increased.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes as reflected in the technical specifications are more conservative for the systems and component operation being revised. The changes resulting from new analyses were evaluated, and no new or different kind of accident is introduced since no modifications to the actual design is postulated, only the manner in which the plant is operated and accidents are analyzed. Therefore, a new or different kind of accident would not be created.

(3) The proposed changes do not result in a significant reduction in the margin of safety.

The proposed changes would increase the required number of operable components for the component cooling water system and the service water system and would increase the required efficiency of the control room ventilation charcoal adsorbers and ensure equipment qualification inside of the containment based on new containment pressure and temperature analyses. Dose assessments for the exclusion area boundary, low population zone, and control room are within regulatory requirements for the most severe radiological event, a loss-of-coolant accident. Therefore, these changes do not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received by close of business within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license

amendments before the expiration of the 14-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 10, 1997, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendments are issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment requests involve no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment requests involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee. Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 30, 1996, as supplemented on November 26, and December 12, 1996, February 13, March 5, April 2, April 16, May 9, and June 3, 1997, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Rockville, Maryland, this 5th day of June 1997.

For the Nuclear Regulatory Commission.

Linda L. Gundrum,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–15271 Filed 6–9–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of June 9, 16, 23, and 30, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 9

Wednesday, June 11

9:00 a.m.—Briefing by the Executive Branch (Closed—Ex. 1)

Thursday, June 12

1:30 p.m.—Briefing on Status of License Renewal (Public Meeting) (Contact: P.T. Kuo, 301–415–3147)

3:00 p.m.—Affirmation Session (Public Meeting) (if needed)

Friday, June 13

9:00 a.m.—Briefing on Medical Regulation Issues (Public Meeting) (Contact: Catherine Haney, 301–415–6852)

Week of June 16—Tentative

Thursday, June 19

11:30 a.m.—Affirmation Session (Public Meeting) (if needed)

Week of June 23—Tentative

Wednesday, June 25

10:00 a.m.—Briefing on Operating Reactors and Fuel Facilities (Public Meeting) (Contact: William Dean, 301–415–1726)

11:30 a.m.—Affirmation Session (Public Meeting) (if needed)

2:00 p.m.—Briefing on Salem (Public Meeting) (Contact: John Zwolinski, 301–415–1453)

Week of June 30—Tentative

Thursday, July 3

11:30 a.m.—Affirmation Session (Public Meeting) (if needed)

*The schedule for commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmhnrc.gov or dkwnrc.gov.

* * * * *

Dated: June 5, 1997.

William M. Hill, Jr.,

Secretary, Tracking Officer, Office of the Secretary.

[FR Doc. 97–15281 Filed 6–6–97; 2:04 pm]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Statements of Claimed Railroad Service and Earnings.

(2) *Form(s) submitted:* UI–9, UI–23, UI–44, ID–4F, ID–4U, ID–4X, ID–4Y, ID–20–1, ID–20–2, and ID–20–4.

(3) *OMB Number:* 3220–0025.

(4) *Expiration date of current OMB clearance:* 7/31/1997.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 2,005.

(8) *Total annual responses:* 2,005.

(9) *Total annual reporting hours:* 234.

(10) *Collection description:* When RRB records indicate that railroad service and/or compensation is insufficient to qualify a claimant for unemployment or sickness benefits, the statements obtain information needed to reconcile the compensation and/or service on record with that claimed by the employee.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 97–15031 Filed 6–9–97; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38710; File No. SR–Amex–97–21]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change and Amendment Nos. 1 and 2 to the Proposed Change by the American Stock Exchange, Inc., Relating to the Adoption of Certain Margin Provisions

June 2, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 21, 1997, the America Stock Exchange, Inc (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Amex submitted to the Commission Amendment No. 1 on May 30, 1997,[3] and Amendment No, 2 on June 2, 1997.[4] No comments were received on the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. As discussed below, the Commission is also granting accelerated

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] *See* Letter from Claire P. McGrath, Managing Director and Special Counsel, Amex, to Ivette Lopez, Assistant Director, Division of Market Regulation (''Market Regulation''), Commission, dated May 30, 1997 (''Amex Amendment No. 1'').

[4] *See* Letter from Claire P. McGrath, Managing Director and Special Counsel, Amex, to Ivette Lopez, Assistant Director, Division of Market Regulation, Commission, dated June 2, 1997 (''Amex Amendment No. 2'').

approval of the proposed rule change and the amendments thereto.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Rule 462 ''Minimum Margin'' to (1) adopt options margin rules substantially similar to those that have been in effect under Regulation T (''Regulation T'') of the Board of Governors of the Federal Reserve System (''Federal Reserve Board'' or ''Board''); (2) conform the Amex margin rule to those margin rules of the Chicago Board Options Exchange (''CBOE'') and the New York Stock Exchange (''NYSE''); and (3) correct or clarify certain current provisions of the margin rule.

The text of the proposed rule change is available at the Office of the Secretary, Amex 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item V below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Federal Reserve System's Regulation T, which covers the extensions of credit by and to brokers and dealers, currently prescribes margin requirements for options transactions. In April 1996, the Federal Reserve Board amended Regulation T to delete certain rules regarding options transactions in favor of rules to be adopted by the options exchanges and approved by the Commission.[5] This amendment to Regulation T became effective June 1, 1997. Therefore, the Exchange proposes to incorporate certain Regulation T requirements into its rules so that these requirements will substantially remain in effect after June 1, 1997. In addition, in the course of amending its rules to accommodate the changes necessary because of the Regulation T amendments, the Exchange has found it necessary to propose changes to its margin rules to conform them with the rules of the CBOE and NYSE, and also to make clarifying changes to certain existing provisions. The following is a description of the proposed additions, amendments and clarification to the Exchange's Rule 462.

Rule 642, Paragraph (c)

The Exchange proposes to amend paragraph (c) which sets forth exceptions to the initial and maintenance margin provisions to (i) clarify that broker-dealers may require margin in excess of the amounts specified in these rules; (ii) replace the Amex's provisions on Exempted Securities with provisions that are consistent with the C and the NYSE; (iii) adopt a margin treatment for non-convertible debt securities that is consistent with the CBOE and the NYSE; (iv) amend the margin requirement for offsets between long and short positions in the same security from 10% to 5% of the current market value of the ''long'' securities to conform to the CBOE and NYSE provisions; (v) adopt a treatment for a short equity call option position offset by a warrant to purchase the underlying security in a customer margin account (a treatment consistent with a provision of Regulation T and requiring no margin for the position if the warrant to purchase the underlying security does not expire on or before the expiration date of the short call, and if the amount (if any) by which the exercise price of the warrant exceeds the exercise price of the short call is deposited in the account); and (vi) adopt a provision that requires margin be deposited and maintained equal to 100% of the purchase price of long positions in listed equity options.

Rule 462, Paragraph (d)

The Exchange is proposing to move its existing margin rule definitions from where they were situated in Rule 462(d)(2)(C) to the very beginning of Rule 462(d) and amend the definitions of ''current market value'' and ''current market price'' to cover situations where there is no closing price or where trading was halted and not reopened before the normal end of the trading day or where the closing price was outside the last bid and offer that was established after the closing price. The Exchange states that, in such situations, a member organization may use a reasonable estimate of the market value of the security based upon the then current bids and offers in determining the ''current market value'' of a security, including an option. The Exchange believes that this will allow member organizations to arrive at a more reasonable estimate of the current market value in general, and particularly where the underlying securities may be trading or quoted in other markets or in cases where the underlying security re-opens for trading and the options remain closed.

The provisions of subparagraph (D) dealing with the margin requirements for puts, calls, currency warrants, currency index warrants and stock index warrants issued, guaranteed or carried ''short'' in a customer's account is remaining the same except that the treatment of over-the-counter (''OTC'') options has been deleted from subparagraph (D) because the Exchange is adopting the more extensive OTC margin provisions of the NYSE. The Exchange is also proposing the addition of a provision that would cap the margin on listed short puts that are out-of-the-money at a percentage of the exercise price of the short put. The reason for this cap is that, under the general rule, minimum margin is required equal to the options market value plus 10% of the current market value of the equivalent units of the underlying security for an option dealt in on the Exchange. However, as the market value of the underlying security increases above the strike price, at some point the put becomes farther out-of-the-money and the risk of the position decreases. Without the cap, the margin requirement would continue to increase at the same time that the risk of the position is decreasing.

Rule 462, Paragraph (d)2(J)

The Exchange states that its rules and the rules of other regulatory organizations have always distinguished the margin treatment for specialists and market-makers from that applicable to customers and other broker-dealers because of the unique position of specialists and market-makers in maintaining liquid, fair and orderly markets. The rules recognize that options specialists and market-makers must engage in various hedging transactions to manage the risk involved in fulfilling their role in the marketplace. Specific provisions governing permitted offset treatment for specialists and market-makers are being deleted from Regulation T. The Amex proposes to adopt these deleted changes. Additionally, the Amex proposes to adopt certain offsets permitted under the SEC's Net Capital

[5] *See* 61 FR 20386 (May 6, 1996) (Federal Reserve Board's release adopting certain changes to Regulation T).

Rule 15c3–1.[6] These offset positions would be subject to the same ''good faith'' margin treatment as currently accorded under Regulation T and would require the clearing/carrying firm to comply with the applicable haircut requirements of the Net Capital Rule for any cash margin deficiency (*i.e.*, the difference between the margin required under Rule 462 and the amount received from the specialist or market maker.) The proposal also incorporates the current Regulation T definitions of the terms ''in or at the money,'' ''in the money'' and ''overlying options.'' the parameters for permitted offsets within the ''in or at the money'' definition have been expanded from one to two ''standard exercise intervals.''

Subparagraph (d)2(J) of Rule 462 has been revised in order to clarify the existing definition of ''good faith margin'' requirements.

Rule 462, Subparagraph (d)2(M)

A new provision has been added to incorporate the provisions currently contained in Regulation T regarding ''exclusive designation'' that allow a customer to designate which security position in an account to be utilized to cover the required margin at the time an option order is entered, provided the member organization offers such a service.

Rule 462, Subparagraph (d)2(N)

The Exchange is proposing to add a provision detailing the circumstances under which a customer may carry short equity option in a cash account, *i.e.*, an account in which no credit is extended. This provision is consistent with a provision in Regulation T and is being added so that the Exchange's rules are more complete, thus enabling its members to rely on such rules for all aspects of margin regulation. The proposed rule would permit either a call option contract or a put option contract held in a short position to be carried in a cash account if the option is uncovered, *i.e.*, if the account contains one of the specified offsets.

Rule 462, Paragraph (d)10

The rules governing the margin requirements for OTC options have been adopted from the NYSE Rule 431, except that the Exchange has made a slight change to cap the minimum margin on OTC short puts. A chart submitted with the filing sets forth the initial and/or maintenance margin required for options on various types of underlying securities. The amount of margin required is the percentage of the current market value of the underlying component times the multiplier, if any, plus any ''in the money amount.'' The amount of the margin required to be maintained may be reduced for a short put or call by any ''out of the money'' amount. The amount to which the margin required may be reduced is set forth in a separate column. The Exchange is also proposing to add margin treatment for related securities positions involving OTC options held in a customer margin account. The Exchange is proposing to add special margin treatment for covered write convertibles, covered calls/puts, spreads, and straddles involving OTC options. The proposed margin treatment is the same treatment that is set forth in NYSE Rule 431, except for the change to cap the minimum margin on short puts.

Rule 462, Commentary .03(c)

Finally, the Exchange is proposing to change the definition of ''cash equivalents'' found in Commentary .03(c) and defer to the definition Regulation T since it is expected that the definition in Regulation T will change from time to time.

(2) Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to protect and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the Commission finds good cause pursuant to Section 19(b)(2) of the Act for approving the proposed rule change to its margin rules prior to the 30th day after publication of the proposed rule change in the **Federal Register**.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review of the Exchange's proposed amendments to its margin rules, and for the reasons discussed below, the Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, with the requirements of Section 6(b).[7] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.[8]

Rule 462, Paragraph (c)

The Exchange proposes to amend Rule 462(c) which sets forth exceptions to the Exchange's initial and maintenance margin provisions to (i) clarify that broker-dealers may require margin in excess of the amounts specified in these rules; (ii) replace the Amex's provisions on Exempted Securities with provisions that are consistent with the CBOE and NYSE; (iii) adopt a margin treatment for non-convertible debt securities that is consistent with the CBOE and NYSE; (iv) amend the margin requirement for offsets between long and short positions in the same security from 10% to 5% of the current market value of the ''long''

[6] *See* Securities Exchange Act Release No. 38248 (February 6, 1997) 62 FR 6474 (February 12, 1997) (Final rule adopting changes to SEC Rule 15c3–1).

[7] 15 U.S.C. § 78f(b).

[8] In approving these rules, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

securities to conform to the CBOE and NYSE provisions; (v) adopt a treatment for a short equity call option position offset by a warrant to purchase the underlying security in a customer margin account (a treatment consistent with a provision of Regulation T [9] and requiring no margin for the position if the warrant to purchase the underlying security does not expire on or before the expiration date of the short call, and if the amount (if any) by which the exercise price of the warrant exceeds the exercise price of the short call is deposited in the account); and (vi) adopt a provision that requires margin be deposited and maintained equal to 100% of the purchase price of the long positions in listed equity options.

The Commission agrees that maintenance margin rates established by an Exchange are intended to set minimum margin standards for its member organizations. The Commission believes that it is appropriate for the Exchange to clarify that, when appropriate, its members are permitted to require margin deposits in excess of the Exchange's minimum requirement. The Commission notes that because maintenance margin rates are intended to set a minimum margin standard, they should not be construed as limiting the ability of members of the Exchange to require margin to be deposited in excess of the minimum when appropriate.

The Exchange's proposed treatment for exempted securities would generally lower maintenance margin rates for United States debt securities from the existing 5%, and instead establish margin requirements of 1% to 6% depending on the years to maturity for the obligation. However, zero coupon bonds will be subject to a margin requirement of 3% for bonds with five years or more to maturity, and all other exempted securities, *i.e.*, other than obligation of the United States, will be subject to an initial and maintenance margin requirement of 15% of the current market value or 7% of the principal amount, whichever is lower.

The Commission notes that the Exchange's proposed margin treatment for exempted securities is nearly identical to an existing NYSE provision. When the NYSE adopted its provision, it stated that a sliding scale would provide greater margin requirements for the more volatile long-term securities, and reduce margin requirements as government securities approach maturity to reflect the reduced risk in carrying those securities. Prior to adopting the proposal, the NYSE had also conducted an analysis of two-year historical price information for three Treasury securities of different maturities, a short-, intermediate-, and long-term instrument, and concluded that the proposed margin requirements for the more volatile long-term government instrument would provide at least a 96% confidence level that price movements over one and two week periods would be covered.[10] Accordingly, the Commission believes that the proposal by the Amex to adopt the same margin rates for U.S. obligations as required by the NYSE is reasonable and should provide member organizations with adequate protection against adverse short-term market movements of securities in customer margin accounts. Additionally, the Commission believes uniform margin rates in this area will enhance efficiency in the market place for these securities. Nevertheless, the Commission notes that maintenance margin rates are intended to set a minimum margin standard and should not be construed as limiting the Exchange's ability to require margin to be deposited in excess of the minimum margin when appropriate.

The proposed treatment of non-convertible debt securities is new to Rule 462(c). The Exchange does not currently have a margin treatment specifically applicable to non-convertible debt securities and has decided to adopt the approach used by the NYSE for the sake of uniformity and because the Exchange believes that this approach is sensible. The Commission believes that this proposed revision does not raise new regulatory issues and, accordingly, is appropriate.

The proposed treatment of security offset is new to Rule 462. The Exchange is simply adopted a provision that conforms with the established NYSE Rule 431. At the same time, the Exchange has decided to reduce the margin for offsetting long and short positions in the same security from 10% to 5%. Again, this is being done to ensure that all the options SROs have similar rules.

The proposed treatment for a short listed call covered by a warrant is new to Rule 462(c) but it is consistent with the current treatment under Regulation T 12 CFR 220.4(b) and, accordingly, is reasonable.

The proposed treatment for long listed equity options is also new to Rule 462(c) and its provisions essentially clarify the application of Regulation T 12 CFR 220.18(a) to such options. Specifically, the provision confirms that long listed equity options must be fully paid for at the time of purchase.[11]

Rule 462, Paragraph (d)

The Exchange is proposing to move the definitions section of Rule 462(d) from after subparagraph 2(C) to the very beginning of Rule 462(d) and amend the definitions of ''current market value'' and ''current market price'' to cover situations where there is no closing price or where trading was halted and not reopened before the normal end of the trading day or where the closing price was outside the last bid and offer that was established after the closing price. The Commission believes that the amended definition of ''current market value,'' and ''current market price'' is similar to the definition in NYSE Rule 431(a)(1) and will provide useful guidance to members especially in circumstances where trading in a security has been halted but the OTC market is still open. The Commission believes that the definition being adopted does not raise new or unique issues.

The Exchange proposes to add a provision that would cap the margin on listed puts that are out-of-the-money and carried short in a customer's account at a percentage of the exercise price of the short put. The reason for this cap is that, under the general rule, minimum margin is required equal to the options market value plus 10% of the current market value of the equivalent units of the underlying security for a listed equity option. As the market value of the underlying security increases above the strike price, at some point the put becomes farther out-of-the-money and the risk of the position decreases. Without the cap, the margin requirement would continue to increase at the same time that the risk of the position is decreasing.

The Exchange proposes to remedy the anomaly by revising the method for calculating the minimum margin on short listed puts. Specifically, the Exchange proposes to substitute the market value of the underlying instrument with the put's aggregate exercise price. Under this new method, the minimum requirement is a fixed value and, therefore, an increasingly higher minimum requirement will not occur as the value of the underlying rises. The Commission believes this new method for calculating the minimum

[9] The Exchange notes that provision is consistent with Regulation T, 12 CFR 220.5 (c)(3)(vi).

[10] *See* Securities Exchange Act Release No. 24144 (February 27, 1987) 52 FR 7245 (March 9, 1987).

[11] The Commission notes that the Federal Reserve Board's recent amendments to Regulation T permit SROs' rules, pursuant to SEC-approval, to allow the extension of loan value to listed options. *See supra* note 5. The current proposal, however, does not address this issue or otherwise permit the extension of loan value for long listed options.

margin for short listed equity options is reasonable and should result in adequate margining for the affected positions.[12]

Rule 462, Paragraph (d)2(J)

The Exchange has also proposed to adopt specific provisions governing permitted offset treatment for market-makers and specialists that are being deleted from Regulation T as of June 1, 1997. The proposed rule sets forth various permitted offset positions which may be cleared and carried by a member organization on behalf of one or more market-makers upon a margin basis satisfactory to the concerned parties (''good faith'' margin). In addition, it requires that the amount of any deficiency between the equity maintained by the market-maker and the haircuts specified in SEC Rule 15c–1 shall be considered as a deduction from net worth in the net capital computation of the carrying broker.

A permitted offset position will be defined to mean, in the case of an option in which a market-maker makes a market, a position in the underlying instrument or other related instrument, and in the case of other securities in which a market-maker makes a market, a position in options overlying the securities in which a market-maker makes a market, if the account holds the following positions: (i) A long position in the underlying instrument offset by a short option position which is ''in- or at-the-money;'' (ii) a short position in the underlying instrument offset by a long option position which is ''in- or at-the-money;'' (iii) a stock position resulting from the assignment of a market-maker short option position; (iv) a stock position resulting from the exercise of a market-maker long position; (v) a net long position in a security (other than an option) in which a market-maker makes a market; (vi) a net short position in a security (other than an option) in which the market-maker makes a market; or (vii) an offset position as defined in SEC Rule 15c3–1.

The six proposed offsets described in proposed Rule 462(d)2(J) (a) to (f) codify the existing permitted offsets that were provided under Regulation T until June 1, 1997. These offsets reflect well-recognized market-making hedging transactions involving certain options offset strategies involving the related underlying stock. The addition of Rule 462(d)2(J)(g), allowing any offset position defined under SEC Rule 15c3–1,[13] constitutes a significant expansion of permitted offset positions. According to the Exchange, the inclusion of item (g) recognizes that options market-makers and specialists must engage in various hedging transactions to manage the risk involved in fulfilling their role, and, therefore, allows a member organization to clear and carry market-maker's offset positions as defined in SEC Rule 15c3–1 upon a good faith margin basis. The Exchange has clarified its proposal to reflect that market-makers are permitted to receive good faith margin for all permitted offset positions only if they are effected for market-making purposes such as hedging, reducing the risk of rebalancing, liquidating open positions of the market-maker, accommodating customer orders, or another similar market-making purpose.[14]

The Commission believes that the proposal is a reasonable effort by the Amex to accommodate the needs of Amex market-makers in undertaking their market-making responsibilities as it recognizes the occasional need for market-makers to effect transactions in their course of dealing in options classes for which the marker-maker is not registered. The Commission believes that this approach will not adversely affect the depth and liquidity necessary to maintain fair and orderly markets. The Commission expects Amex clearing firms and other Amex members that extend margin to market-makers to implement adequate procedures to ensure that offsets elected by market-makers are recorded accurately and cleared into appropriate accounts. In addition, such members should have a reasonable basis for determining that the offset transactions satisfy the market-making requirements set forth in Amex Rule 462(d)2(J). The Commission believes that these requirements will ensure that transactions effected by market-makers and specialists receiving the offset treatment are in fact directly related to their market-making function and are not effected for speculative purposes on a margin basis which should be available only for bona fide market-making activity.

The Exchange indicates that its proposed definition of ''in- or at-the-money,'' for purposes of permitted offset transactions, represents a codification of its long standing practice of permitting the financing of options market-makers underlying stock positions on a good faith basis when offset on a share-for-share basis by options which are ''in- or at-the money,'' *i.e.*, where the current market price of the underlying security is not more than two standard exercise price intervals below (with respect to a call option) or above (with respect to a put option) the exercise price of the option. According to the Exchange, the proposal represents its concurrence with the recommendation made by the NYSE's Rule 431 Committee, and also constitutes the Exchange's attempt at conforming its margin rules with those of the CBOE in order to preserve a uniform treatment within the option margin system.[15] At this time, the Commission does not object to the codification by the Amex of what the Commission believes to be a longstanding industry practice.

Rule 462, Subparagraph (d)2(M)

A new provision has been added to incorporate the provisions currently contained in Regulation T regarding ''exclusive designation'' that allow a customer to designate which security position in an account to be utilized to cover the required margin at the time an option order is entered, provided the member organization offers such a service. The Exchange indicates that it is simply adopting the provision as currently found in Regulation T, 12 CFR 220.5(c)(6). Moreover, the Exchange indicates that the adoption of this provision is necessary to preserve the ability of ''sophisticated customers'' to choose and determine the most effective way to use offsetting positions in their margin accounts.[16] The Commission believes it is reasonable for the Exchange to codify this Regulation T provision.

Rule 462, Subparagraph (d)2(N)

The Exchange is proposing to add a provision detailing the circumstances under which a customer may carry short equity option in a cash account, *i.e.*, an account in which no credit is extended. This provision is consistent with a provision in Regulation T and is being added so that the Exchange's rules are more complete, thus enabling its members to rely on such rules for all aspects of margin regulation. The proposed rule would permit either a call option contract or a put option contract

[12] The Commission notes that the new minimum margin requirement should often result in higher margin levels for deep in-the-money puts. This will occur because the current minimum margin requirement for a short put is based, in part, on the underlying instrument's value, an amount that decreases as the put becomes deeper in-the-money. The new formula corrects this result by requiring a minimum margin amount based in part on the aggregate exercise value of the option, an amount that remains constant as the value of the underlying security decreases in value.

[13] *See supra* note 6.

[14] *See* Amex Amendment No. 1, *supra* note 3.

[15] The Commission notes that the CBOE asserts that it has received oral no-action relief from the Federal Reserve Board permitting the two standard exercise price interval interpretation. *See* Securities Exchange Act Release No. 38709 (June 2, 1997).

[16] *See* Amendment No. 2 *supra* note 4.

held in a short position to be carried in a cash account if the option is covered, *i.e.*, if the account contains one of the specified offsets.

This provision is consistent with Regulation T and is being added so that the Amex's rule is more complete, thus enabling its members to rely on such rules for all aspects of margin regulation. The Commission believes that the proposal is a reasonable effort by the Amex to accommodate the needs of its market-makers and their customers.

Rule 462, Paragraph (d)10

The Exchange is proposing to add special margin treatment for covered write convertibles, covered calls/puts, spreads, and straddles involving OTC options. The proposed margin treatment is the same treatment that is set forth in NYSE Rule 431, except for the change to cap the minimum margin on short puts. The cap on the short puts is being adopted for the same reasons applicable to listed equity options discussed above. A chart submitted with the filing sets forth the initial and/or maintenance margin required for options on various types of underlying securities.

Given the near identical nature of the Amex's proposal to the NYSE's previously approved proposal, the Commission believes that adoption of these proposed standards is reasonable. With regard to the cap on short put positions, the Commission believes the treatment proposed by the Exchange is also reasonable for the same reasons set forth regarding the identical treatment for listed positions.

The Exchange is also proposing to add margin treatment for related securities positions involving OTC options held in a customer margin account. The proposed treatment of related securities positions in OTC options also is substantially similar to that of the NYSE and accordingly does not raise new regulatory issues.[17] The Commission also believes that the Exchange's decision to model its margin treatment for OTC options and related securities positions based on the NYSE positions should help foster coordination between markets by achieving parity between the margin requirements of the various SROs.

Rule 462, Commentary .03(c)

Finally, the Exchange is proposing to change the definition of ''cash equivalents'' found in Commentary .03(c) and defer to the definition of Regulation T since it is expected that the definition in Regulation T will change from time to time. The Commission believes that by adopting this approach the Exchange's definition of ''cash equivalent'' will remain current in accordance with Regulation T.

The Commission believes that good cause exist to approve the proposal, including Amendment Nos. 1 and 2 on accelerated basis prior to the thirtieth day after the date of publication of the notice of filing thereof. Certain provisions of Regulation T regarding option market-makers and specialists permitted offsets have been deleted as of June 1, 1997. Approval of Amex's substituting offset provisions is necessary to ensure the continued availability of these offsets. The other portions of the proposal are nearly identical to proposals submitted by the CBOE (SR–CBOE–97–17) and NYSE (SR–NYSE–97–01). Those proposals were noticed in the **Federal Register**[18] with no comments received. The Commission is approving those proposals on the same date herewith. Amendment Nos. 1 and 2, which are also identical to amendments filed by the CBOE and NYSE, serve to clarify and strengthen the proposed rule filing by the Amex.

V. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–97–21 and should be submitted by July 1, 1997.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–Amex–97–21) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

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[17] *See* NYSE Rule 431(f)(2).

[18] *See* Securities Exchange Act Release Nos. 38501 (April 14, 1997) 62 FR 19364 (CBOE) and, 38411 (March 17, 1997) 62 FR 14174 (NYSE).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38709; File No. SR–CBOE–97–17]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the Chicago Board Options Exchange, Incorporated and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1 and 2 to the Proposed Rule Change Relating to Changes to Its margin Rules

June 2, 1997.

I. Introduction

On March 21, 1997, the Chicago Board Options Exchange, Incorporated (''CBOE'' or the ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change seeking to amend the Exchange's margin rules.

The proposed rule change was published for comment in Securities Exchange Act Release No. 38501 (April 14, 1997), 62 FR 19364 (April 21, 1997). The CBOE submitted to the Commission Amendment No. 1 on April 15, 1997,[3] and Amendment No. 2 on May 30, 1997.[4] No comments were received on the proposal.

This order approves the proposed rule change, as amended.

II. Description of the Proposal

The CBOE proposes to make revisions to its rules governing margin that will (i)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Timothy H. Thompson, Senior Attorney, CBOE, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation (''Market Regulation''), Commission, dated April 11, 1997 (''CBOE Amendment No. 1'') making certain technical changes to the rule filing.

[4] *See* Letter from Timothy H. Thompson, Senior Attorney, CBOE, to Chester McPherson, Attorney, Market Regulation, Commission, dated may 28, 1997 (''CBOE Amendment No. 2'') (providing additional information and addressing certain permitted offset issues.

establish CBOE rules to govern areas of margin regulation that will no longer be addressed by Regulation T (''Regulation T'')[5] of the Board of Governors of the Federal Reserve System (''Federal Reserve Board'' or ''Board'') as of June 1, 1997, (ii) conform certain CBOE margin rules to those of the New York Stock Exchange (''NYSE''), and (iii) correct or clarify certain current provisions of the CBOE margin rules.

The Exchange proposes changes to its margin rules at this time in response to recent amendments to the Federal Reserve Board's Regulation T, the regulation that covers extensions of credit by and to brokers and dealers.[6] Among other things, the amendments to Regulation T will modify or delete certain Board rules regarding options transactions in favor of rules to be adopted by the options exchanges, subject to approval by the Commission. The new options provisions in Regulation T became effective June 1, 1997. The Exchange also has concurrently submitted separate changes to its margin rules in another rule filing, *See* SR–CBOE–97–18. That second filing will be referred to herein as the ''Second margin Filing.'' The present filing will be referred to as the ''First Margin Filing.''

Definition Section

The Exchange proposes adding a definition section in new paragraph (a) of Rule 12.3 ''Margin Requirements.'' The first new definition is ''current market value,'' which is used throughout the Rule. The Exchange is also proposing to add an interpretation to Rule 12.3 for ''current market value'' covering situations where there is no closing price, or where trading is halted and not reopened before the normal end of the trading day, or where the closing price is outside the last bid and offer that was established after the closing price. In such situations, the proposed interpretation to Rule 12.3 indicates that a member organization may use a reasonable estimate of the market value of the security based upon the then current bids and offers in determining the ''current market value'' of a security, including an option. According to the Exchange, this interpretation will allow member organizations to arrive at a more reasonable estimate of the current market value, particularly where the underlying security may be trading or quoted in other markets or in cases where the underlying security re-opens for trading and the overlying option remains closed. The exchange also states that the new definition of ''current market value'' is consistent with a definition contained in New York Stock Exchange Rule 431 (''NYSE Rule 431'').

The term ''escrow agreement'' also is being defined in new paragraph (a) of Rule 12.3. The CBOE definition requires the issuer of escrow receipts to be a U.S. bank or trust company supervised and examined by state or federal authority. The Regulation T definition allows the issuer to be a bank or any person designated as a control location under paragraph (c) of Rule 15c3–3 under the Act. The exchange is adopting a more restrictive approach because of concerns that certain control locations, such as transfer agents, are not appropriate issuers of escrow receipts and that Exchange rules should continue to limit issuers of receipts to entities such as banks, as currently set forth in Rule 24.11(d). The Exchange notes that it is continuing to study this issue.

Finally, the Exchange is revising its definition of ''exempted security'' by adopting the Regulation T definition.

Customer Margin Accounts

The Exchange proposes reorganizing Rule 12.3 so that all provisions concerning customer margin accounts are in the same sections of the Rule. Currently, customer margin provisions appear throughout the Rule. Under the Exchange's proposal, Rule 12.3, paragraph (b), will set forth the default margin requirements on long and short positions in customer margin accounts. Paragraph (c) will set forth the specific margin treatment for particular types of securities and positions held in customer margin accounts.

The margin treatment of ''exempted securities'' is proposed to be moved from current Rule 12.3, paragraph (b)(3) to new paragraph (c)(3), and amended so that it is consistent with NYSE Rule 431.[7] Specifically, the treatment for exempted securities is being revised so that obligations of the United States (as specified in the rule) will be subject to a margin requirement of 1% to 6%, depending on the years to maturity for the obligation. Zero coupon bonds will be subject to a margin requirement of 3% for bonds with five years or more to maturity. All other exempted securities will be subject to an initial and maintenance margin requirement of 15% of the current market value or 7% of the principal amount, whichever amount is greater. Currently, Rule 12.3(b)(3) requires margin of 5% on obligations of the United States and margin of 15% of the principal amount or 25% of the current market value of other exempted securities, whichever amount is lower.

The Exchange is also adopting a margin treatment for non-convertible debt securities which is consistent with the margin treatment in NYSE Rule 431,[8] except that the Exchange is not adopting the special exemptions relating to mortgage related securities at this time because this provision is currently the subject of discussion by an industry committee and may be changed. The rule will require margin to be maintained equal to 20% of the current market value or 7% of the principal amount of the non-convertible debt, whichever amount is greater.

The Exchange is also proposing a new subsection to Rule 12.3 labeled ''Security Offsets,'' which combines two current provisions from Rule 12.3 and addresses the margin treatment of short securities offset against (i) Long positions in a security exchangeable or convertible into the security held in a short position and (ii) long positions in the same security as the short position. The convertible or exchangeable provision is the same as contained in current CBOE Rule 12.3(b)(1)(A) except that an incorrect parenthetical referring to options is being deleted because options cannot be and never have been considered convertible securities. The Exchange notes that the rules of the other self-regulatory-organizations (''SROs'') and Regulation T do not refer to options as convertible securities. The provision dealing with offsets between long and short positions in the same security is being moved from paragraph 12.3(b)(1)(D) of current Rule 12.3 to paragraph 12.3(c), and the margin requirement is being revised from 10% to 5% of the current market value of the ''long'' securities to conform the CBOE rule to a similar provision in NYSE Rule 431.[9]

The Exchange is also proposing, under new paragraph (c) of Rule 12.3, which provides certain exceptions to the default margin treatment for positions in a customer margin account, new margin treatment for a short listed equity call option position offset by a warrant to purchase the underlying security. The proposed treatment is new to Rule 12.3 and is consistent with a provision of Regulation T.[10] The provision requires no margin for this position if the warrant to purchase the underlying security does not expire on

[5] 12 CFR 220.1 through 19 (1996).

[6] *See* 61 FR 20386 (May 6, 1996) (Federal Reserve Board's release adopting certain changes to Regulation T).

[7] *See* NYSE Rule 431(e).

[8] *Id.*

[9] *Id.*

[10] *See* Regulation T, 12 CFR 220.4(b).

or before the expiration date of the short call, and if the amount (if any) by which the exercise price of the warrant exceeds the exercise price of the short call is deposited in the account.

Rule 12.3 is also being amended to clearly reflect that margin be deposited and maintained equal to 100% of the purchase price of long positions in listed equity options. This provision is consistent with current CBOE Rule 12.5, and is being added to Rule 12.3 for the sake of clarity.

Proposed Rule 12.3(c)(5), detailing the margin requirements for short listed equity options is identical to that currently found in paragraph (a)(5) of Rule 12.3, with three exceptions. First, the provision has been moved. Second, the treatment of over-the-counter (''OTC'') options has been deleted from the provision because the Exchange is proposing to adopt the more extensive OTC margin provisions of the NYSE. Third, the Exchange is proposing the addition of a provision that would cap the minimum margin on short puts that are out-of-the-money at a percentage of the exercise price of the short put.

With regard to capping the required minimum margin for short listed puts, the Exchange indicates that, under the current provision, minimum margin is required equal to the option's market value plus 10% of the current market value of equivalent units of the underlying security. However, as the market value of the underlying security increases above the strike price, at some point the put becomes farther out-of-the-money and the risk of the position decreases. According to the Exchange, without the cap, the margin requirement would also continue to increase at the same time that the risk of the position is decreasing.

The Exchange is also clarifying the margin treatment of interest rate put options under Rule 23.13 and the margin treatment of put warrants under Rule 30.53. The treatment is the same as that provided for short uncovered put options as described above.

The provisions governing margin treatment for options that are offset or covered by certain defined ''related securities,'' where such positions are carried in a customer margin account, has been revised and rearranged. These are now found under new subsection 12.3(c)(5)(B). This is necessary because various changes made over time have rendered the provisions difficult to follow. The Exchange believes that the changes being proposed will simplify the provisions and make them easier for members to follow.[11] The treatment for a covered call writing position where the underlying security is a convertible security is similar to that currently described in subsection 12.3(b)(1)(C) but has been revised to be consistent with NYSE Rule 431.[12] The treatment for covered puts is similar to the treatment under current subsection 12.3(b)(1)(B); however, the language has been revised to conform the CBOE rule to the language in Regulation T.[13] The new language of 12.3(c)(5)(B)(2) regarding covered calls has been reworded from what currently appears in Rule 12.3(b)(1)(C)(1) to also make it consistent with Regulation T.

The treatment of short equity option contracts offset by long option contracts where the long option expires with or after the short option under current Rule 12.3(c)(1) is the same as that currently required for index options under CBOE Rule 24.11. However, the Exchange is proposing to adopt the language contained in Rule 24.11 because it is more straightforward than the language in Rule 12.3(c)(1).

The treatment for a straddle (a short call option and a short put option the same underlying interest) requires margin on the put or call, whichever amount is greater, plus the current market value of the other option. The margin treatment for straddles is merely being moved from current paragraph (a)(5) of Rule 12.3

The rules governing the margin requirements for OTC options are based on those contained in NYSE Rule 431 [14] except that the Exchange has made a slight change to cap the minimum margin on OTC short puts. A chart submitted with the filing sets forth the specific initial and/or maintenance margin levels required for OTC options on various types of underlying securities.[15]

The Exchange is proposing to add new margin treatment provisions for OTC options positions that are covered or offset by certain ''related securities'' positions when such positions are held in a customer margin account and also add new margin treatment provisions for covered write convertibles, covered calls/puts, spreads, and straddles involving OTC options.[16] The proposed margin treatment is the same treatment that is set forth in NYSE Rule 431 except for a proposed change to cap the minimum margin on short puts.

Customer Cash Account

The Exchange is proposing to add a provision to Rule 12.3 detailing the circumstances under which a customer may carry short equity options in a cash account, *i.e.* an account in which no credit is extended. This provision, Rule 12.3(d), is consistent with a provision in Regulation T.[17] The proposed rule would permit either a call option contract or a put option contract held in a short position to be carried in a cash account if the option contract is covered, *i.e.*, if the account contains one of the specified offsets.

In the case of a short call, allowable offsets include: (i) The underlying security, in an amount equal to or greater than that underlying the option, provided the option premium is held in the account until full cash payment for the underlying security is received; (ii) a security immediately convertible without the payment of money into an equal or greater quantity of the security underlying the option, if such security is held or purchased in the account, on the same day, and provided that the option premium is held in the account until full cash payment for the convertible security is received and the ability to convert does not expire before the expiration of the short call option; or (iii) an escrow agreement [18] issued by a bank and either held in the account at the time the call is written or received in the account promptly thereafter.

In the case of a short put option, allowable offsets include: (i) Cash or cash equivalents as defined in Regulation T of not less than the aggregate put exercise amount; or (ii) an escrow agreement issued by a bank which is obligated to deliver the required cash in the event of assignment of the short put.

CBOE Rule 24.11A currently permits certain debit put spreads involving European-style broad-based stock index options to be carried in a cash account. The Exchange proposes to cross-reference the provisions of Rule 24.11A into Rule 12.3.

[11] Telephone conversation between Diane Malley, Supervisor, Department of Financial Compliance, CBOE, Timothy Thompson, Senior Attorney, Legal Department, CBOE, and Chester McPherson, Staff Attorney, Market Regulation, Commission, April 10, 1997.

[12] *See* NYSE Rule 431(f)(2)(H)(i).

[13] *See* Regulation T, 12 CFR 220.4(b)(9)(iii).

[14] *See* NYSE Rule 431(f)(2)(D)(iii).

[15] *See* SR–CBOE–97–17, Exhibit A at 22–23.

[16] *See* new Rule 12.3(c)(6)(B) for these provisions.

[17] *See* Regulation T, 12 CFR 220.2.

[18] The Exchange proposes to adopt the term ''escrow agreement'' to mean:

any agreement issued in connection with non cash settled call or put options under which a bank holding the underlying security or required cash or cash equivalents, is obligated to deliver to the creditor (in the case of a call option) or accept from the creditor (in the cash of a put option) the underlying security against payment of the exercise price upon exercise of the call or put.

Market Maker and Specialist Accounts

Specific provisions governing permitted offset treatment for market-makers and specialists have been deleted from Regulation

Specific provisions governing permitted offset treatment for market-makers and specialists have been deleted from Regulation T, which now indicates that such offsets are to be determined by the rules of the applicable SRO. Accordingly, the proposed rule sets forth various permitted offset positions which may be cleared and carried by a member organization on behalf of one or more registered specialists, registered market-makers, or Designated Primary Market-Makers (hereinafter referred to generically as ''market-makers'') upon a margin basis satisfactory to the concerned parties. A permitted offset position will be defined to mean, in the case of an option in which a market-maker makes a market, a position in the underlying instrument or other related instrument, and in the case of other securities in which a market-maker makes a market, a position in options overlying the securities in which a market-maker makes a market, if the account holds the following positions: (i) A long position in the underlying instrument offset by a short option position which is ''in- or at-the-money;'' (ii) a short position in the underlying instrument offset by a long option position which is ''in- or at-the-money;'' (iii) a stock position resulting from the assignment of a market-maker short option position; (iv) a stock position resulting from the exercise of a market-maker long position; (v) a net long position in a security (other than an option) in which a market-maker makes a market; (vi) a net short position in a security (other than an option) in which the market-maker makes a market; or (vii) an offset position as defined in SEC Rule 15c3–1.[19] All permitted offset transactions must be effected for the purpose of hedging, reducing the risk of, rebalancing, liquidating open positions of market-makers, or accommodation of customer orders, or other similar market-making purpose.

For purposes of Rule 12.3, ''in- or at-the-money'' means the current market price of the underlying security is not more than two standard exercise price intervals below (with respect to a call option) or above (with respect to a put option) the exercise price of the option. In determining the types of instruments which are entitled to be carried in a permitted offset position, reference can be made to the definition of ''related instrument'' which is set forth in the rule. ''Related instrument'' within an option class or product group is any related derivative product that meets the offset level requirements for product groups under Rule 15c3–1, including all appendices of the Act, or any applicable SEC staff interpretations or no-action positions (hereinafter referred to collectively as ''SEC Rule 15c3–1''). The term ''product group'' means two or more option classes, related instruments, and qualified stock baskets for which it has been determined that a percentage of offsetting profits may be applied to losses in the determination of net capital as set forth in SEC Rule 15c3–1.

The Exchange also proposes adding a provision regarding trading in a deficit account. The provision generally states that nothing shall prohibit the carrying firm from effecting hedging transactions in the deficit account with the prior written approval of the carrying firms's SEC designated examining authority.

Broker-Dealer Account

The Exchange is also proposing to add a provision that would provide margin relief to accounts held by non-market-maker broker-dealers. Under the new provision, a member organization may carry the proprietary account of another registered broker-dealer upon a margin basis which is satisfactory to both parties, provided the requirements of Regulation T are adhered to and the account is not carried in a deficit equity condition. The amount of any deficiency between the equity maintained in the account and the margin required by the other provisions of this Rule shall be deducted in computing the net capital of the member organization under Rule 15c3–1 of the Act. This new provision is similar to the provision of NYSE Rule 431(e)(6), and would permit the proprietary accounts of all registered broker-dealers to be carried on a ''good faith'' margin basis for purposes of maintenance margin. Broker-dealers would still be subject to initial margin requirements under Exchange rules and Regulation T.

Interpretations to Rule 12.3

The Exchange is proposing to add four interpretations to Rule 12.3. Also, current Interpretation .01 to Rule 12.3 is proposed for deletion because the interpretation concerns SuperShares, which the Exchange no longer trades.[20] New Interpretation .01 sets forth in chart form the margin requirements applicable to short positions in listed options and in index and foreign currency warrants. It reflects that margin is required equal to the current market value of the option/warrant plus the applicable percentage of the underlying instrument (set forth in the chart). The margin required may be reduced by any ''out-of-the money'' amount, as defined in the rule. However, the margin may not be reduced below the option market value plus the specified percentage of the current market value of the underlying instrument, as set forth in the chart. The determination of the ''out-of-the-money amount'' is also set forth in a separate chart.

Interpretation .02 describes how a member organization may determine ''current market value'' in the event there is no closing price or trading has been halted.

Interpretation .03 specifies that for purposes of the CBOE margin rules, index warrants should be treated as if they were index options unless the rules specify otherwise. The Exchange states that this interpretation recognizes that the two types of products are essentially equivalent from a market risk standpoint.

Changes to Rule 12.11

The Exchange is proposing a minor change to Rule 12.11. Rule 12.11 allows a member organization that is a member of the NYSE to elect to be bound by the rules of the NYSE instead of the requirements set forth in Rules 12.3 to 12.10. The Exchange is changing Rule 12.11 to allow the member organization to exempt themselves from Rules 12.3 to 12.9, but not from 12.10. Rule 12.10 establishes that the margin requirements set forth in the rule are minimum requirements and authorizes the Exchange to impose higher margin requirements when it deems such higher requirements to be advisable. The Exchange has determined that it is necessary to clarify that the Exchange may still impose higher margin requirements on its members when the Exchange believes such higher requirements are warranted, even when those members have elected to generally be subject to the margin rules of the NYSE. The change to Rule 12.11 also clarifies that if a member organization chooses to be bound by NYSE margin rules it will be exempt not only from CBOE margin rules in Chapter 12, but also from those margin rules in other chapters of the Exchange's rules.

[19] *See* Securities Exchange Act Release No. 38248 (February 6, 1997) 62 FR 6474 (February 12, 1997) (Final rule adopting changes to SEC Rule 15c3–1).

[20] The Exchange is also proposing to delete interpretation .07 of Rule 24.11 because it also concerns SuperShares.

Changes to Rule 24.11

The Exchange is proposing to add to Rule 24.11 (which covers margin requirements for index options) a provision setting forth the margin requirements for covered calls and covered puts that is essentially identical to an existing CBOE provision applicable to equity options. In addition, the Exchange is proposing to add a definition of ''qualified stock basket'' to rule 24.11 This definition is used to describe allowable offsets in customer accounts for covered calls and covered puts. In addition, the Exchange makes a cross-reference to the provision of Rule 12.3 that governs the cash account treatment of short index options offset by long index options. Finally, the Exchange is proposing to change Interpretation .04 which defines ''cash equivalent.'' Instead of specifically defining cash equivalent as it is currently defined in the rule, the Exchange has decided to defer to the definition in Regulation T because the Exchange expects that the definition in Regulation T may change from time to time.

III. Discussion

After careful review of the Exchange's proposed amendment to its margin rules, and for the reasons discussed below, the Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, with the requirements of Section 6(b) of the Act.[21] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.[22]

Definition and Interpretation Sections

The Exchange proposes to include a definition section in Rule 12.3. The proposed definitions are: ''bank,'' ''current market value,'' ''escrow agreement,'' and ''exempted security.''

The definition of ''bank'' is similar to that term as currently defined in the Act. Accordingly, the proposed definition does not raise new or unique issues.

The proposed definition of the term ''current market value'' for Rule 12.3 purposes, is modelled on a similar term currently defined in Exchange Rule 24.11(a), and also includes the incorporation of certain parts of a similar definition found in NYSE Rule 431(a)(1). Accordingly, the proposed definition does not raise new or unique issues. The Exchange is also adopting an interpretation to the definition of ''current market value,'' as discussed below.

The term ''escrow agreement'' being adopted by the Exchange is nearly identical to that of Regulation T except that it represents a more restrictive approach, reflecting CBOE's concern that certain control locations, such as transfer agents, are not appropriate issuers of escrow receipts. The Commission concludes that it is reasonable for the Exchange to limit the allowed issuers of escrow receipts to entities such as banks.

The Commission believes that the proposed deletion of references to SuperShares is appropriate because the product no longer trades on the Exchange. The Commission also believes that the interpretive section discussing ''current market value,'' which is new to Rule 12.3, provides useful guidance to members, especially in circumstances where trading in a security has been halted but the OTC market is still open. As the Exchange indicates, without this guidance, members would not know what approach is acceptable to the Exchange in determining ''current market value.''

Other changes to the interpretation section of Rule 12.3 are discussed elsewhere in this discussion section.

Customer Margin Accounts

The Commission supports the Exchange's efforts to consolidate those rules relating to customer margin accounts into one subsection of the rule. In addition to moving and reorganizing the customer margin provisions, the Exchange also is adopting a new margin treatment for exempted securities. The proposal would generally lower the maintenance margin rates for United States debt securities from the existing 5%, and instead establish margin requirements of 1% to 6% depending on the years to maturity for the obligation. However, zero coupon bonds will be subject to a margin requirement of 3% for bonds with five years or more to maturity, and all other exempted securities, *i.e.*, other than obligation of the United States, will be subject to an initial and maintenance margin requirement of 15% of the current market value or 7% of the principal amount, whichever is lower.

The Commission notes that the CBOE's proposed margin treatment for exempted securities is nearly identical to an existing NYSE provision. When the NYSE adopted its provision, it stated that a sliding scale would provide greater margin requirements for the more volatile long-term securities, and reduce margin requirements as government securities approach maturity to reflect the reduced risk in carrying those securities. Prior to adopting the proposal, the NYSE had also conducted an analysis of two-year historical price information for three Treasury securities of different maturities, a short-, intermediate-, and long-term instrument, and concluded that the proposed margin requirements for the more volatile long-term government instrument would provide at least a 96% confidence level that price movements over one and two week periods would be covered.[23] Accordingly, the Commission believes that the proposal by the CBOE to adopt the same margin rates for U.S. obligations as required by the NYSE is reasonable and should provide member organizations with adequate protection against adverse short-term market movements of securities in customer margin accounts. Additionally, the Commission believes uniform margin rates in this area will enhance efficiency in the market place for these securities. Nevertheless, the Commission reiterates that maintenance margin rates are intended to set a minimum margin standard and should not be construed as limiting the Exchange's ability to require margin to be deposited in excess of the minimum margin when appropriate.

The proposed treatment of non-convertible debt securities is new to Rule 12.3. The Exchange does not currently have a margin treatment specifically applicable to non-convertible debt securities and has decided to adopt the approach used by the NYSE for the sake of uniformity and because the Exchange believes that this approach is sensible. The Commission believes that this proposed revision does not raise new regulatory issues and, accordingly, is appropriate.

The proposed treatment of security offset is not new to Rule 12.3. Rather, it is a combination of two current provisions of Rule 12.3, with the deletion of an incorrect parenthetical reference to options as convertible

[21] 15 U.S.C. § 78f(b).

[22] In approving these rules, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[23] *See* Securities Exchange Act Release No. 24144 (February 27, 1987) 52 FR 7245 (March 9, 1987).

securities. These proposed changes are therefore reasonable and should provide clearer guidance on the treatment of security offsets.

The proposed treatment for a short listed call covered by a warrant is new to Rule 12.3 but it is substantially similar with the current treatment under Regulation T, 12 CFR 220.4(b) and, accordingly, is reasonable.

The proposed treatment for long listed equity options is new to Rule 12.3 and its provisions essentially clarify the application of Regulation T, 12 CFR 220.18(a) to such options. Specifically, the provision confirms that long listed equity options must be fully paid for at the time of purchase.[24]

The proposed treatment for a short listed equity option has been slightly revised from the current requirements by combining existing language from the Rule 12.3[25] with language from Regulation T. In addition, the Exchange proposes revising the margin cap for out-of-the money short puts. Currently, the margin requirement on a short uncovered listed equity option is calculated by adding to the option premium a percentage (20%) of the underlying instrument's value, and then subtracting any out-of-the-money amount. The Exchange also has an overriding minimum margin formula, based on a percentage (10%) of the value of the underlying instrument's market price.

According to the Exchange, the existing methods for calculating the margin treatment for short uncovered listed equity options works reasonably well, except when the overriding minimum is applied to an out-of-the-money put. Under the overriding minimum margin requirement, as a short uncovered put option becomes increasingly out-of-the-money, the margin requirement increases because the value of the underlying instrument is increasing. As a result, the CBOE indicates that margin calls may be issued for uncovered puts that are out-of-the-money. The Exchange proposes to remedy this situation by revising the method for calculating the overriding minimum margin. Specifically, the Exchange proposes to substitute the market value of the underlying instrument with a percentage of the put's aggregate exercise price. Under this new method, the minimum requirement is a fixed value and, therefore, and increasingly higher minimum requirement will not occur as the value of the underlying rises. The Commission believes this new method for calculating the overriding minimum margin for short listed equity options is reasonable and should result in adequate margining for the affected positions.[26]

The Exchange states that the proposed treatment of short listed equity options offset by long listed equity options where the long option expires with or after the short option under Rule 12.3 is actually the same as that currently permitted for index options under Rule 24.11. The Exchange indicates that because the treatment under its current rules for equity and index options is actually the same, adopting the more straightforward of the two treatment is a reasonable approach in that the cumbersome language of Rule 12.3 is being replaced by the easier to understand language of Rule 24.11.

The proposed treatment for a straddle (a short call option and a short put option on the same underlying interest) requires margin on the put or call, whichever amount is greater, plus 100% of the current market value of the other option. This is not a substantive change. Rather, the Exchange is merely moving the margin treatment for a straddle from current paragraph (a)(5) of Rule 12.3.

Rule 12.3(c)(6) governing the margin treatment of OTC options is new to the Exchange. It is being patterned after, and is nearly identical to the provisions contained in NYSE Rule 431(f)(2)(D)(iii). A slight difference is that the Exchange has proposed the inclusion of a cap for the minimum margin on OTC short puts for the same reasons that it proposes changing its formula for capping the margin on short listed equity options, as discussed above.

Given the near identical nature of the CBOE's proposals to the NYSE's previously approved proposal, the Commission believes that adoption of these proposed standards is reasonable. With regard to the cap on short put positions, the Commission believes such treatment is also reasonable for the same reasons set forth regarding the identical proposed treatment for listed positions.

The proposed treatment of related securities positions in OTC options also is substantially similar to that of the NYSE and accordingly does not raise new regulatory issues.[27] The Commission also believes that the Exchange's decision to model its margin treatment for OTC options and related securities positions based on the NYSE positions should help foster coordination between markets by achieving parity between the margin requirements of the various SROs. The Commission also believes that this approach will promote coordination in regulating, clearing, settling, and facilitating transactions in securities by providing for uniformity in this area of the SROs' margin schemes and reducing confusion among customers.

Customer Cash Account

Rule 24.11A currently permits certain debit put spreads involving European-style broad-based stock index options to be carried in a cash account. The Exchange proposes to copy a certain section of 24.11A (specifically, 24.11A(f)) into Rule 12.3. Essentially, the new provision concerning debit put spreads in Rule 12.3 will serve as a cross-reference to the more detailed provisions contained in Rule 24.11A. Accordingly, although not specifically contained in the Rule 12.3 cross-reference, all of the applicable conditions contained in Rule 24.11A must be met before the described debit put spreads may be carried in a cash account.[28]

Market Maker and Specialist Accounts

The Exchange has also proposed to adopt specific provisions governing permitted offset treatment for market-makers and specialists that are being deleted from Regulation T as of June 1, 1997. The proposed rule sets forth various permitted offset positions which may be cleared and carried by a member organization on behalf of one or more market-makers upon a margin basis satisfactory to the concerned parties (''good faith'' margin). In addition, it requires that the amount of any deficiency between the equity maintained by the market-maker and the haircuts specified in SEC Rule 15c3–1 shall be considered as a deduction from net worth in the net capital computation of the carrying broker.

A permitted offset position will be defined to mean, in the case of an option in which a market-maker makes

[24] The Commission notes the recent amendments to Regulation T permitting SROs' rules, pursuant to SEC-approval, to allow the extension of loan value to listed options. *See supra* note 6. The current proposal, however, does not address this issue or otherwise permit the extension of loan value for long listed options.

[25] *See* CBOE Rule 12.3(a)(5).

[26] The Commission notes that the new minimum margin requirement should often result in higher margin levels for deep in-the-money puts. This will occur because the current minimum margin requirement for a short put is based, in part, on the underlying instrument's value, an amount that decreases as the put becomes deeper in-the-money. The new formula corrects this result by requiring a minimum margin amount based in part on the aggregate exercise value of the option, an amount that remains constant as the value of the underlying security decreases in value.

[27] *See* NYSE Rule 431(f)(2).

[28] *See* Letter from Timothy H. Thompson, Senior Attorney, CBOE, to Chester McPherson, Staff Attorney, Market Regulation Commission, dated May 30, 1997.

a market, a position in the underlying instrument or other related instrument, and in the case of other securities in which a market-maker makes a market, a position in options overlying the securities in which a market-maker makes a market, if the account holds the following positions: (i) A long position in the underlying instrument offset by a short option position which is ''in- or at-the-money;'' (ii) a short position in the underlying instrument offset by a long option position which is ''in- or at-the-money;'' (iii) a stock position resulting from the assignment of a market-maker short option position; (iv) a stock position resulting from the exercise of a market-maker long position; (v) a net long position in a security (other than an option) in which a market-maker makes a market; (vi) a net short position in a security (other than an option) in which the market-maker makes a market; or (vii) an offset position as defined in SEC Rule 15c3–1.

The six proposed offsets described in proposed Rule 12.3(f)(3)(A) (i) to (vi) codify the existing permitted offsets that were provided under Regulation T until June 1, 1997. These offsets reflect well-recognized market-making hedging transactions involving certain options offset strategies involving the related underlying stock. The addition of Rule 12.3(f)(3)(A)(vii), allowing any offset position defined under SEC Rule 15c3–1,[29] constitutes a significant expansion of permitted offset positions. According to the Exchange, the inclusion of item (vii) recognizes that options market-makers and specialists must engage in various hedging transactions to manage the risk involved in fulfilling their role, and, therefore, allows a member organization to clear and carry market-maker's offset positions as defined in SEC Rule 15c3–1 upon a good faith margin basis. The Exchange has clarified its proposal to reflect that market-makers are permitted to receive good faith margin for all permitted offset positions only if they are effected for market-making purposes such as hedging, reducing the risk of rebalancing, liquidating open positions of the market-maker, accommodating customer orders, or another similar market-making purpose.

The Commission believes that the proposal is a reasonable effort by the CBOE to accommodate the needs of CBOE market-makers in undertaking their market-making responsibilities as it recognizes the occasional need for market-makers to effect transactions in their course of dealing in options classes for which the marker-maker is not registered. The Commission believes that this approach will not adversely affect the depth and liquidity necessary to maintain fair and orderly markets. The Commission expects CBOE clearing firms and other CBOE members that extend margin to market-makers to implement adequate procedures to ensure that offsets elected by market-makers are recorded accurately and cleared into appropriate accounts. In addition, such members should have a reasonable basis for determining that the offset transactions satisfy the marketmaking purpose requirements set forth in CBOE Rule 12.3(f). The Commission believes that these requirements will ensure that transactions effected by market-makers and specialists receiving the offset treatment are in fact directly related to their market-making function and are not effected for speculative purposes on a margin basis which should be available only for bona fide market-making activity.

The Exchange indicates that its proposed definition of ''in-or at-the-money,'' for purposes of permitted offset transactions, represent a codification of its long standing practice of permitting the financing of options market-makers underlying stock positions on a good faith basis when offset on a share-for-share basis by options which are ''in- or at-the-money,'' *i.e.,* where the current market price of the underlying security is not more than two standard exercise price intervals below (with respect to a call option) or above (with respect to a put option) the exercise price of the option (emphasis added). According to the Exchange, this practice evolved after it made changes in 1985 to its Rule 5.5 so that the interval between strike prices of options series on individual stocks is 2½ points where the strike price is greater than $25, but less than $200; and 10 points where the strike price is greater than $200. The Exchange indicates that this position was represented to the Federal Reserve Board as consistent with Regulation T, 12 CFR 220.12[30] and that the Board has not objected to this practice.[31] At this time, the Commission believes it is appropriate for the CBOE to codify this longstanding practice.

Broker-Dealer Account

The Exchange proposes adding a provision that would provide margin relief to accounts held by non-market-maker broker-dealers. Under the new provision, a member organization may carry the proprietary account of another registered broker-dealer upon a margin basis which is satisfactory to both parties, provided the requirements of Regulation T are adhered to and the account is not carried in a deficit equity condition. This new provision is substantially similar to the provision of NYSE Rule. 431(e)(6) and is being adopted by the Exchange for the sake of uniformity. Accordingly, this change is appropriate.

Changes to Rule 12.11

The Exchange has determined to allow its members who are also members of the NYSE to exempt themselves from CBOE Rules 12.3 to 12.9. However, the Exchange has determined to not allow its members to exempt themselves from CBOE Rule 12.10. Rule 12.10 authorizes the Exchange to impose higher margin requirements when it deems such higher requirements to be advisable. The Commission agrees that it is reasonable for the CBOE to be able to determine when higher margin requirements will be required for positions in Exchange-traded products and that, therefore, its members should not be permitted to exempt themselves from this rule. The Commission notes that the Exchange is under no obligation to allow its members to be exempted from any of its applicable rules unless the Exchange believes such exemption is appropriate.

Changes to Rule 24.11

The addition of this section is intended to provide the same margin cover for covered calls and covered puts involving index options[32] as is currently allowed for equity options. The recent amendments to Regulation T include a new provision that allows SROs, subject to SEC approval, to expand the allowed types of covered transactions (in addition to those allowed under the Regulation T definition of covered transactions), provided that: (i) The position has finite

[29] *See supra* note 19.

[30] Regulation T, 12 CFR 220.2 defines ''in- or at-the-money,'' to mean (until June 1, 1997) the current market price of the underlying security is not more than *one* (emphasis added) standard exercise interval below (with respect to a call option) or above (with respect to a put option) the exercise price of the option.

[31] Telephone conversation between Diane Malley, Supervisor, Department of Financial Compliance, CBOE, and Chester McPherson, Staff Attorney, Market Regulation, Commission, May 28, 1997. *See also* Letter from Mary L. Bender, Assistant Vice President, CBOE, to Laura Homer, Federal Reserve Board, dated May 23, 1985 outlining the issue.

[32] The current proposal only addresses index options that are covered by a ''qualified portfolio'' containing all of the stocks represented in the index, in proportion to their representation in the index. Provisions for short index options offset by long index options are proposed in the Second Margin Filing.

risk; (ii) the amount at risk is held in the account in cash, cash equivalents, or via an escrow agreement; and (iii) the transaction is eligible for the cash account. The existing covered transaction provisions of Regulation T do not address positions involving index options. The Commission has addressed this area in the past by granting a number of no-action positions that allow certain short index call option positions to be offset by a portfolio of stocks that exactly replicates the index option.[32] The proposed revision to Rule 24.11 essentially codifies the margin treatment permitted under these prior positions and therefore is appropriate. Although these prior no-action positions did not address or grant no-action relief to short index put options offset by short positions in a portfolio of stocks replicating the index option, the Commission concludes that such positions nonetheless satisfy the noted regulatory standards required for covered transactions and such treatment is consistent with the covered treatment afforded to transactions in equity options. Accordingly, this provision is reasonable and appropriate.

Accelerated Approval of Amendment Nos. 1 and 2

The Commission finds good cause for approving Amendment Nos. 1 and 2 period to the thirtieth day after the date of publication of notice of filing thereof. Amendment No. 1 addresses technical changes by making corrections to certain typographical mistakes appearing in the rule filing. Amendment No. 2 also makes technical changes by correcting an incorrect cross-reference in CBOE Rule 12.5 and other inadvertent omissions. In addition, it addresses a number of substantive issues, including limiting the availability of good faith margin for permitted offset to only bona fide market-making transactions. Amendment No. 2 also addresses the margin treatment applicable to long listed equity options. Instead of requiring margin to be equal to the current market value of long listed equity options, the requirement has been changed to equal at least the purchase price of the option. This change better reflects the purpose of the proposed change, which was to confirm that long listed options must be paid for in full at the time of purchase. The originally proposed language could possibly be interpreted to impose a maintenance margin requirement for such positions, which is not required for fully paid long positions. The remainder of Amendment No. 2 merely provided additional information regarding issues that were adequately published through the notice of this proposed rule filing. All of the amended changes strengthen and clarify the proposal. Based on the above, the Commission finds that there exists good cause consistent with Section 6(b)(5) of the Act, to accelerated approval of the amendments.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1 and 2. 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 Room. Copies of all such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number SR–CBOE–97–17 and should be submitted by June 23, 1997.

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act,[34] that the proposed rule change (SR–CBOE–97–17) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[35]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–15025 Filed 6–9–97; 8:45 am]

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[32] *See, eq.*, Letter from Sharon Lawson, Senior Special Counsel, Market Regulation, to Diane Malley, CBOE, dated October 4, 1996 (short index call positions in Goldman Sachs Technology Composite Index and Goldman Sachs Technology sub-Index options).

[34] 15 U.S.C. 78s(b)(2).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38708; File No. SR–NYSE–97–01]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the New York Stock Exchange, Incorporated Regarding Changes in its Margin Rules

June 2, 1997.

I. Introduction

On January 9, 1997, the New York Stock Exchange, Incorporated (''NYSE'' or the ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain sections of the Exchange's rules to comply with changes to Regulation T which became effective June 1, 1997.

The proposed rule change was published for comment in Securities Exchange Act Release No. 38411 (March 17, 1997), 62 FR 14174 (March 25, 1997). The NYSE submitted a written clarification regarding its filing to the Commission on May 29, 1997.[3] No comments were received on the proposal.

This order approves the proposed rule change.

II. Description of the Proposal

The NYSE proposes to make revisions to its rules governing margin that will establish NYSE rules to govern areas of margin regulation that will no longer be addressed by Regulation T (''Regulation T'')[4] of the Board of Governors of the Federal Reserve System (''Federal Reserve Board,'' ''FRB'' or ''Board''). The Federal Reserve System's Regulation T, which covers the extensions of credit by and to brokers and dealers, currently prescribes margin requirements for options transactions. In April 1996, the Federal Reserve Board amended Regulation T to delete certain rules regarding options transactions in favor of rules to be adopted by the options exchanges and approved by the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Donald van Weezel, Managing Director, Regulatory Affairs, NYSE, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation (''Market Regulation''), Commission, dated May 29, 1997, clarifying requirement relating to the proposed permitted market-maker offset provisions.

[4] 12 CFR 220.1 through 19 (1996).

Commission.[5] This amendment to Regulation T became effective June 1, 1997.

The proposed amendments incorporate the current FRB requirements into Exchange Rule 431 so that they may remain in effect after June 1, 1997. The proposed amendments also incorporate certain treatments of offset positions as recognized under Exchange Act Rule 15c3–1, the ''Net Capital Rule.''

Specifically, a permitted offset position will be defined to mean, in the case of an option in which a specialist or market-maker makes a market, a position in the underlying instrument or other related instrument, and in the case of other securities in which a specialist or market-maker makes a market, a position in options overlying the securities in which a market-maker makes a market, if the account holds the following positions: (i) A short option position which is ''in- or at-the-money'' and is not offset by a long or short option position for an equal or greater number of shares of the same underlying security which is ''in-the-money''; (ii) a long option position which is ''in- or at-the-money'' and is not offset by a long or short option position for an equal or greater number of shares of the same underlying security which is ''in-the-money''; (iii) a short option position against which an exercise notice was tendered; (iv) a long option position which was exercised; (v) a net long position in a security (other than an option) in which a specialist makes a market; (vi) a net short position in a security (other than an option) in which the specialist makes a market; or (vii) a specified portfolio type as referred to in Exchange Act Rule 15c3–1—Appendix A.[6]

These proposed amendments to Rule 431 adopt provisions regarding permitted market-maker and specialist offset positions from Regulation T and the Net Capital Rule. These offset positions would be subject to the same ''good faith'' margin treatment as has been accorded under Regulation T and would require the clearing/carrying firm to comply with the applicable haircut requirements of the Net Capital Rule for any cash margin deficiency (e.g., the difference between the margin required under Rule 431 and the amount received from the specialist/market maker). The proposal also incorporates the current Regulation T definitions of the terms ''in- or at-the-money'', ''in-the-money'' and ''overlying options.'' The parameters for permitted offsets within the ''in- and at-the-money'' definition have been expanded from one to two ''standard exercise intervals.''

The ''Good Faith'' margin requirements in Section (f)(2)(J) of Rule 431 as proposed to be amended shall be applicable for registered options specialists' and market-makers' transactions in listed options in which the specialist or market-maker makes a market, and registered options specialists' or options market-makers' permitted offset transactions as defined in Section (f)(2)(J) (i)–(vii) of Rule 431, when such transactions are effected for market-making purposes. This requirement will ensure that permitted offset transactions are in fact reasonably related to the specialist's market-making function and are not effected for the purpose of speculation on a margin basis which is applicable only to market-makers and specialists.

Section (f)(2)(J) of Rule 431 has been revised in order to clarify the existing definition of ''good faith'' margin requirements.

A new provision has been added (Section (f)(2)(L) of Rule 431) to incorporate the provisions currently contained in Regulation T regarding ''exclusive designation'' that allow a customer to designate which security position in an account is to be utilized to cover the required margin at the time an option order is entered, provided the member organization offers such a service.

Further, Section (f)(2)(M) of Rule 431 has been added to incorporate the current provisions of Regulation T that allow certain defined options-related transactions to be maintained in a cash account and incorporate a debit put spread provision involving European-style broad-based index options that is consistent with a similar Chicago Board Options Exchange provision.

III. Discussion

After careful review of the Exchange's proposed amendment to its margin rules, and for the reasons discussed below, the Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, with the requirements of Section 6(b) of the Act.[7] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.[8]

The Commission believes that the portions of the proposal that revise the applicable standard governing option market-maker and option specialist permitted offsets are reasonable. The revised standards serve to maintain the requirement that good faith margin may only be extended for bona fide market making related transactions, including hedging transactions that are reasonably related to a market-maker's assigned responsibility. The permitted offsets listed in proposed Section (f)(2)(J) (i)–(vi) of Rule 431 simply incorporate the formerly ''permitted'' Regulation T offsets which have been deleted in favor of exchange rules. The incorporation of these offsets does not raise any new regulatory issues and, accordingly, is reasonable. The permitted offsets listed in proposed Section (f)(2)(J)(vii) of Rule 431 incorporate those permitted offsets allowed under Exchange Act Rule 15c3–1 for purposes of determining broker-dealer net capital requirements. Incorporating these same offsets for the related purpose of determining applicable options market-maker and specialist offsets constitutes a reasonable effort to coordinate risk management requirements that serve similar purposes.

The Commission believes that the proposal is a reasonable effort by the NYSE to accommodate the needs of options market-makers and specialists in undertaking their market-making responsibilities as it recognizes the occasional need for these entities to effect transactions in their course of dealing in options classes for which the options market-maker or specialist is not registered. The Commission believes that this approach will not adversely affect the depth and liquidity necessary to maintain fair and orderly markets. The Commission expects that those clearing firms and other broker-dealers that are bound to comply with the NYSE's margin rules, in extending margin to options market-makers and specialists, will implement adequate procedures to ensure that offsets elected by options market-makers and specialists are recorded accurately and

[5] *See* 61 FR 20386 (May 6, 1996) (Federal Reserve Board's release adopting certain changes to Regulation T).

[6] *See* Securities Exchange Act Release No. 38248 (February 6, 1997) 62 FR 6474 (February 12, 1997) (Final rule adopting changes to Exchange Act Rule 15c3–1) (the ''Net Capital Rule'').

[7] 15 U.S.C. 78f(b).

[8] In approving these rules, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

cleared into appropriate accounts. The Commission believes that these requirements will ensure that transactions effected by options market-makers and specialists are in fact reasonably related to their market-making function and are not effected for speculative purposes on a margin basis which should be available only for bona fide market-making activity.

The Exchange's proposed definition of ''in- or at-the-money,'' for purposes of permitted offset transactions, represents a codification of a long standing practice among the options markets, of permitting the financing of options specialists and market-makers underlying stock positions on a good faith basis when offset on a share-for-share basis by options which are ''in-or at-the-money,'' *i.e.,* where the current market price of the underlying security is not more than two standard exercise price intervals below (with respect to a call option) or above (with respect to a put option) the exercise price of the option. The Commission believes it is appropriate for the NYSE to codify this longstanding practice. This practice is also being codified today by the Chicago Board Options Exchange.[9]

The Exchange has also revised existing Section (f)(2)(J) of Rule 431 to clarify the existing definition of ''good faith'' margin requirements. The change in the definition of ''good faith'' margin requirements effectively creates a minimum good faith margin requirement, and, accordingly, is reasonable.

The Exchange has also added a new Section (f)(2)(L) of Rule 431 which incorporates the provisions currently contained in Regulation T regarding ''exclusive designation'' that allow a customer to designate which security position in an account is to be utilized to cover the required margin at the time an option order is entered, provided the member organization offers such a service. This section merely incorporates existing provisions of Regulation T into the Exchange's rules, and, accordingly, is reasonable.

The Exchange's proposed new Section (f)(2)(M)(i) of Rule 431 merely incorporates those provisions of Regulation T that allow certain defined options-related transactions to be maintained in a cash account and, accordingly, does not raise new regulatory issues. The other part of this proposed section incorporates a debit put spread provision involving European-style broad-based index options that is consistent with a similar Chicago Board Options Exchange provision. Accordingly, the Commission finds it reasonable for the NYSE to adopt this similar provision.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (NYSE 97–01) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–15156 Filed 6–9–97; 8:45 am]

BILLING CODE 8010–01–M

[9] The Commission notes that the Chicago Board Options Exchange asserts that it has received oral no-action relief from the Federal Reserve Board permitting the two standard exercise price interval interpretation. *See* Securities Exchange Act Release No. 38709 (June 2, 1997).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38707; File No. SR–PCX–97–10]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the Pacific Exchange, Incorporated and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to the Proposed Rule Change Relating to Changes to its Margin Rules

June 2, 1997.

I. Introduction

On April 14, 1997, the Pacific Exchange, Incorporated (''PCX'' or the ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain sections of the Exchange's rules to comply with changes to Regulation T which become effective on June 1, 1997.

The proposed rule change was published for comment in Securities Exchange Act Release No. 38528 (April 18, 1997), 62 FR 20235 (April 25, 1997). The PCX submitted Amendment No. 1 to the Commission on May 30, 1997.[3] No comments were received on the proposal.

This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX, to Connie Kiggins, Special Counsel, Division of Market Regulation (''Market Regulation''), Commission, dated May 29, 1997, making certain technical changes to the rule filing.

II. Description of the Proposal

The PCX proposes to make revisions to its rules governing margin that will establish PCX rules to govern areas of margin regulation that will no longer be addressed by Regulation T (''Regulation T'')[4] of the Board of Governors of the Federal Reserve System (''Federal Reserve Board,'' ''FRB'' or ''Board''). Several other minor changes that substantially mirror provisions contained in the New York Stock Exchange's margin rules have also been proposed. The Federal Reserve System's Regulation T, which covers the extensions of credit by and to brokers and dealers, currently prescribes margin requirements for options transactions. In April 1996, the Federal Reserve Board amended Regulation T to delete certain rules regarding options transactions in favor of rules to be adopted by the options exchanges and approved by the Commission.[5] This amendment to Regulation T became effective June 1, 1997.

The proposed amendments incorporate the current FRB requirements into Exchange Rule 2.16 so that they may remain in effect after June 1, 1997. The proposed amendments also incorporate certain treatments of offset positions as recognized under Exchange Act Rule 15c3–1, the ''Net Capital Rule.''

Specifically, a permitted offset position will be defined to mean, in the case of an option in which a specialist makes a market, a position in the underlying asset or other related assets, and in the case of other securities in which a specialist makes a market, a position in options overlying the securities in which a specialist makes a market, if the account holds the following permitted offset positions: (i) A short option position that is ''in- or at-the-money'' and is not offset by a long or short option position for an equal or greater number of shares of the same underlying security that is ''in-the-money''; (ii) a long option position that is ''in- or at-the-money'' and is not offset by a long or short option position for an equal or greater number of shares of the same underlying security that is ''in-the-money''; (iii) a short option position against which an exercise notice was tendered; (iv) a long option position that was exercised; (v) a net long position in a security (other than an option) in which a specialist makes a market; (vi) a net short position in a security (other than an option) in which a specialist

[4] 12 CFR 220.1 through 19 (1996).

[5] *See* 61 FR 20386 (May 6, 1996) (Federal Reserve Board's release adopting certain changes to Regulation T).

makes a market; or (vii) a specified portfolio type as referred to in Exchange Act Rule 15c3–1, including its appendices, or any applicable SEC staff interpretation or no-action position.

These proposed amendments to Rule 2.16 adopt provisions regarding permitted market-maker and specialist offset positions from Regulation T and the Net Capital Rule. These offset positions would be subject to the same ''good faith'' margin treatment as has been accorded under Regulation T and would require the clearing/carrying firm to comply with the applicable haircut requirements of the Net Capital Rule for any cash margin deficiency (e.g., the difference between the margin required under Rule 2.16 and the amount received from the specialist/market maker). The proposal also incorporates the current Regulation T definitions of the terms ''in- or at-the-money,'' ''in-the-money'' and ''overlying options.'' The parameters for permitted offsets within the ''in- or at-the-money'' definition have been expanded from one to two ''standard exercise intervals.''

The ''Good Faith'' margin requirements in Section (d)(2)(J) of Rule 2.16 as proposed to be amended shall be applicable for registered options specialists' and market-makers' transactions in listed options in which the specialist or market-maker makes a market, a registered options specialists' or options market-makers' permitted offset transactions as defined in Section (d)(2)(J)(i)–(vii) of Rule 2.16, when such transactions are effected for market-making purposes. This requirement will ensure that permitted offset transactions are in fact reasonably related to the specialist's market-making function and are not effected for the purpose of speculation on a margin basis which is applicable only to market-makers and specialists.

Section (d)(2)(J) of Rule 2.16 has been revised in order to clarify the existing definition of ''good faith'' margin requirements.

A new provision, Section (d)(2)(K) of Rule 2.16, has been added to allow the Exchange to impose higher margin requirements with respect to any option or warrant position, if it deems such higher margin requirements appropriate.

A new provision has been added (Section (d)(2)(L) of Rule 2.16) to incorporate the provisions currently contained in Regulation T regarding ''exclusive designation'' that allow a customer to designate which security position in an account is to be utilized to cover the required margin at the time an option order is entered, provided the member organization offers such a service.

Further, Section (d)(2)(M) of Rule 2.16 has been added to incorporate the current provisions of Regulation T that allow certain defined options-related transactions to be maintained in a cash account and incorporate a debit put spread provision involving European-style broad-based index options that is consistent with a similar Chicago Board Options Exchange provision.

III. Discussion

After careful review of the Exchange's proposed amendment to its margin rules, and for the reasons discussed below, the Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, with the requirements of Section 6(b) of the Act.[6] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.[7]

The Commission believes that the portions of the proposal that revise the applicable standard governing option market-maker and option specialist permitted offsets are reasonable. The revised standards serve to maintain the requirement that good faith margin may only be extended for bona fide market making related transactions, including hedging transactions that are reasonably related to a market-maker's assigned responsibility. The permitted offsets listed in proposed Section (d)(2)(J)(i)–(vi) of Rule 2.16 simply incorporate the formerly ''permitted'' Regulation T offsets which have been deleted in favor of exchange rules. The incorporation of these offsets does not raise any new regulatory issues and, accordingly, is reasonable. The permitted offsets listed in proposed Section (d)(2)(J)(vii) of Rule 2.16 incorporate those permitted offsets allowed under Exchange Act Rule 15c3–1 for purposes of determining broker-dealer net capital requirements. Incorporating these same offsets for the related purpose of determining applicable options market-maker and specialist offsets constitutes a reasonable effort to coordinate risk management requirements that serve similar purposes.

The Commission believes that the proposal is a reasonable effort by the PCX to accommodate the needs of options market-makers and specialists in undertaking their market-making responsibilities as it recognizes the occasional need for these entities to effect transactions in their course of dealing in options classes for which the options market-maker or specialist is not registered. The Commission believes that this approach will not adversely affect the depth and liquidity necessary to maintain fair and orderly markets. The Commission expects that those clearing firms and other broker-dealers that are bound to comply with the PCX's margin rules, in extending margin to options market-makers and specialists, will implement adequate procedures to ensure that offsets elected by options market-makers and specialists are recorded accurately and cleared into appropriate accounts. The Commission believes that these requirements will ensure that transactions effected by options market-makers and specialists are in fact reasonably related to their market-making function and are not effected for speculative purposes on a margin basis which should be available only for bona fide market-making activity.

The Exchange's proposed definition of ''in- or at-the-money,'' for purposes of permitted offset transactions, represents a codification of a long standing practice among the options markets of permitting the financing of options specialists and market-makers underlying stock positions on a good faith basis when offset on a share-for-share basis by options which are ''in-or at-the-money,'' *i.e.,* where the current market price of the underlying security is not more than two standard exercise price intervals below (with respect to a call option) or above (with respect to a put option) the exercise price of the option. At this time, the Commission believes it is appropriate for the PCX to codify this longstanding practice. This practice is also being codified today by the Chicago Board Options Exchange.[8]

The Exchange has also revised existing Section (d)(2)(J) of Rule 2.16 to clarify the existing definition of ''good faith'' margin requirements. The change in the definition of ''good faith'' margin requirements effectively creates a minimum good faith margin

[6] 15 U.S.C. 78f(b).

[7] In approving these rules, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] The Commission notes that the Chicago Board Options Exchange asserts that it has received oral no-action relief from the Federal Reserve Board permitting the two standard exercise price interval interpretation. *See.* Securities Exchange Act Release No. 38703 (June 2, 1997).

requirement, and, accordingly, is reasonable.

The Exchange has also added a new Section (d)(2)(L) of Rule 2.16 which incorporates the provisions currently contained in Regulation T regarding ''exclusive designation'' that allow a customer to designate which security position in an account is to be utilized to cover the required margin at the time an option order is entered, provided the member organization offers such a service. This section merely incorporates existing provisions of Regulation T into the Exchange's rules, and, accordingly, is reasonable.

The Exchange's proposed new Section (d)(2)(M)(i) of Rule 2.16 merely incorporates those provisions of Regulation T that allow certain defined options-related transactions to be maintained in a cash account and, accordingly, does not raise new regulatory issues. The other part of this proposed section incorporates a debit put spread provision involving European-style broad-based index options that is consistent with a similar Chicago Board Options Exchange provision. Accordingly, the Commission finds it reasonable for the PCX to adopt this similar provision.

IV. Accelerated Approval of Amendment No. 1

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof. Amendment No. 1 addresses several substantive issues, including limiting the availability of good faith margin for permitted offsets to only bona fide market-making transactions. All of the amended changes strengthen and clarify the proposal. Based on the above, the Commission finds that there exists good cause consistent with Section 6(b)(5) of the Act, to accelerate approval of the amendment.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of all such filings will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to file number SR–PCX–97–10 and should be submitted by July 1, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (PCX 97–10) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–15155 Filed 6–9–97; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0267]

EGL/NatWest Ventures USA, L.P.; Notice of Issuance of a Small Business Investment Company License

On May 15, 1996, an application was filed by EGL/NatWest Ventures USA, L.P., at 6600 Peachtree-Dunwoody Road, 300 Embassy Row, Suite 630, Atlanta, Georgia 30328, with the Small Business Administration (SBA) in accordance with § 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 04/04–0267 on April 8, 1997, to EGL/NatWest Ventures USA, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 21, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–15023 Filed 6–9–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 03/73–0210]

Odyssey Investment Partners, L.P.; Notice of Issuance of a Small Business Investment Company License

On July 8, 1996, an application was filed by Odyssey Investment Partners, L.P., at 950 West Valley Road, Suite #2902, Wayne, Pennsylvania 19087, with the Small Business Administration (SBA) in accordance with § 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/73–0210 on May 2, 1997, to Odyssey Investment Partners, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 22, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–15024 Filed 6–9–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 2554]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

The Advisory Committee on Historical Diplomatic documentation will meet in the Department of State, June 23–24, 1997 in Conference Room 1207.

The Committee will meet in open session from 9:00 a.m. through 12:00 p.m. on the morning of Monday, June 23, 1997. The remainder of the Committee's sessions from 1:45 p.m. on Monday, June 23, until 12:00 p.m. on Tuesday, June 24, 1997 will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). It has been determined that discussions during these portions of the meeting will involve consideration of matters not subject to public disclosure under 5 U.S.C. 552b(c)(1), and that the public interest requires that such activities will be withheld from disclosure.

Questions concerning the meeting should be directed to William Z. Slany,

Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663–1123, (e-mail histoff@panet.us-state.gov).

Dated: June 2, 1997.

William Z. Slany,

Executive Secretary.

[FR Doc. 97–15028 Filed 6–9–97; 8:45 am]

BILLING CODE 4210–11–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Final Environmental Impact Statement; JFK International Airport Light Rail System Errata Sheet

SUMMARY: A public notice was published in the **Federal Register** and area newspapers on May 23, 1997 (62 FR 28529), advertising the completion and availability of the Final Environmental Impact Statement, The Port Authority of New York and New Jersey JFK International Airport Light Rail System.

Please be advised that the following modifications and/or clarifications are to be included in the Final Environmental Impact Statement, The Port Authority of New York and New Jersey JFK International Airport Light Rail System (LRS):

On pate 5–147, Sections 5.12.2 Impacts and Mitigation, prior to the last sentence; on page 7–7, Section 7.16 Coastal Zone, at the end of the section; and, on Page 8–5, Section 8.2.2, New York State Actions—Coastal Management Program Consistency-in each location add the sentence—''The FAA will not unconditionally approve the Airport Layout Plan (ALP) in a Record of Decision (ROD), nor will it render a determination of a PFC use application until the New York Coastal Zone Management Program concurs in the Port Authority consistency determination.''

In Volume 2 of 3 and Volume 3 of 3, FAA responses to comments on both the DEIS and the Written Reevaluation/Technical Report, are finalized comments. Change the ''header'' in these pages to read ''Responses to Comments on the DEIS'' or ''Responses to Comments on the Written Reevaluation/Technical'' as appropriate.

For additional information or to submit comments (which are due by June 23, 1997) on the Final Environmental Impact Statement contact either:

Mr. Laurence Schaefer, Federal Aviation Administration, AEA–620, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430, Telephone: (718) 553–3340, FAX: (718) 995–9219

Mr. Victor Teglasi, NYS Dept Transportation, Region 11, Hunters Point Plaza, 47–40 21at Street, Long Island City NY 11101, Telephone: (718) 482–4610, FAX: (718) 482–4660.

Issued in Jamaica, New York on May 29, 1997.

William DeGraaff,

Acting Manager, Airports Division Federal Aviation Administration Eastern Region.

[FR Doc. 97–15018 Filed 6–9–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. Motor Carrier–96–40]

Motor Carrier Regulatory Relief and Safety Demonstration Project

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of final determination.

SUMMARY: The FHWA announces its final determination establishing the Motor Carrier Regulatory Relief and Safety Demonstration Project (''Project''). The Project will allow qualified motor carriers operating light to medium weight commercial motor vehicles (CMVs) in interstate commerce to qualify for exemption from certain Federal Motor Carrier Safety Regulations (FMCSRs) for a three year period.

EFFECTIVE DATE: June 10, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Schultz, Jr., Office of Motor Carrier Research and Standards, (202) 366–4009, or Ms. Grace Reidy, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, DOT, 400 Seventh Street, SW., Washington, WASHINGTON, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On November 28, 1995, the President signed the National Highway System Designation Act of 1995 [Pub. L. 104–59, 109 Stat. 568 (NHS Act)]. Section 344 of the NHS Act, now codified at 49 U.S.C. 31136, mandates that the FHWA implement a pilot program for motor carriers operating CMVs with a gross vehicle weight rating (GVWR) between 10,001 and 26,000 pounds, inclusive, in interstate commerce, to qualify for exemption from certain of the FMCSRs (49 CFR Part 350 *et seq.*). Notice of the Project (notice) was published in the **Federal Register** on August 28, 1996 (61 FR 44385). The comment period closed on September 27, 1996. In response to docket comments which raised the issue of the relation between this Project and the existing motor carrier regulations of the States, a supplemental notice was published on October 29, 1996 (61 FR 55835), seeking comment on the appropriate use of Federal preemption to resolve any conflicts between the Federal and State provisions. The comment period for that notice expired November 29, 1996.

Comments

The FHWA received 27 comments in response to the Notice. The commenters included 9 motor carriers, 12 trade associations, 3 safety consultants or safety interest groups, 2 States and a trade union. The vast majority of the comments endorsed the ''New Era'' which the FHWA outlined in the Notice. In particular, the use of performance-based standards received strong support.

However, many commenters believed that the design of the proposed Project would discourage participation in the Project by motor carriers. The explanation most frequently offered for this conclusion was that the ''paperwork'' requirements of the Project, both at the time of application and during the Project, were too burdensome, and outweighed the regulatory relief which the Project motor carrier would enjoy. The Project as proposed required each applicant motor carrier to provide the FHWA, at the time of application, with a signed certification of certain facts, a Safety Control Plan, a roster of eligible drivers, and a calculation of its accident rate over the preceding three years. The motor carrier would also have to verify that the driving record of each driver whom it proposed for the Project did not contain any convictions of certain prohibited offenses. In addition, the motor carrier would have to have vehicle maintenance records on hand for the three years preceding the Project. During the Project, the FHWA proposal required a Project participant to agree to provide the FHWA with certain information concerning any accidents in which the motor carrier was involved, and, in that event, a re-calculation of the motor carrier's accident rate for the preceding three years. The FHWA also proposed that Project motor carriers provide the names of new drivers which the motor carrier wished included in the Project, as well as names of drivers who drop out of the Project or who cease to exclusively operate motor vehicles with

a GVWR between 10,001 and 26,000 pounds, inclusive. Vehicle maintenance records were also to be maintained and submitted during the Project. In some cases, such as supplying accident information, the reporting was to be within 10 days; in other cases, a quarterly basis was proposed.

The commenters most strenuously objected to the totality of these ''paperwork'' requirements. The driver information requirements were singled out by a significant segment of the commenters. They believed that the high turnover rate of drivers which many motor carriers experience would make the driver roster requirement overly burdensome. It was suggested that detailed driver information should be provided only with regard to those drivers who are convicted of certain moving violations, or who are involved in an accident.

Continuing exemption of motor carriers after the three year period of this Project also drew comment. Commenters believed that the Project would be more attractive if a commitment was made to extend the Project beyond three years. They also believed that participants should be able to expect that the safety management systems which they put in place for the Project would not become obsolete when the Project terminates.

Some of the Project exemptions were given little value by the commenters. For instance, it was suggested that most motor carriers would continue to require a pre-employment road test for new hires even if they were exempt from the rule requiring one. It was also stated that insurance carriers would continue to require motor carriers to obtain an application for employment for each new employee, even if the Federal requirement is waived. Some commenters also felt that the creation of an exemption from the regulation requiring newly-hired drivers to furnish a list of motor vehicle violations was offset by the Project requirement that Project motor carriers examine the driving history of their Project drivers to verify that each driver is free of any disqualifying violations.

The Project as proposed created various exemptions from the record of duty status provisions, but did not remove the actual hours-of-service limitations. The failure to take this final step drew criticism, particularly from those who believe that the spirit, if not the letter, of the NHS Act mandated such relief. On the other hand, criticism also came from those who believed that neither the records of duty status, nor the hours-of-service limitations, should be lifted, because the FHWA would be unable to detect, or prosecute, violations of the hours-of-service rules.

Many commenters believed that relief from another provision of the FMCSRs should have been proposed: The requirement that drivers undergo a periodic examination by a licensed medical practitioner. The commenters appeared to be saying that because of the differences between the typical day-to-day activity of drivers of Project vehicles, and drivers of vehicles with a GVWR in excess of 26,000 pounds, medical examination was less critical for the former. These commenters focused upon the fact that drivers operating CMVs of the class eligible for this Project normally engage in short-haul operations. Such operations, the commenters contend, are distinguished from long-haul operations by the fact that (1) The short-haul driver is on duty during more normal work hours, and thus is less inclined to experience the fatigue of evening or graveyard shifts, and, (2) the short-haul driver experiences more frequent breaks, spends less time actually behind the wheel, and drives fewer miles on an annual basis. These commenters felt that it was the intent of Congress that this Project provide an opportunity for relief from the medical examination requirement.

The Project as proposed also outlined certain eligibility criteria. Some commenters believed that the requirement that the police-reported accident rate of Project motor carriers not exceed 1.6 per million vehicle miles traveled (for the most recent 36 month period) would unfairly disqualify some motor carriers. The inequity would occur, they averred, because the proposal does not take accident culpability into account, and thus an accident in which a motor carrier's driver is totally free of negligence could nonetheless result in the removal of that motor carrier from the Project. Other commenters were concerned that a motor carrier that had not accumulated 1 million vehicle miles traveled would not be eligible, or would become ineligible when a single accident occurred.

The requirement that Project drivers not operate CMVs other than those which have a GVWR between 10,001 and 26,000 pounds, drew criticism, primarily from the utility industry, which is characterized by a high percentage of drivers who ''cross over'' to operate CMVs in excess of 26,000 pounds GVWR. The FHWA also proposed that Project drivers would not be eligible if they had been convicted in the past three years of certain violations of law. Some commenters expressed the belief that all moving violations should be taken into account in determining the eligibility of drivers.

The FHWA also proposed that Project motor carriers be required to maintain and submit CMV maintenance records. Commenters expressed concern that this requirement was particularly burdensome and eliminated the benefit afforded by the Project exemptions addressing vehicle maintenance records.

FHWA Response

After careful review, the FHWA has decided to make two changes in the Project to alleviate the recordkeeping requirements proposed in the original notice. The first is the elimination of the requirement that motor carriers maintain and submit vehicle maintenance records. The benefit to be derived from this information is not sufficiently crucial to the monitoring, or the evaluation, of the Project to require its inclusion. The second change is to alter the frequency of the periodic calculation of the accident rate, and its submission to the FHWA. The calculation of accidents per million vehicle miles traveled will now be required on a semi-annual basis, rather than quarterly as proposed. The calculation will also, as proposed, be required in the event of an accident involving the motor carrier.

The FHWA is aware that this Project imposes special recordkeeping and reporting requirements upon participating motor carriers. The FHWA believes that the remaining paperwork requirements of the Project are absolutely necessary to conduct this Project and ensure the safety of the public on the highways. For instance, in the absence of a roster of the drivers participating in the Project, the Agency would be unable to assist enforcement personnel at roadside inspection locations. Confronted with a driver who has no Record of Duty Status, as required by 49 CFR 395.8(k), but who professes to be a Project driver and thus exempt from that section, safety inspectors or other enforcement officials would be unable to verify the exempt status of that driver. The Agency also believes that most of the remaining records which are required by this Project are routinely maintained by most motor carriers in the course of their day-to-day operations.

The FHWA is also relaxing the proposed exclusion from the Project of CMV drivers who ''crossover'' and operate CMVs with a GVWR greater than 26,000 pounds. The FHWA believes that such activity can be permitted, so long as its occurrence for any particular driver is frequent, and

measurable; that is, the FHWA will permit a Project motor carrier to direct Project drivers to operate vehicles outside of the Project weight class if: (a) the driver operates Project vehicles at least 25% of the time, and (b) the motor carrier can provide the FHWA with the total number of vehicle miles driven outside the Project, and the total number of miles driven within the Project, for each such driver. The FHWA can take such information into account in conducting its evaluation of the Project, and thus preserve the integrity of that process. Motor carriers and their drivers are advised to be alert to the fact that when activity is conducted outside the Project, it is subject to all provisions of the FMCSRs. For instance, a driver who operates a CMV over 26,000 pounds GVWR must, in accordance with 49 CFR 395.8, be able to account for his or her hours of service for an earlier period of up to 8 days. A ''crossover'' Project driver will immediately be required to account for his/her hours of service over the preceding 8 days, even though the driver during this earlier period was exempt from the requirements of 395.8 by virtue of being engaged in Project activity.

The FHWA is cognizant of the economic realities which underlie the suggestion that it should assure motor carriers that the exemptions of this Project will continue beyond the three-year life of this pilot. It is possible that the exemptions will continue in some form; however, the case for permanent regulatory change must be made by appropriate supporting data. The Agency realizes that strong participation in this pilot may generate data which show the way to meaningful, performance-based improvements of the current regulatory scheme. The agency cannot now predict what the Project data will show, or what the overall regulatory landscape will look like down the road. After the first two years of the Project, the FHWA intends to analyze the Project data. Permanent rules resembling the guidelines of this Project may be indicated at that time.

The provisions of the FMCSRs governing maximum driving time provide the best available standard for assuring that fatigued drivers are kept off the public highways. In order for the FHWA to exempt Project motor carriers and their drivers from these provisions, the agency must ensure that safety management controls are available which will achieve a level of operational safety equal to or greater than that resulting from compliance with these provisions. Despite the invitation to comment in the original Notice, no commenter has proposed that alternate safety controls exist. On September 7, 1995, the FHWA sought public input (60 FR 46682) with regard to advanced driver and vehicle technologies, but none addressing maximum driving time were produced.

However, the FHWA also believes that the elimination of the requirement for records of duty status (log books), time cards or interactive on-board recording devices for qualified Project motor carriers, does not place the motoring public in danger. Safety investigators will rely more heavily upon other evidence, such as, fuel and toll receipts, bills of lading, and trip reports, to determine if on-duty or driving time violations are present. Such evidence is currently employed to corroborate hours-of-service violations, particularly when logbooks appear to be falsified.

The FHWA does not believe that the requirement for a periodic medical examination should be susceptible to relief under the Project. It may be true that the typical operator of a CMV of the weight class eligible for this Project engages in short-haul operations, i.e. works normal daytime hours, experiences frequent breaks from driving, spends less time behind the wheel, and drives fewer total miles than many long-haul operators. But accidents involving this class of drivers occur more frequently than accidents involving long-haul drivers. The biennial medical examination provides a minimal check of the physical condition of the individuals operating these vehicles, which, though often referred to as ''light- to medium-sized trucks,'' are nonetheless capable of causing serious personal injury and property damage. For this reason, and because the FHWA is reviewing medical standards for all CMV operators outside of this Project, the agency believes that relief from this provision is not appropriate under this Project.

The FHWA believes that participation in this Project should be limited to those motor carriers which have exemplary safety histories. The Agency further believes that the best measure of a exemplary history would be an accident rate equal to or better than that of the top 25% of all motor carriers. The FHWA estimates this accident rate to be 1.6, or fewer, crashes per 1 million vehicle miles of travel, based on analysis of the nationwide police-reported crash experience of the types of vehicles that are expected to participate in this Project, and the FHWA's estimates of the miles traveled annually by such vehicles.

This crash rate is derived from the most recent three years of information for straight trucks included in the General Estimates System (GES) of the National Highway Traffic Safety Administration, and from mileage statistics found in the FHWA's ''1994 Highway Statistics,'' Publication No. FHWA–PL–95–042. The FHWA employed data on straight trucks from the GES to ensure that all types of police-reported crashes are taken into consideration. The FHWA believes that in order to definitively pinpoint those motor carriers with exemplary safety histories, all types of crashes, not just those which may be defined as preventable or recordable, must be taken into account. While some commenters were opposed to the rate and considered it an obstacle to participation in the Project, no commenter submitted data that would support a different rate.

The FHWA believes that many of the motor carriers which will volunteer for the Project will have operations in urban areas and may not accumulate vehicle miles of travel in excess of 1 million. The eligibility criterion for participation in the Project concerning the police-reported accident rate has been amended to clarify that motor carriers with less than a million miles over the past 36 months are eligible if they have less than 2 police-reported accidents in that period. The same standard applies to those motor carriers with which have been in business less than 36 months. When combined with the exclusion of those motor carriers with an ''Unsatisfactory'' Safety Rating, participation in the Project is effectively limited to motor carriers with exemplary safety histories.

Preemption

As mentioned earlier, in response to docket comments raising the issue of the relation between the requirements of this Project and the existing motor carrier regulations of the States, a supplemental notice was published on October 29, 1996 (61 FR 55835) seeking comment on the appropriate use of Federal preemption in this Project. Eight Comments to the supplemental notice were received. Five comments were from trade groups, one from a motor carrier, one from a union, and one from a safety advocacy group. Four were in favor of the exercise of Federal preemption, two were opposed to it, and two offered no opinion. No comments were received from States.

After review of the comments, the FHWA remains convinced that it has the authority to preempt the provisions of State laws which conflict with this Project. However, the FHWA also

remains convinced that it will be unnecessary to invoke this authority. For some time, through various Federal initiatives, foremost of which is the program of grants to States known as the Motor Carrier Safety Assistance Program (MCSAP), the States and the Federal government have been working together to achieve a high degree of uniformity between State and Federal enforcement of motor carrier regulatory compliance. At the same time, the high degree of communication between these parties has resulted in greater familiarity with the operations of one another. Thus a new Federal program, though it may necessitate corresponding changes in State activity, is more readily understood by State officials. The FHWA also believes that the Federal-State partnership is capable of absorbing the changes which this Project imposes upon the enforcement community.

Changes From Notice of August 28, 1996 (61 FR 44385)

The following are the significant changes to the proposal for the Project outlined in the notice and request for comments dated August 28, 1996:

1. Motor carriers participating in the Project will not be required to collect, or submit, vehicle maintenance records, as a condition of participation in the project.

2. Calculation and submission of the accident rate by each participating motor carrier will be required on a semi-annual basis, as opposed to quarterly. The requirement to submit a re-calculation of the revised rate following each accident has been retained.

3. The eligibility criterion for participation in the Project concerning the police-reported accident rate has been amended to clarify that motor carriers with less than a million miles over the past 36 months are eligible if they have less than 2 police-reported accidents in that period. The same standard applies to those motor carriers which have been in business less than 36 months.

4. An occasional use of a Project driver ''crossing over'' to operate CMVs with a GVWR in excess of 26,000 pounds is permissible; however, only his or her activities while operating CMVs having a GVWR between 10,001 and 26,000 pounds, inclusive, will be considered as part of the project data.

For the reasons set forth in the preamble, the FHWA hereby presents the following as the final determination of the design of the Motor Carrier Regulatory Relief and Safety Demonstration Project. The FHWA will grant to eligible motor carriers, for the term of the Project only, exemption from those requirements of the FMCSRs outlined under the caption ''Project Exemptions.'' The exemptions will only apply to the eligible drivers identified by the motor carrier. In order to participate in the Project, a motor carrier will have to meet the requirements outlined under the caption ''Criteria for Admission To The Project,'' and also must submit the appropriate documentation outlined under the caption ''Applying For The Project.'' Once admitted to the Project, each participating motor carrier agrees to honor the reporting and submission requirements outlined under the caption ''The Agreement.''

The FHWA will evaluate the Project data throughout the Project, with particular focus upon FHWA's regulatory reinvention and zero-base initiatives. In addition, at the conclusion of the Project, the FHWA, in accordance with the NHS Act, will use this data to conduct a zero-base review of the need for, and the costs and benefits of, all of the FMCSRs.

Project Exemptions

Qualified motor carriers will be exempt from certain requirements of the FMCSRs while participating in the Project. All motor carriers participating in the Project will be exempt from the same regulations; motor carriers may not pick and choose the regulations from which they wish to be exempt.

The FHWA, while granting these exemptions to qualified, exemplary motor carriers, has established certain mechanisms to assist the agency in monitoring the level of safety of these motor carriers. These mechanisms are more fully explained later in this notice. Briefly, they are:

(1) Each project motor carrier must establish, and submit to the agency, a Safety Control Plan which details the steps it intends to take during the Project to ensure that it maintains or improves the level of operating safety which it experienced prior to the Project,

(2) Project motor carriers must advise the FHWA within ten business days of the occurrence of any police-reported accidents involving Project drivers. At the same time the Project motor carrier must submit a re-calculation of its ratio of accidents to vehicle miles, and if it is greater than the Project standard (1.6), the motor carrier will be subject to removal from the Project, and

(3) the FHWA will monitor the safety performance of Project motor carriers, including random checks of various state and Federal databases.

Project motor carriers, and their eligible drivers, will, with regard to the operation in interstate commerce of CMVs with a gross vehicle weight rating (GVWR) between 10,001 and 26,000 pounds, inclusive, be exempt from the following requirements of the FMCSRs:

Driver Qualifications

Newly-hired drivers are not required to prepare, or furnish to the employing motor carrier, a list of violations of motor vehicle laws, or a certificate in lieu thereof, in accordance with 49 CFR 391.11(b)(8). (However, motor carriers are still required to obtain an official state driving record as required by 49 CFR 391.23). Drivers are also not required to successfully complete a Driver's Road Test, or furnish an Application For Employment, in accordance with 49 CFR 391.11(b)(10) and 391.11(b)(11). In addition, motor carriers do not have to maintain complete Driver Qualification Files on each driver in accordance with 49 CFR 391.51.

Driver Hours-Of-Service

Project drivers are not required to comply with record of duty status regulations, whether this entails maintenance of a logbook in accordance with 49 CFR 395.8, use of a timecard in accordance with 49 CFR 395.1(e), or the use of an interactive automatic on-board recording device in accordance with 49 CFR 395.15. However, Project motor carriers and drivers must observe the provisions governing maximum driving time, and the use of ill or fatigued operators in accordance with 49 CFR 395.3 and 392.3. Additionally, project motor carriers and their drivers do not forfeit any other exemptions available under FHWA regulations.

CMV Inspections

While participating in the Project, motor carriers are exempt from those requirements pertaining to CMV inspection records, and their retention in accordance with 49 CFR 396.3 (b) and (c). Exemption is also granted from the regulations pertaining to driver vehicle inspection reports and the driver vehicle inspection, 49 CFR 396.11 and 396.13 (b) and (c). In addition, driveaway-towaway inspections are not required of Project motor carriers or their drivers, nor are periodic inspections and periodic inspection reports, 49 CFR 396.15, 396.17 and 396.21. However, motor carriers are not relieved of their responsibility to inspect, repair and maintain their motor vehicles in accordance with 49 CFR 396.3(a). Furthermore, the Project driver and CMVs are subject to safety inspection at roadside locations.

Accident Information

Project motor carriers are exempt from the requirement that they maintain an accident register in accordance with 49 CFR 390.15 (b)(1) and (b)(2).

Criteria for Admission to the Project

Each motor carrier applying for admission to the Project must satisfy the following criteria:

Criterion 1: The motor carrier operates in interstate commerce.

Criterion 2: The motor carrier operates CMVs having a GVWR between 10,001 and 26,000 pounds, inclusive. However, CMVs designed to transport more than 15 passengers (including the driver), or used in transporting hazardous materials in placardable quantities, as defined in regulations issued by the Secretary of Transportation under the Hazardous Materials Transportation Act (49 U.S.C. 5101, *et seq.*), are not eligible to participate in this Project.

Criterion 3: The motor carrier does not currently have a Safety Fitness Rating of ''Unsatisfactory'' issued by the FHWA. Motor carriers who have not received a safety rating issued by the FHWA are eligible for this Project.

Criterion 4: For CMVs eligible for this Project, the motor carrier has an accident rate equal to or less than 1.6 police-reported accidents per million vehicle miles traveled, averaged over the most recent 36 months. For example, a motor carrier which has experienced 4 police-reported accidents, and 3 million vehicle miles traveled, by eligible CMVs, over the most recent 36 months, would be eligible for the Project, based upon the following calculation:

4 divided by 3 equals 1.33, which is less than 1.6. This calculation is to be based solely on the accidents and mileage of those CMVs which have a GVWR between 10,001 and 26,000 pounds, inclusive. In addition, the term ''accident'' referenced in 390.5 is not applicable to this calculation; a ''police-reported accident'' is any accident which results in the filing of an official report by a Federal, State, local or tribal law enforcement agency. Motor carriers with less than one million vehicle miles traveled in the most recent 36 months, are eligible for the Project if they have not more than 1 police-reported accidents in that period of time. Two or more police-reported accidents involving this type of motor carrier will result in ineligibility for this Project.

Criterion 5: The motor carrier is active on a year-round basis. ''Seasonal'' motor carriers are not eligible for this Project.

Criterion 6: The drivers submitted by the motor carrier for participation in the Project have not been convicted, in the past three years, of:

1. An offense that ''directly arose out of'' a fatal traffic accident;
2. Driving a CMV while under the influence of alcohol, including:
(a) Driving a CMV while the person's alcohol concentration is 0.04 percent or more,
(b) Driving under the influence of alcohol, as prescribed by State law, and
(c) Refusal to undergo testing for alcohol or controlled substances as required by any State or jurisdiction,
3. Driving a CMV while under the influence of a controlled substance;
4. Leaving the scene of an accident involving a CMV; or
5. A felony involving the use of a CMV, including the use of a CMV in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance.

Criterion 7: The motor carrier has a written Safety Control Plan for this Project. This plan must, in some form, clearly detail the measures which the motor carrier will undertake to ensure that the current level of safety is not compromised by the operation of the Project exemptions. This document may entail no more than submitting pertinent portions of a company's current Operating Plan or similar document. An outline for the creation of this document is also available from the FHWA upon request. In its application, the motor carrier will agree to abide by its Safety Control Plan.

Applying for the Project

In order to be considered for the Project, motor carriers must, within 180 days of the publication of this Notice of Final Determination, submit, in writing, to the FHWA, the following:

(1) A completed Motor Carrier Identification Report (MCS–150), which will provide updated information about the overall operation of the motor carrier,

(2) The following certification, duly executed by the Chief Operating Officer of the motor carrier:

I certify that (Name of motor carrier) operates CMVs having a GVWR between 10,001 and 26,000 pounds, inclusive, in interstate commerce, on a year-round basis, and is not rated ''Unsatisfactory'' by the FHWA. I certify that the company has approved the attached Safety Control Plan and will employ these controls throughout the Project. I certify that the motor carrier EITHER:

has an accident rate equal to or less than 1.6 police-reported accidents per million vehicle miles traveled (VMT), averaged over the most recent 36 months, based upon _____ police-report accidents and _____ vehicle miles traveled, by CMVs having a GVWR between 10,001 and 26,000 pounds, inclusive, OR has _____ actual VMT (less than one million) over the most recent 36 months and has experienced _____ (less than 2) police-reported accidents involving subject vehicles over that period of time.

I hereby submit a roster of _____ company drivers for participation in the Project. The roster includes driver names, license numbers and State of licensure, and dates of employment. I certify that each of these drivers is eligible to participate in the Project, that each operates CMVs having a GVWR between 10,001 and 26,000 pounds, inclusive, and that I have independently verified that the driving record of each does not include any convictions within the past 3 years of any of the disqualifying offenses enumerated in the Project criteria. I have read and agree to be bound by the requirements for notification and submission of information to the FHWA outlined in the section entitled ''The Agreement'' in the notice of final determination of this project.

_____
Signature

_____
Name

_____
Title

_____
Name of Motor Carrier

(3) A Safety Control Plan.

(4) A Driver Roster consisting of driver names, driver license numbers and state of licensure, and dates of employment. This will enable the FHWA to advise enforcement officers of the identity of Project drivers and to monitor their driving performance.

Note: The motor carrier applicant must submit the names of ALL eligible drivers for participation in the Project.

However, the FHWA is mindful of the fact that some motor carriers with larger operations may desire to volunteer a particular terminal, or a particular geographic region, or State, for this Project. The FHWA anticipates no difficulty in affording motor carriers flexibility with this form of selection for participation; however, the FHWA will carefully scrutinize any suggested ''subunits'' to be certain that they advance the congressional mandate, particularly the requirement that this Project examine a broad cross-section of the motor carrier industry. All of the items above should be assembled and submitted to: Department of Transportation, Federal Highway

Administration, 10–26 Safety Demonstration Project, 400 Seventh Street S.W., Washington, Washington, D.C. 20590–0001.

The Agreement

If the FHWA finds that a motor carrier applicant is qualified for admission to the Project, it will by letter admit the motor carrier to the Project. A copy of this letter should be made available by the motor carrier to each Project driver to serve as the credential of his/her participation in the Project.

By agreement, Project motor carriers promise to do the following at the times indicated:

(1) Within 10 business days following the occurrence of a police-reported accident involving a Project driver, the motor carrier must submit details of that accident sufficient to enable the FHWA to locate the corresponding police accident report. Normally it will be sufficient to provide the date and physical location of the accident, the vehicle number, and the driver name and license number. If the FHWA needs nonconfidential insurance-related information, it will so advise the motor carrier.

Note: This information must be accompanied by a revised calculation of police-reported accidents per million vehicle miles traveled, indicating the figures employed to make the calculation.

The motor carrier will be subject to removal from the Project (see below) should this rate exceed 1.6 police-reported accidents per million VMT for the most recent 36 month period (or, in the case of Project motor carriers with less than a million vehicle miles traveled in the most recent 36 months, if this is the second or greater accident in the most recent 36 months).

(2) Immediately following the addition of a new driver eligible for the Project, the motor carrier must submit to the FHWA an update to the roster of Project drivers, including the name, driver's license number, and date of employment of all drivers.

(3) Immediately, when a Project driver ceases to be employed by the motor carrier, the motor carrier must submit the driver's name and license number to the FHWA.

(4) Within 10 business days, the motor carrier must notify the FHWA when the motor carrier is sold, goes out of business, changes its name, ceases to operate, ceases to operate in interstate commerce, ceases to operate CMVs with GVWRs between 10,001 and 26,000 pounds, or ceases to conduct operations on a year-round basis.

(5) Within 10 business days, the motor carrier must notify the FHWA when the motor carrier chooses to amend its Safety Control Plan, or is unable, for any reason, to carry out the terms of the Safety Control Plan which it developed for this Project.

(6) Semi-annually, Project motor carriers must provide the FHWA with a current calculation of police-reported accidents per million vehicle miles traveled for the preceding 36 months, and indicate the figures employed to arrive at the calculation of this rate. The first calculation must be submitted upon the sixth-month anniversary of the date of admission to the Project. Subsequent calculations will be due in intervals of six months thereafter.

Removal From the Project

The FHWA does not anticipate that any motor carrier which has satisfied the stringent admission criteria of this Project will experience any deterioration of its safety record. However, should this occur, the FHWA will, consistent with its duty under the NHS Act, take all steps necessary to protect the public interest, as well as the integrity of the Project. Participation in this Project is voluntary, and the FHWA retains the right to revoke a motor carrier's participation in the Project if its safety performance poses a threat to highway safety. Participating motor carriers are not exempt from roadside inspections, compliance reviews or enforcement actions pertaining to the remaining regulations from which they are not exempt, or on those portions of their operations (such as those involving CMVs with a GVWR in excess of 26,000 pounds) which are not a part of the Project. Also, Project drivers who pose a threat to highway safety will, at a minimum, be subject to immediate revocation of their privilege to participate in the Project.

If the FHWA finds that the highway operations of a Project motor carrier have placed the safety of the public in jeopardy, the agency will remove the motor carrier from the Project. In addition, at such time as the three-year police-reported accident rate of a Project motor carrier exceeds 1.6 per million VMT for the most recent 36 month period, the motor carrier will be subject to disqualification. Additionally, in the case of Project motor carriers with less than a million vehicle miles traveled in the most recent 36 months, the agency will disqualify the Project motor carrier if this is the second, or greater, accident in the most recent 36 (or less) months.

The FHWA will also immediately remove from the Project any driver convicted of any of the offenses enumerated under Criterion 6, *Admission To the Project.* Such convictions will not necessarily result in the removal from the Project of the motor carrier which employs the driver, but may result in more intensive scrutiny of the operations of that Project motor carrier.

The Final Evaluation

At the conclusion of the Project, the FHWA will conduct an evaluation of the Project. The principal objective of the evaluation is to provide input to the Agency's ongoing zero-base review of the need for, and the cost and benefits of, the FMCSRs as they apply to interstate motor carriers operating CMVs in the 10,001 to 26,000 pound GVWR class.

The evaluation will focus upon operational safety by comparing the collective experience of Project motor carriers and drivers during the Project with that prior to the Project. The evaluation will also compare the collective experience of Project motor carriers with the experience of motor carriers not participating in the Project. These comparisons will be accomplished through the use of motor carrier performance data obtained from Federal and State information systems as well as project data reported to the FHWA by participating motor carriers.

Paperwork Reduction Act of 1995

The voluntary participants in this program must comply with information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Persons are not required to respond to a collection of information unless it displays a valid OMB control number. The information collections requirements related to this program have been approved through emergency processing by the OMB until August 31, 1997, and assigned OMB No. 2125–0575.

The August 28, 1996, notice provided a 60-day comment period for the information collections requirements related to this program. Discussion of these comments including the FHWA's response is included in the preamble under the heading ''Changes from Notice of August 28, 1996.'' Prior to the expiration date of the information collection, the FHWA intends to follow the normal clearance procedures to request the OMB to extend its approval for three years. The comments will be considered by the FHWA in its request to the OMB for an extension.

(49 U.S.C. 31136 and 31141; 49 CFR 1.48)

Issued on: June 2, 1997.

Jane F. Garvey,

Acting Administrator.

[FR Doc. 97–15073 Filed 6–9–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSAC–96–1, Notice No. 5]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Railroad Safety Advisory Committee (''RSAC'') meeting.

SUMMARY: As required by Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), and 41 C.F.R. 101–6.1015(b), the Federal Railroad Administration (FRA) gives notice of a meeting of the Railroad Safety Advisory Committee (''RSAC''). The meeting is designed to accomplish several things: (1) the RSAC's receipt of status reports, containing progress information, from the Power Brake working group (to revise the power brake regulations contained in 49 CFR part 232), the Locomotive Engineer Certification working group (to revise the locomotive engineer certification regulations contained in 49 CFR part 240), and the Tourist and Historic Railroads working group's Steam Standards task force (to revise the steam locomotive inspection and testing standards contained in 49 CFR part 230); (2) the agency's tasking of the RSAC with the development of Locomotive Crew Safety standards (crashworthiness and working conditions); (3) the tasking of the RSAC with the development of Locomotive Event Recorder accident survivability standards; (4) the agency's engagement in exploratory discussions with the RSAC regarding positive train control; (5) the address of various issues relating to recent FRA regulatory actions (Accident/Incident Reporting and Passenger Safety); (6) a general briefing and discussion relating to other regulatory and related matters before the agency; and (7) miscellaneous administrative matters.

DATES: The meeting of the RSAC is scheduled to commence at 9:30 a.m. and conclude at 4:00 p.m. on Tuesday, June 24.

ADDRESSES: The meeting of the RSAC will be held at the BWI Airport Marriott, 1743 West Nursery Road, Baltimore, Maryland. The meeting is open to the public on a first-come, first-served basis and is accessible to individuals with disabilities. Sign language interpreters will be available for individuals with hearing impediments.

FOR FURTHER INFORMATION CONTACT: Vicky McCully, FRA, 400 7th Street, S.W. Washington, D.C. 20590, (202) 632–3330, Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 400 7th Street, S.W., Washington, D.C. 20590, (202) 632–3309, or Lisa Levine, Office of Chief Counsel, FRA, 400 7th Street, S.W., Washington, D.C. 20590, (202) 632–3189.

SUPPLEMENTAL INFORMATION:.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), FRA is giving notice of a meeting of the Railroad Safety Advisory Committee (''RSAC''). The meeting is scheduled to begin at 9:30 a.m. and conclude at 4:00 p.m. on Tuesday, June 24, 1997. The meeting will be held at the BWI Airport Marriott, 1743 West Nursery Road, Baltimore, Maryland. All times noted are Eastern Standard Time.

RSAC was established to provide advice and recommendations to the FRA on railroad safety matters. The Committee consists of 48 individual representatives, drawn from among 27 organizations representing various rail industry perspectives, and 2 associate non-voting representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico.

During this meeting, the RSAC will be receiving status reports, containing progress information, from the Power Brake working group (to revise the power brake regulations contained in 49 CFR part 232), the Locomotive Engineer Certification working group (to revise the locomotive engineer certification regulations contained in 49 CFR part 240), and the Tourist and Historic Railroads working group's Steam Standards task force (to revise the steam locomotive inspection and testing standards contained in 49 CFR par 230). The RSAC will also be receiving two new tasks: (1) the development of Locomotive Crew Safety standards (crashworthiness and working conditions); and (2) the development of Event Recorder Data Survivability standards.

Finally, the agency will engage in exploratory discussions with the RSAC regarding positive train control, address issues relating to recent FRA regulatory actions (Accident/Incident Reporting, Passenger Safety), discuss other regulatory and related actions before the agency, and address several administrative matters before the RSAC.

Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 F.R. 9740) for more information about the RSAC.

Issued in Washington, D.C. on June 5, 1997.

Bruce Fine,

Associate Administrator for Safety.

[FR Doc. 97–15161 Filed 6–9–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–97–2581 (PDA–16(R))]

Application by New York Propane Gas Association for a Preemption Determination as to Nassau County, New York, Ordinance on Transportation of Liquefied Petroleum Gases

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: The New York Propane Gas Association (NYPGA) has applied for an administrative determination whether Federal hazardous materials transportation law preempts certain sections of a Nassau County, New York, ordinance that require a permit for any motor vehicle used to deliver liquefied petroleum gas (LPG) within Nassau County and a ''certificate of fitness'' for any person who delivers LPG.

DATES: Comments received on or before July 25, 1997, and rebuttal comments received on or before September 8, 1997, will be considered before an administrative ruling is issued by RSPA's Associate Administrator for Hazardous Materials Safety. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and all comments received may be reviewed in the Dockets Office, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. Comments may be submitted to the Dockets Office at the above address. Three copies of each written comment should be submitted. Comments may also be submitted by E-mail to ''rspa.counsel@rspa.dot.gov.'' In every case, the comment should refer to the Docket Number set forth above.

A copy of each comment must also be sent to (1) Mr. Richard Brescia, New York Capitol Consultants, Inc., 120 Washington Avenue, Albany, New York 12210 (who submitted the application on behalf of NYPGA), and (2) The Honorable Thomas S. Gulotta, County Executive, Nassau County, 1 West Street, Mineola, New York, 11501. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: ''I hereby certify that copies of this comment have been sent to Messrs. Brescia and Gulotta at the addresses specified in the **Federal Register.**'')

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001 (Tel. No. 202–366–4400).

SUPPLEMENTARY INFORMATION:

I. NYPGA's Application for a Preemption Determination

NYPGA has applied for a determination that Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts Sections 6.7 (A) and (B) and Section 6.8 of Nassau County, New York, Ordinance No. 344–1979, concerning Fire Department permits and ''certificates of fitness'' for the delivery of LPG within Nassau County. NYPGA challenges requirements of the Fire Department for issuance of these permits and certificates of fitness, including fees, inspections, and written and practical examinations.

A. Permit

Sections 6.7 (A) and (B) of Ordinance No. 344–1979 provide as follows:

A. No person, firm or corporation shall use or cause to be used, any motor vehicle, tank truck, tank semi-trailer, or tank truck trailer for the transportation of Liquefied Petroleum Gas, unless after complying with these regulations a permit to operate any such vehicle has been obtained from the Nassau County Fire Marshal. No permit shall be required under this section for any motor vehicle that is used for the transportation of Liquefied Petroleum Gas, not operated or registered by an authorized dealer, in containers not larger than ten (10) gallons water capacity each (approximately thirty-four (34) pounds propane capacity) with aggregate, water capacity of twenty-five gallons (approximately eighty-seven (87) pounds propane capacity) or when used in permanently installed containers on the vehicle as motor fuel. This section shall not apply to any motor vehicle, tank truck, tank semi-trailer or tank truck trailer traveling through Nassau County and making no deliveries within the County.

B. The permit shall be given full force and effect for a period of one (1) year.

NYPGA states that, in order to obtain a permit, the owner of a vehicle used to deliver LPG must (1) Pay a fee of $150, or $75 for renewal, and (2) have the vehicle inspected. According to NYPGA, inspections are conducted by appointment only on two days each month (the first and fourth Tuesdays). NYPGA also states that, when a permit is issued, a ''windshield sticker'' must be placed on the vehicle.

NYPGA asserts that the fee is ''inherently unfair'' and preempted by 49 U.S.C. 5125(g) which provides that ''a political subdivision * * * may impose a fee related to transporting hazardous materials only if the fee is fair and used for a purpose related to transporting hazardous material * * *'' NYPGA states that the inspection requirement is preempted by 49 U.S.C. 5125(a) as an ''obstacle'' to accomplishing RSPA's regulations, because the limited inspection times created delays in conflict with 49 CFR 177.853(a), which prohibits ''unnecessary delays'' in the transportation of hazardous materials. And NYPGA contends that the windshield sticker is a labeling requirement that is not substantively the same as RSPA's regulations and thus is preempted as a ''covered subject'' under 49 U.S.C. 5125(b).

B. Certificate of Fitness

Section 6.8(A) of Ordinance No. 344–1979 requires a ''Certificate of Fitness issued by the Fire Marshal,'' effective for a year and renewable, to be held by ''[a]ny person filling containers at locations where Liquefied Petroleum Gas is sold and/or transferred from one vessel to another * * *'' Section 6.8(I) of the ordinance further specifies that a certificate of fitness is required for any person who ''Fill[s] containers permanently located and installed outdoors with appurtenances for filling by a cargo vehicle at consumer sites,'' or ''Sell[s] Liquefied Petroleum Gas or transfer[s] Liquefied Petroleum Gas from one vessel into another.'' NYPGA states that this means that each driver of a vehicle used to deliver propane in Nassau County must hold a certificate of fitness.

Other subsections of Sec. 6.8 provide that an applicant for a certificate of fitness must complete ''forms provided by the Fire Marshal * * * accompanied by the applicable fee'' (Sec. 6.8(B)); must demonstrate proof of qualifications and physical competence (Sec. 6.8(C)); and must undergo an investigation that ''include[s] a written examination regarding the use, makeup and handling of Liquefied Petroleum Gas and * * * a practical test'' (Sec. 6.8(D)). According to Exhibits 8 and 9 to NYPGA's application, an applicant for a certificate of fitness must, among other requirements:

—Submit a notarized application form (Exhibit 7) accompanied by a $150 fee;
—Schedule an appointment for having photographs taken by the Fire Marshal's Office;
—Schedule an appointment for taking the written examination at the Fire Marshal's Office; and
—Arrange for the practical examination to be given at the applicant's place of employment.

NYPGA asserts that the certificate of fitness is a second driver's license required by Nassau County that is prohibited under the Federal Highway Administration's regulations concerning commercial driver's licenses (see 49 CFR 383.21(a)) and, accordingly, preempted under both the ''dual compliance'' and ''obstacle'' standards in 49 U.S.C. 5125(a). NYPGA further states that Nassau County's requirement for a certificate of fitness conflicts with 49 CFR 172.701 that allows a State, rather than a political subdivision, to impose more stringent training requirements on drivers who are domiciled within the State.

The text of NYPGA's application is set forth in Appendix A. The following attachments to NYPGA's application are not reproduced, but copies will be provided at no cost upon request to RSPA's Dockets Unit, located in Room 8421, 400 Seventh Street, SW., Washington, DC 20590–0001; telephone 202–366–4453:

1. Ordinance No. 344–1979.
2. Application for Motor Vehicle Transportation Permit.
3. Permit for Use of Motor Vehicle or Trailer to Transport LPG.
4. Windshield Sticker.
5. Affidavit of John DiBiasi, President, Star-Lite Propane Gas Corp.
6. Letter concerning renewal of permit.
7. Application for Certificate of Fitness.
8. Letter concerning renewal of Certificate of Fitness.
9. Information for Liquefied Petroleum Gas Certificate of Fitness.

II. Federal Preemption

The Hazardous Materials Transportation Act (HMTA) was enacted in 1975 to give the Department of Transportation greater authority ''to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce.''

Public Law 93–633 section 102, 88 Stat. 2156, amended by Public Law 103–272 and codified as revised in 49 U.S.C. 5101. The HMTA ''replace[d] a patchwork of state and federal laws and regulations * * * with a scheme of uniform, national regulations.'' *Southern Pac. Transp. Co.* v. *Public Serv. Comm'n,* 909 F.2d 352, 353 (9th Cir. 1980). On July 5, 1994, the HMTA was among the many Federal laws relating to transportation that were revised, codified and enacted ''without substantive change'' by Public Law 103–272, 108 Stat. 745. The Federal hazardous material transportation law is now found in 49 U.S.C. Chapter 51.

A statutory provision for Federal preemption was central to the HMTA. In 1974, the Senate Commerce Committee ''endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation.'' S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). More recently, a Federal Court of Appeals found that uniformity was the ''linchpin'' in the design of the HMTA, including the 1990 amendments which expanded the preemption provisions. *Colorado Pub. Util. Comm'n* v. *Harmon,* 951 F.2d 1571, 1575 (10th Cir. 1991). In 1990, Congress specifically found that:

(3) Many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,

(4) Because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(5) In order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable.

Pub. L.101–615 sec. 2, 104 Stat. 3244.

Following the 1990 amendments and the subsequent 1994 codification of the Federal hazardous material transportation law, in the absence of a waiver of preemption by DOT under 49 U.S.C. 5125(e), ''a requirement of a State, political subdivision of a State, or Indian tribe'' is explicitly preempted (unless it is authorized by another Federal law) if

(1) Complying with a requirement of the State, political subdivision or tribe and a requirement of this chapter or a regulation issued under this chapter is not possible; or

(2) The requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an obstacle to the accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

49 U.S.C. 5125(a). These two paragraphs set forth the ''dual compliance'' and ''obstacle'' criteria which RSPA had applied in issuing inconsistency rulings before 1990. While advisory in nature, these inconsistency rulings were ''an alternative to litigation for a determination of the relationship of Federal and State or local requirements'' and also a possible ''basis for an application * * * (for) a waiver of preemption.'' Inconsistency Ruling (IR) No. 2, Rhode Island Rules and Regulations Governing the Transportation of Liquefied Natural Gas and Liquefied Propane Gas, etc. 44 FR 75566, 76657 (Dec. 20, 1979). The dual compliance and obstacle criteria are based on U.S. Supreme Court decisions on preemption. *Hines* v. *Davidowitz,* 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul,* 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield, Inc.,* 435 U.S. 151 (1978).

In the 1990 amendments, Congress also confirmed that there is no room for differences from Federal requirements in certain key matters involving the transportation of hazardous material. As now codified, a non-Federal requirement ''about any of the following subjects, that is not substantively the same as a provision of this chapter or a regulation prescribed under this chapter,'' is preempted unless it is authorized by another Federal law or DOT grants a waiver of preemption:

(A) The designation, description, and classification of hazardous material.

(B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.

(D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material.

(E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

49 U.S.C. 5125(b)(1). RSPA has defined ''substantively the same'' to mean ''conforms in every significant respect to the Federal requirement. Editorial and other similar *de minimis* changes are permitted.'' 49 CFR 107.202(d).

Since 1990, Federal hazardous material transportation law has also limited the fees that a State, political subdivision, or Indian tribe may impose ''related to the transportation of hazardous material.'' These fees must be ''fair and used for a purpose related to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.'' 49 U.S.C. 5125(g)(1).

Under 49 U.S.C. 5125(d)(1), any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision or Indian tribe requirement is preempted. This administrative determination replaced RSPA's process for issuing inconsistency rulings. The Secretary of Transportation has delegated to RSPA the authority to make determinations of preemption, except for those concerning highway routing which have been delegated to FHWA. 49 CFR 1.53(b). Under RSPA's regulations, preemption determinations are issued by RSPA's Associate Administrator for Hazardous Materials Safety. 49 CFR 107.209(a).

Section 5125(d)(1) requires that notice of an application for a preemption determination must be published in the **Federal Register**. *Id.* Following the receipt and consideration of written comments, RSPA publishes its determination in the **Federal Register**. *See* 49 CFR 107.209(d). A short period of time is allowed for filing of petitions for reconsideration. 49 CFR 107.211. Any party to the proceeding may seek judicial review in a Federal district court. 49 U.S.C. 5125(f).

Preemption determinations do not address issues of preemption arising under the Commerce Clause of the Constitution or under statutes other than the Federal hazardous material transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law. A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statute. *Colorado Pub. Util. Comm'n* v. *Harmon,* above, 951 F.2d at 1581 n.10.

In making preemption determinations under 49 U.S.C. 5125(d), RSPA is guided by the principles and policy set forth in Executive Order No. 12,612, entitled ''Federalism'' (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other firm and

palpable evidence of Congressional intent to preempt, or the exercise of State authority directly conflicts with the exercise of Federal authority. Section 5125 contains express preemption provisions, which RSPA has implemented through its regulations.

III. Public Comment

All comments should be limited to the issue whether Federal hazardous material transportation law preempts the Nassau County LPG permit and certificate of fitness requirements in Section 6.7 (A) and (B) and Section 6.8, respectively. Comments should:

(1) Set forth in detail the manner in which these permit and certificate of fitness requirements are applied and enforced; and

(2) Specifically address the preemption criteria described in Part II, above (''dual compliance,'' ''obstacle,'' and ''covered subjects'').

Persons intending to comment should review the standards and procedures governing RSPA's consideration of applications for preemption determinations, set forth at 49 CFR 107.201–107.211.

Issued in Washington, DC, on June 3, 1997.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

Appendix A

Associate Administrator for Hazardous Materials Safety Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001.

Attention: Hazardous Materials Preemption Docket.

Political Subdivision Ordinance: County of Nassau, State of New York

The New York Propane Gas Association, a group consisting of refiners, wholesale suppliers, transporters and marketers supplying propane by vehicle to customers in Nassau County and other jurisdictions, applies for an administrative determination that Section 6.7 (A) and (B) and Section 6.8 of the Nassau County Fire Prevention Ordinance, Art III, Liquefied Petroleum Gases, Ordinance No. 344–1979, As Amended By Ordinance No. 415–82 are preempted by the Hazardous Materials Transportation Act (HMTA) (49 USC 5101, *et seq.*) and its regulations, 49 CFR, § 107.202: Standards for Determining Preemption.

Section 6.7 (A) and (B)

The subject Nassau County (NC) ordinance (hereinafter, the ordinance) at § 6.7(A) reads in part ''[no] person, firm or corporation shall use or cause to be used, any motor vehicle, tank truck, tank semi-trailer, or tank truck trailer for the transportation of Liquefied Petroleum Gas, unless after complying with these regulations a permit to operate any such vehicle has first been secured from the Nassau County Fire Marshall.'' The last sentence of § 6.7(A) limits the applicability of the permit requirement: ''[t]his section shall not apply to any motor vehicle, tank truck, tank semi trailer or tank truck trailer traveling through Nassau County and making no deliveries within the County.'' Section 6.7(B) sets the length of the permit at one year. (Exhibit #1)

Fees, Inspection and Labeling

A renewal fee of seventy-five dollars is required with the ''Application for Motor Vehicle Transportation Permit'' and by custom and practice, a vehicle inspection time and date is specified by the Fire Marshall as the only time and date on which an inspection will be conducted. New vehicle fees are $150.00. Upon application and satisfactory inspection, the Nassau County Fire Marshall issues a permit and windshield sticker reading ''Transportation Permit, Nassau County Fire Marshall'' with a permit number specific to that vehicle. (See attached two page application [exhibit #2], a permit, 2538, for NY plate #VR 2395 [exhibit #3] and photograph of windshield sticker #3126 [exhibit #4] of a vehicle owned by John DiBiasi, President, Star-Lite Propane Gas Corp., 111 So. 4th St., North Bayshore, N.Y. 11706, and described in attached affidavit, [exhibit #5]. The effect of § 6.7 of the ordinance is to impose fee, inspection and labeling requirements on propane vehicles, as therein defined, delivering to a sites within the County of Nassau (NC) regardless of the origin of the product or vehicle or the domicile of the driver. Based on previous rulings, we believe, these requirements for flat fees, specified limits on inspection hours and the display of a label on the vehicle as evidence of compliance with the ordinance are inconsistent with the HMTA and HMR. Accordingly, the petitioner seeks review and relief from the Research and Special Programs Administration (RSPA) under 49 USC 5125 and 49 CFR § 107.202.

Fees

The HMTA (5125[g]) provides that a ''political subdivision * * * may impose a fee related to transporting hazardous materials only if the fee is fair and used for a purpose related to transporting hazardous material * * *'', but the NC fee is inherently unfair by disproportionately taxing users who are differently situated: a one-time entrant to NC from any jurisdiction, would pay the same as a frequent entrant. Further, because under any different reading all jurisdictions would be able to impose such fees, the NC fee is an obstacle to transportation and is preempted if ''the requirement of the * * * political subdivision, * * * as applied or enforced, is an obstacle to accomplishing and carrying out this chapter or a regulation prescribed under this chapter.'' (49 USC 5125[a][2]). While the fees reach all carriers delivering to the NC, not just carriers domiciled within the county, any attempt to limit fees to in-county propane carriers would similarly run afoul of the obstacle test, since no two carriers are likely to be equally situated, i.e., same number of deliveries, same amount of product per drop, same risk of accidents, etc. And while any carrier could choose not to deliver propane to NC or any jurisdictions because of such fees, their existence make them obstacles to transportation and commerce and impermissible under the HMTA.

Inspections

The ordinance at § 6.7 requires that a vehicle, as defined, undergo an annual inspection by submitting an Application for Motor Vehicle Transportation Permit, (exhibit #2), paying $75.00 in advance, appearing with the vehicle at a point in NC where inspections are conducted by appointment only (see exhibit #6), and as a matter of practice, (see exhibit #5) only on the first and fourth Tuesday each month. A driver must accompany the vehicle making him and the vehicle unavailable for deliveries for two to three hours, minimum. These requirements have the effect of making a new vehicle which has met all state and federal requirements unusable until a NC inspection can be performed. A windshield sticker (exhibit #4) must be affixed to the vehicle which indicates a ''PERMIT FOR USE OF A MOTOR VEHICLE OR TRAILER TO TRANSPORT LIQUID PETROLEUM GAS'' (exhibit #3) has been issued to the owner. These requirements apply to any carrier seeking to deliver to points within NC, regardless of location of vehicle registrant or domicile of driver.

These requirements are in conflict with 49 CFR § 177.853(a) ''No unnecessary delay in movement of shipments. All shipments of hazardous material shall be transported without unnecessary delay, from and including the time of commencement of the loading of the cargo until its final discharge at destination.'' We believe the NC ordinance ''creates an obstacle to the accomplishment and execution of the Act or the regulations issued under the Act.'' (§ 107.202(b)(2).

An out-of-state carrier who attempted to deliver propane to a customer in NC would be barred if the ordinance were not preempted, for it would not be reasonable or possible to obtain a permit from NC without violating the ''unnecessary delay'' standard the HMTA mandates at 5125(a)(2). A less extreme example of a carrier in any in-state jurisdiction provides no protection for the ordinance from preemption under the ''obstacle test,'' since inspections are provided only by appointment at the office of the Fire Marshall and only on the first and fourth Tuesday of each month. For NC to argue that its inspections by appointment are verification of New York State roadside inspections of hazardous materials transport vehicles similarly should run afoul of the ''obstacle test,'' since roadside checks on previously inspected vehicles can be conducted with the least delay to transportation, a stated purpose of the Act. Because both the driver and vehicle are unavailable for long periods of time, the effect of the inspection is to cause unnecessary delay and should be preempted under 5125(a)(2).

It should not matter which class of propane carrier § 6.7 attempts to regulate since NC's requirements for non-federal registration and permitting forms and procedures are not ''substantively the same'' as federal

regulations and are therefore preempted under the ''dual compliance'' standard at § 5125(a)(1). In addition, the applicability of the NC fee, inspection and labeling requirements exclusively to propane, or even to other hazardous materials, runs contrary to section 5125(b), which reserves ''the designation, description, and classification of hazardous materials'' to US DOT. By singling out propane for special or exclusive treatment, NC has impinged on the jurisdiction of the US DOT, reserved to it by Congress.

Labeling

NC uses permits to meet its goal of vehicle registration and the display of a numbered permit ''on exterior of vehicle'' as evidence of compliance. (Exhibit #4). Information provided by NC Fire Marshall directs vehicle owners to display the registration permit number on the windshield of vehicles. While this is merely a consequence of the registration requirement for which preemption is sought, it is a separate labeling requirement of a hazardous material and should be preempted, per se, as a covered subject under section 5125 and 49 CFR 107.202(a)(2).

Section 6.8 (A) Through (L)

Section 6.8(A) requires a certificate of fitness issued by the NC Fire Marshall be secured by ''[a]ny person filling containers at a location where Liquefied Petroleum Gas is sold *and/or transferred from one vessel into another.*'' [Emphasis added]. After application (§ 6.8[B]), proof of qualifications (§ 6.8[C]), investigation and examination (§ 6.8[D]), etc., § 6.8(I) ''Certificate of Fitness Issued'' requires said certificate ''of any person performing the following activities: 2. [s]elling Liquefied Petroleum Gas or Transferring Liquefied Petroleum Gas from one vessel to another.'' Section 6.8(K), 1 through 6 specifies the contents of the certificate of fitness and section (L) the requirement of the holder to display or produce same upon request ''to anyone for whom he seeks to render his services or to the Fire Marshall.''

By custom and practice no driver of a vehicle used to deliver propane is exempt from these requirements, since he necessarily engages in ''transferring Liquefied Petroleum Gas from one vessel to another.'' The two activities are inextricably linked. Under the NC ordinance, drivers of propane vehicles without certificates of fitness would be barred from delivering propane, since section 6.0 (C) states ''[t]he provisions of this Article *shall apply to all uses of Liquefied Petroleum Gas* and installation of all apparatus, piping, and equipment pertinent to systems for such uses.'' [Emphasis added]. (See exhibit [#1]). Even more compelling, NC's ''Application for Certificate of Fitness,'' (exhibit #7) specifying categories of licenses including, among others, ''Flammable Gas Bulk Transport (1)'' and ''Flammable/Compressed Gas Transport/Handling (3),'' clearly demonstrates the intent and purpose of the ordinance to license hazardous materials transport drivers delivering to points within NC no matter where domiciled.

Certificate of Fitness

This requirement of the ordinance has several discreet steps the applicants must take in order to secure certification. The application (exhibit #7), the NC letter to Certificate of Fitness holders (exhibit #8) and the Information for Liquefied Petroleum Gas Certificate of Fitness instructions (exhibit #9) clearly represent a protocol designed to regulate the qualifications of hazardous material transportation drivers: applicant must, ''be employed by company with valid permits, (i.e., meet the requirements of section 6.7); must possess valid medical certification; must file a complete notarized application; must pass written examination by N.C.F.D; must pass practical examination by N.C.F.D.'' Further, ''[a]ll applications must be accompanied by: two (2) color (Passport Type) photos of applicant; one-hundred and fifty dollars ($150) check, etc.,'' and all tests are by appointment only. Recent telephonic communications from NC to applicants instruct that photographs must now be taken at NC offices and only by appointment. (Exhibit #5) Any driver entering or delivering propane within NC, no matter where domiciled, needs such certification, as do, presumably, domiciled drivers, though section 6.8, unlike section 6.7, makes no distinction.

The HMTA and its regulations require that hazardous materials transportation employees receive training, and allow that ''a State may impose more stringent training requirements only if those requirements—(a) [d]o not conflict with the training requirements in this subpart and in 177 of this subchapter; and (b) [a]pply only to drivers domiciled in that state.'' (49 CFR 172.701). NC is a political subdivision of New York State and has no jurisdiction over licensing requirements, and even state jurisdiction over such requirements applies only to domiciled drivers, and only if those requirements are imposed under New York State Department of Motor Vehicle law.

The NC ordinance certification requirement is preempted since it cannot meet the ''dual compliance'' and ''obstacle'' standards because ''[t]o the extent the HMRs recognize the CDL with its hazardous materials and/or cargo tank endorsements as 'certification' of federal training requirements, a driver cannot comply with the requirement that 'no person who operates a commercial motor vehicle * * * have more than one drivers license' '' (See FR/Vol. 58, No. 95 / Wednesday, May 19, 1993). Since persons engaged in the transportation and off-loading of propane within the County of Nassau are required to demonstrate evidence of certification to the Fire Marshall, the requirement is duplicative of the CDL.

The **Federal Register** of May 19, 1993 makes it clear that proliferation of such training and licensing requirements by other jurisdictions (states) would make it ''burdensome for non-domiciled drivers who must preregister for tests at specified times and locations * * *''. By parity of reasoning, counties or other political subdivisions would cause ''obstacles'' to transportation that are at least as great, if not greater.

For the foregoing reasons, petitioner seeks preemption of those portions of the Nassau County Fire Prevention ordinance as described.

Submitted by: Richard Brescia, New York Capitol Consultants, 120 Washington Ave., Albany, New York 12210.

For Petitioner: New York Propane Gas Association, P.O. Box 5006, Albany, New York 12205.

[FR Doc. 97–15074 Filed 6–9–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–175–86]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, EE–175–86 (TD 8357), Certain Cash or Deferred Arrangements and Employee and Matching Contributions Under Employee Plans (§§ 1.401(k)–1, 1.401(m)–1, and 54.4979–1).

DATES: Written comments should be received on or before August 11, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Certain Cash or Deferred Arrangements and Employee and Matching Contributions Under Employee Plans.

OMB Number: 1545–1069.

Regulation Project Number: EE–175–86.

Abstract: This regulation provides the public with the guidance needed to

comply with sections 401(k), 401(m), and 4979 of the Internal Revenue Code. The regulation affects sponsors of plans that contain cash or deferred arrangements or employee or matching contributions, and employees who are entitled to make elections under these plans.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, farms, and state, local, or tribal governments.

Estimated Number of Respondents: 355,500.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 1,060,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including Whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 4, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–15157 Filed 6–9–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI–255–82]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking and temporary regulations, FI–255-82 (TD 7852), Registration Requirements With Respect to Debt Obligations (§ 1.149–1(c)(4)).

DATES: Written comments should be received on or before August 11, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Registration Requirements With Respect to Debt. Obligations.

OMB Number: 1545–0945.

Regulation Project Number: FI–255–82.

Abstract: These regulations require an issuer of a registration-required obligation and any person holding the obligation as a nominee or custodian on behalf of another to maintain ownership records in a manner which will permit examination by the Internal Revenue Service in connection with enforcement of the Internal Revenue laws.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations and, state, local or tribal governments.

Estimated Number of Recordkeepers: 50,000.

Estimated Time Per Recordkeeper: 1 hour.

Estimated Total Annual Burden Hours: 50,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

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

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 4, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–15158 Filed 6–9–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97–34

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and

other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 97–34, Information Reporting on Transactions with Foreign Trusts and on Large Foreign Gifts.

DATES: Written comments should be received on or before August 11, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Information Reporting on Transactions with Foreign Trusts and on Large Foreign Gifts.

OMB Number: 1545–1538.

Notice Number: Notice 97–34.

Abstract: Notice 97–34 provides guidance on new foreign trust and foreign gift information reporting provisions contained in the Small Business Job Protection Act.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 10,500.

Estimated Time Per Respondent: 1 hour, 3 minutes.

Estimated Total Annual Burden Hours: 11,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 3, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–15159 Filed 6–9–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR–185–84]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, LR–185–84 (TD 8086), Election of $10 Million Limitation on Exempt Small Issues of Industrial Development Bonds; Supplemental Capital Expenditure Statements (§ 1.103–10(b)(2)(vi)).

DATES: Written comments should be received on or before August 11, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Election of $10 Million Limitation on Exempt Small Issues of Industrial Development Bonds; Supplemental Capital Expenditure Statements.

OMB Number: 1545–0940.

Regulation Project Number: LR–185–84.

Abstract: This regulation liberalizes the procedure by which a state or local government issuer of an exempt small issue of tax-exempt bonds elects the $10 million limitation upon the size of such issue and deletes the requirement to file certain supplemental capital expenditure statements.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal governments.

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

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

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the

collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 4, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–15160 Filed 6–9–97; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register

Vol. 62, No. 111

Tuesday, June 10, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[T.D. 8716]

RIN 1545–AV05

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2590

RIN 1210–AA54

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

45 CFR Subtitle A, Parts 144 and 146

RIN 0938–AI08

Interim Rules for Health Insurance Portability for Group Health Plans

Correction

[Note: For the companion document see Part IV of today's issue.]

In interim rule document 97–8275, beginning on page 16894, in the issue of Tuesday, April 8, 1997, make the following corrections:

1. On page 16894, in the second column, in the second line, ''June 7, 1997'' should read '' June 1, 1997''.

2. On page 16895, in the second column, in the eighth full paragraph, in the fifth line, ''credible'' should read ''creditable''.

3. On page 16899, in the third column, in footnote 12, in the first line, ''for participation'' should read ''for a participant''.

4. On page 16907, in the first column, in the second paragraph, in the second line, ''or'' should read ''of''.

5. On page 16909, in the second column, in the seventh line, ''lock'' is added immediately following ''job'' and before ''benefit''.

6. On page 16909, in the third column, in the second full paragraph, in the ninth line, ''medial'' should read ''medical''.

7. On page 16916, in the second column, in the eighth line, ''or'' should read ''of''.

8. On page 16917, in the second column, in the first full paragraph, in the twelfth line, ''notices'' is added immediately following ''issuing'' and before ''to''.

9. On page 16924, the table of Estimates for Certifications appearing at the bottom of the page is corrected to read as follows:

ESTIMATES FOR CERTIFICATIONS

Year	Total respondents	Total responses	Average time per response (range)	Burden hours (range)	Cost (range)
1997	1,400	32,698,845	3.32 min	1,809,119 hrs	$36,366,106
			6.34 min	3,456,036 hrs	53,434,628
1998	1,400	28,072,131	5.19 min	2,242,866 hrs	40,928,939
			12.23 min	5,720,198 hrs	74,859,759
1999	1,400	28,055,984	5.37 min	2,510,461 hrs	42,124,907
			12.41 min	5,804,408 hrs	75,760,119

NOTE: The costs above include the costs associated with issuers acting as service providers for group health plans. The costs are also included in the Department of Labor's estimates.

§ 54.9801–4T [Corrected]

10. On page 16931, in the second column, in § 54.9801–4T(a)(2), in the third line, ''expected'' should read ''excepted''.

11. On page 16932, in the first column, in § 54.9801–4T(b)(2)(iv), in paragraph (ii) of *Example 6*, in the fourth line, ''62-break'' should read ''62-day break''.

§ 54.9801–5T [Corrected]

12. On page 16935, in the second column, in § 54.9801–5T(a)(6), in the first line ''*specification*'' should read ''*certification*''.

13. On page 16935, in the third column, in § 54.9801–5T(b)(2), in the ninth line, ''needs to order'' should read ''needs in order''.

§ 54.9801–6T [Corrected]

14. On page 16937, in the second column, in § 54.9801–6T(a)(3), in the eighth line ''and '' is added immediately following ''plan''.

§ 54.9804–1T [Corrected]

15. On page 16939, in the second column, in § 54.9804–1T(a), in the first line, ''for certain'' is added immediately following ''exception'' and before ''small''.

16. On page 16939, in the third column, in § 54.9804–1T(b)(4), in the third line, ''Covered'' should read ''Coverage''.

§ 2590.701–3 [Corrected]

17. On page 16943, in the first column, in § 2590.701–3(a)(1)(i)(C), in paragraph (ii) of *Example 2*, in the first line, ''The rider is'' should read ''the rider is a''.

18. On page 16943, in the first column, in § 2590.701–3(a)(1)(i)(C), in paragraph (ii) of *Example 4*, in the first line ''leg is fracture'' should read ''leg fracture''.

19. On page 16943, in the third column, in § 2590.701–3(a)(2)(ii)(B), in paragraph (ii) of the example, in the eleventh line, ''in'' is removed.

§ 2590.701–5 [Corrected]

20. On page 16948, in the third column, in § 2590.701–5(a)(5)(iii), in the first line, ''Transaction'' should read ''Transition''.

21. On page 16949, in the first column, in § 2590.701–5(a)(6)(i), in the 19th line, ''covering'' should read ''coverage''.

22. On page 16949, in the second column, in § 2590.701–5(b)(2), in the second line ''Information to be disclosed.'' is removed.

§ 2590.731 [Corrected]

23. On page 16953, in the third column, in § 2590.731(d)(1), in the eighth line, ''an'' should read ''than''.

§ 2590.732 [Corrected]

24. On page 16954, in the first column, in § 2590.732(b)(1), in the first line, ''(92)'' should read ''(2)''.

§ 144.103 [Corrected]

25. On page 16958, in the first column, the definition of *Preexisting condition exclusion*, in the ninth line, ''inclusion'' should read ''exclusion''.

§ 146.111 [Corrected]

26. On page 16959, in the first column, in § 146.111, the second paragraph (a)(1), should be designated as (a)(1)(i).

§ 146.113 [Corrected]

27. On page 16961, in the third column, in § 146.113(b)(2)(v)(B), in the first *Example*, in the first line, the designation ''(1)'' should read ''(i)''.

§ 146.145 [Corrected]

28. On page 16971, in the second column, in § 146.145(b)(4)(i), in the eighth line, ''expected'' should read ''excepted''.

§ 146.152 [Corrected]

29. On page 16972, in the second column, in § 146.152(b)(1), in the second line, ''as'' should read ''has''.

BILLING CODE 1505-01-D

federal register

Tuesday
June 10, 1997

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 107 and 108
Falsification of Security Records; Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 107 and 108

[Docket No. 28745; Amendment Nos. 107–9 and 108–14]

RIN 2120–AG27

Falsification of Security Records

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Disposition of comments on final rule.

SUMMARY: On November 27, 1996, the FAA adopted rules with a request for comments establishing penalties for falsifying security records. The amendments provided a means for the FAA to take legal enforcement action against persons who make such statements, and thereby enhance the security of civil aviation. This action is a summary and disposition of comments received on that final rule.

ADDRESSES: The complete docket for the final rule on the Falsification of Security Records may be examined at the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Room 915–G, Docket No. 28745, 800 Independence Ave., SW, Washington, DC 20591, weekdays (except federal holidays) between 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Robert Cammaroto and Linda C. Valencia, Office of Civil Aviation Security Policy and Planning, Civil Aviation Security Division, ACP–100, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3413.

SUPPLEMENTARY INFORMATION:

Background

Recently, the FAA found that some persons may be submitting fraudulent or intentionally false statements in records used to obtain identification media from an airport operator that provides unescorted access to security identification display areas (SIDA's) on airports.

Additionally, the FAA recently determined that some airport tenants have submitted certifications to airport operators without having performed the required verification of the applicant's employment history. This led the airport operator to issue identification media that permitted unescorted access to the SIDA when the tenant has not verified prior employment or established that the applicants have no prohibited criminal convictions.

On November 27, 1996, the FAA adopted new rules for parts 107 and 108 of Title 14, Code of Federal Regulations (61 FR 64242, Dec. 3, 1996). Part 107, Airport Security, sets forth the requirements for airport security. Part 108, Airplane Operator Security, sets the requirements for air carrier security. The new rules prohibit fraud and intentional falsification under these parts and provide as follows:

Section 107.2 Falsification

No person may make, or cause to be made, any of the following:

(a) Any fraudulent or intentionally false statement in any application for any security program, access medium, or identification medium, or any amendment thereto, under this part.

(b) Any fraudulent or intentionally false entry in any record or report that is kept, made, or used to show compliance with this part, or exercise any privileges under this part.

(c) Any reproduction or alteration, for fraudulent purpose, of any report, record, security program, access medium, or identification medium issued under this part.

Section 108.4 Falsification

No person may make, or cause to be made, any of the following:

(a) Any fraudulent or intentionally false statement in any application for any security program, access medium, or identification medium, or any amendment thereto, under this part.

(b) Any fraudulent or intentionally false entry in any record or report that is kept, made, or used to show compliance with this part, or to exercise any privileges under this part.

(c) Any reproduction or alteration, for fraudulent purpose, of any report, record, security program, access medium, or identification medium issued under this part.

Because of its effect on airport security, the final rule had good cause justification for immediate adoption, and no advanced notice to the public was offered. These rules were effective immediately, and the immediate action made it clear that no intentional falsification of security records will be tolerated and the additional security afforded the traveling public should not be delayed.

Discussion of Comments

The FAA has received seven comments from eight commenters (one comment was on behalf of two commenters). All comments support the new rules. The FAA has identified no reason to rescind or modify the new rules. There are several issues that should be further addressed, however.

Several comments note that a person could submit information in good faith believing that it was true and later discover that it was false, and that such person should not be held accountable. This point is well-taken.

As explained in the preamble to the rules, an intentionally false statement consists of (1) a false representation, (2) in reference to a material fact, (3) made with knowledge of its falsity. A fraudulent statement consists of these three elements, plus (4) it was made with the intent to deceive, and (5) action was taken in reliance upon the representation. If a person makes a statement in the good faith belief that it is true, then the person has not made a statement with knowledge of its falsity and element (3) of the definition of ''intentionally false'' is not met. The person would not be in violation of the new rules.

One comment indicates that contractors that perform duties related to security (such as catering and fueling on an airport), and whose employees must have background checks under parts 107 and 108, are not subject to the new rules. This is not correct. The new rules apply to all persons who make an entry in a record or report that is kept, made or used to show compliance with part 107 or 108, whether the person is an air carrier, airport operator, contractor, tenant, or other entity, or is an individual. As specifically pointed out in the preamble to the new rules, persons who contract with air carriers may be held responsible under the new rules.

As noted above, the new rules were adopted in part in response to problems associated with the checks required for unescorted access to the SIDA at airports. Several comments addressed aspects of these rules as well as other provisions in parts 107 and 108. Because the new falsification rules are not intended to deal with the substance of the SIDA access rules or other rules in parts 107 and 108, this disposition does not respond to those comments. Those concerns are being considered in connection with other projects involving the background check rules and other rules.

Several comments suggest that the FAA provide standard language for use on employment application forms that reference the new falsification rules. Such standard language would provide a warning about the penalties for falsifying the information on the forms.

The FAA has considered providing such standard language; however, there is a great diversity in the content and use of such applications in the industry. It is not apparent that the FAA could create a warning notice that easily would be adaptable to all industry

forms. The FAA encourages industry groups to develop language that will work in their particular circumstances.

Conclusion

After consideration of the comments submitted in response to the final rule, the FAA has determined that no further rulemaking action is necessary. Amendments 107–9 and 108–14 remain in effect as adopted.

Issued in Washington, DC on June 2, 1997.

Barry L. Valentine,

Acting Administrator.

[FR Doc. 97–15017 Filed 6–9–97; 8:45 am]

BILLING CODE 4910–13–M

federal register

Tuesday
June 10, 1997

Part III

Department of Education

Office of Special Education and Rehabilitative Services; Special Education and Rehabilitative Services; Notices

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

AGENCY: Department of Education.

ACTION: Notice of final priorities.

SUMMARY: The Secretary announces final priorities for programs administered by the Office of Special Education and Rehabilitative Services (OSERS) under the Individuals with Disabilities Education Act (IDEA). The Secretary may use these priorities in Fiscal Year 1997 and subsequent years. The Secretary takes this action to focus Federal assistance on identified needs to improve results for children with disabilities. The final priorities are intended to ensure wide and effective use of program funds.

EFFECTIVE DATE: These priorities take effect on July 10, 1997.

FOR FURTHER INFORMATION CONTACT: For further information on these final priorities contact the Grants and Contracts Services Team, 600 Independence Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2641. The preferred method for requesting information is to FAX your request to: (202) 205–8717. Telephone: (202) 260–9182.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–9860. Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Department as listed above.

SUPPLEMENTARY INFORMATION: This notice contains five final priorities authorized by the Individuals with Disabilities Education Act. These final priorities support the National Education Goals by helping to improve results for children with disabilities.

On March 24, 1997, the Secretary published a notice of proposed priorities in the **Federal Register** (62 FR 13972).

The publication of these final priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements. Funding of particular projects depends on the availability of funds, and the quality of the applications received.

Note: This notice of final priorities does not solicit applications. A notice inviting applications under these competitions is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priorities, forty-five parties submitted comments. An analysis of the comments and of the changes in the proposed priorities follows. Technical and other minor changes—as well as suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Priority—Center on Implementing Inclusive Education for Children With Disabilities in Urban Districts, Particularly Students With Severe Disabilities, as Part of Systemic Education Reform Efforts

Comment: One commenter recommended that the priority require the center to collect and disseminate information on best practices in special education in areas other than inclusion. The commenter stated that collecting and disseminating information on inclusion practices, as required in the proposed priority, promoted one special education setting over another.

Discussion: The Secretary agrees that collecting and disseminating information on best practices in special education is important, and notes that there are several ongoing Departmental initiatives to do just that. The Secretary prefers not to duplicate those ongoing efforts, and believes that there is a compelling need for the timely dissemination of information on inclusion practices to urban districts confronted with increasingly complex issues.

Changes: None.

Comment: One commenter recommended that the governance of the school district as well as the governance of schools be added to the priority.

Discussion: The Secretary agrees with the commenter that the governance of the school district affects the success of inclusion and systemic education reform initiatives.

Changes: The priority has been revised to add language on the governance of the school district. Under (f)(3), the language of the priority has been revised to include evaluation data at the building and district levels. Also, governance has been added to the language under (f)(7), and the priority now requires the analysis of policies, procedures, governance, and fiscal implications at the urban district level.

Comment: One commenter suggested that the Center should specifically look at how children with disabilities in urban districts are included in the State's accountability system with special emphasis on how students with severe disabilities are assessed and accountability for student progress is ensured.

Discussion: The Secretary agrees that the Center's activities could complement other projects on accountability supported by the Department.

Changes: Language has been added to include State assessment and public accountability systems in the (f)(6) requirement for the Center to produce a variety of evaluation data including information about how project activities are integrated in broader school reform efforts.

Comment: One commenter requested clarification on whether or not the 60-month project is one single award for the Nation and if it is considered a pilot project.

Discussion: As stated in the priority, the Department plans to make one award, national in scope, the intent of which is to be a capacity building project to implement what we have learned thus far in urban settings.

Changes: None.

Comment: One commenter implied that the priority should also include a rural and suburban focus.

Discussion: The Secretary notes that there are many examples of inclusive practices occurring in suburban (e.g., Minnesota, Maryland) and rural (e.g., Vermont, New Hampshire, Maine, Kansas, Oregon) environments, but the issues around implementing integrated, inclusive practices in urban settings have been far more complex and problematic. Given that forty percent of our Nation's students attend four percent of the country's school districts, the need is compelling to focus on urban districts.

Changes: None.

Comment: Department staff received several comments indicating confusion between the title of the proposed priority and the requirements of the priority. Some individuals thought the Center was required to be located in an urban district, while others questioned whether or not the Center's activities were exclusively focused on students with severe disabilities.

Discussion: The Secretary agrees the title of the proposed priority could be confusing with regard to the location of the Center and the focus on students with severe disabilities. The Center is not required to be physically located in an urban district; however, the focus of the priority is inclusive education for students with disabilities in urban districts. In addition, although the priority includes all students with

disabilities, the primary emphasis is on students with severe disabilities.

Changes: The title has been changed to ''Center on Implementing Inclusive Education for Children with Disabilities in Urban Districts, Particularly Students with Severe Disabilities, as Part of Systemic Education Reform Efforts.''

Priority—Center to Promote the Access to and Participation by Minority Institutions in Discretionary Programs Authorized Under the Individuals With Disabilities Education Act (IDEA)

Comment: One commenter stated that if the Regional Resource Centers are already conducting technical assistance (TA) activities on a national basis, then it may be less essential for the Center funded under this priority to provide TA to eligible institutions.

Discussion: The technical assistance activities of the Regional Resource Centers are much broader in scope and, unlike the activities identified in this priority, are not specifically designed to improve the capacity of Historically Black Colleges and Universities (HBCUs), other minority institutions (OMIs), and other eligible institutions (OEIs) to prepare personnel to work with children with disabilities. The TA activities under this priority must be based on the personnel preparation needs of HBCUs, OMIs, and OEIs and address those needs in the most effective and cost efficient way. To the extent that other technical assistance providers may be involved in related activities, the Secretary believes that the required coordination between the Center funded under this priority and other providers of technical assistance will enhance, not duplicate, the purposes of this grant.

Changes: None.

Comment: One commenter stated that this priority should require that plans for technical assistance, dissemination of materials on personnel preparation competitions under IDEA, and related analyses concerning HBCUs, OMIs, and OEIs take into account the findings and plan developed under Priority 4—Focus 2, Developing a National Plan for Training Personnel to Teach Children with Blindness and Low Vision.

Discussion: The Minority Center will provide technical assistance (TA) to HBCUs, OMIs, and OEIs based on the specific TA needs of each particular entity. If training personnel to teach children with blindness and low-vision is a specific TA need of a minority institution, as determined by the institution's particular needs assessment, then the Minority Center would provide that TA. It would be appropriate for the Minority Center, in providing TA for the preparation of personnel to teach children with blindness and low vision, to consider the findings under Priority 4—Focus 2. However, given the variety of potential TA needs of those minority entities that will receive assistance from the Center, the Secretary prefers not to specify the particular areas of personnel preparation on which the Center must focus.

Changes: None.

Priority—Technical Assistance to Parent Projects

Comment: Four commenters suggested that the requirement in this priority to provide technical assistance (TA) and dissemination should be expanded to cover certain specific issues, including educational reform, assessment, alternative conflict resolution, and transition issues.

Discussion: The priority requires that direct TA and dissemination activities on relevant content areas (as identified through the needs assessment) be provided to individual parent training and information projects (PTIs) and authorizes the Technical Assistance to Parent Projects (TAPP) to provide TA and dissemination, as appropriate, on the specific topics identified by the commenter. The Secretary agrees, however, that educational reform and alternative conflict resolution are particularly important issues, and has added specific references to these issues within the priority.

Changes: The priority has been amended to identify educational reform and alternative conflict resolution as examples of content areas that may be addressed.

Comment: Twenty-nine (29) commenters wrote in support of including community-based parent resource centers that are not funded under IDEA, but are successfully serving traditionally underrepresented or underserved parents of children in urban and rural settings, as eligible recipients of all TA activities. Commenters suggested that these community-based parent resource programs, in addition to the PTIs currently supported under IDEA, should be able to receive assistance from the TAPP. Some of the commenters recommended that the purpose section of the priority specifically refer to these community-based parent resource centers, while others suggested that these centers be identified in each of the required activities listed in paragraphs (a) through (f) of the priority. In addition, some commenters recommended that regional leadership retreats for parent leaders of the community-based parent resource centers be a required TA activity.

Discussion: The Secretary agrees that the community-based parent resource centers that do not currently receive funding under IDEA are providing important support to communities confronted with a host of societal challenges. The Secretary also agrees that including these projects in current TAPP activities has been beneficial to parents in many communities. Accordingly, the Secretary has amended the priority to clarify that non-IDEA parent resource centers are not necessarily precluded from participating in TAPP activities. In particular, the Secretary has revised the priority to enable community-based parent centers that are not funded under IDEA to receive TA in order to better serve underserved and underrepresented populations. However, the Secretary emphasizes that the primary purpose of the priority is to provide TA for establishing, developing, and coordinating parent training and information projects (PTIs) supported under IDEA and encourages community-based centers to compete for IDEA funding. Given the requirement that the TAPP focus on coordination between, and improvement of, IDEA parent projects, it is largely within the TAPP's discretion to determine the extent to which it can address the needs of other centers.

Changes: The proposed priority has been amended to authorize the TAPP to provide TA to parent resource organizations that are not funded under IDEA in order to improve services to underserved and underrepresented populations.

Comment: Seventeen commenters recommended that the TAPP be required to conduct a leadership retreat similar to the cross-regional retreat previously conducted by the current TAPP. Another commenter did not believe it necessary or beneficial for separate leadership retreats to be funded for community-based or experimental parent programs. The commenter believed that it was important for all parent training entities to be trained together and to receive and benefit from the information provided at each event. This commenter also suggested several content areas (e.g., transition, early intervention, and best practices in inclusive settings for various disabilities) that should be addressed at the national and regional conferences.

Discussion: The Secretary believes it is important to allow applicants the opportunity to propose what they believe to be the most effective approach for planning and conducting

the national and regional conferences, and any additional meetings or retreats they deem beneficial. The Secretary expects applicants to propose a management strategy or strategies for conducting the conferences, and to justify implementation of their particular plans.

Changes: None.

Comment: Four commenters expressed support for a regional approach toward delivering TA. One commenter stated that the regional conferences are essential, and that they should be conducted by personnel from each specific region and address issues pertinent to that particular region. Another commenter recommended that TAPP be organized on a regional basis. This commenter stressed that each region has it own unique characteristics, issues and problems that can be addressed most effectively by a regional unit. One commenter suggested that the TAPP include a full-time regional director in each of the four regions.

Discussion: The Secretary agrees that a regional approach to providing TA is often beneficial, but believes that other approaches may be equally appropriate and beneficial. The Secretary believes it is the responsibility of the applicant to determine how best to provide TA in order to fulfill the purposes of the priority, and declines to impose more specific limitations on available TA approaches.

Changes: None.

Comment: One commenter suggested that the TAPP assist the PTIs to technologically link to information produced by specialized centers on transition, inclusion, and assistive technology, and by other centers funded under IDEA. This commenter also stated that the TAPP should help PTIs to link electronically to sources other than National Information Center for Children and Youth with Disabilities (NICHCY), such as Educational Resources Information Center Clearinghouse on Disabilities and Gifted Education (ERIC), sources on genetic information, and other information resources that provide data on specific disability areas and identify the best practices for achieving educational success in relation to disability area, age level, and severity of disability.

Discussion: The priority requires the TAPP to electronically link the PTIs to each other, to NICHCY, and to other information sources and also requires the project to implement additional strategies for maximizing the computer and technological capabilities of the PTIs. The Secretary supports each of the suggestions recommended by the commenter and emphasizes that each is authorized under the priority. The Secretary prefers, however, that applicants be given the opportunity to propose and justify their own approach toward linking PTIs electronically within the limited parameters outlined in the priority.

Changes: None.

Comment: One commenter recommended that both the National TAPP director and the Regional TAPP directors be parents. The commenter pointed to the growth of the parent movement and the strength of parental leadership to support the position that parents assume these positions.

Discussion: The Secretary cannot direct that the TAPP appoint particular classes of people to director positions. The Secretary agrees, however, that parent leadership development and mentoring should come largely from other parents. This position is supported by the authorizing legislation for the PTI program which provides for extensive involvement of parents of infants, toddlers, children, and youth with disabilities in the operation of PTIs.

Changes: None.

Comment: Three commenters noted that evaluation was not specifically identified as a required activity of the TAPP project. The commenters recommended that TAPP be required to evaluate regularly the results of its technical assistance system.

Discussion: The Secretary acknowledges the importance of evaluating the technical assistance system and of seeking feedback from users of the system. The Secretary notes, however, that the commenters' concerns are addressed by the application review process. The selection criteria for this competition require the reviewers to determine the quality of the evaluation plan for the project described in each application, including the extent to which the applicant's methods of evaluation are appropriate for the project, are objective and produce data that are quantifiable. The information on selection criteria is included in the application package each applicant receives rather than in the priority itself.

Changes: None.

Priority—Special Projects—National Initiatives

Focus 1—An Academy: Linking Teacher Education to Advances in Research

Comment: One commenter suggested that the Academy use computer-assisted instruction and select appropriate software as part of its responsibility to enhance educational results for children with disabilities through the use of technology.

Discussion: The Secretary agrees that the use of computer-assisted instruction and the selection of appropriate software can be effective strategies in improving results for children with disabilities. The Secretary emphasized that the priority does not preclude an applicant from proposing either of these methods. Nevertheless, the Secretary prefers to retain the broad authority in the priority that affords applicants the discretion to propose and justify those technological strategies that they consider appropriate.

Changes: None.

Comment: One commenter recommended that the Academy address a broader range of research that has demonstrated positive results for children with disabilities (i.e., empirically validated methods). The commenter suggested that applicants could then put together their ''best package'' of methods to be covered, and supply the data to support that package.

Discussion: While there exists a broader range of research-based designs that identify validated approaches, the Academy must focus its resources on addressing national needs through advances in research. At this time, the Secretary believes that the selected topics are the most critical national needs for which there is sufficient research to inform practice.

Changes: None.

Comment: One commenter requested clarification as to whether the Academy must address all three focus areas: (a) Teaching reading to children with learning disabilities; (b) using technology to enhance educational results for children with disabilities; and (c) using positive behavioral supports to teach children with disabilities who exhibit challenging behaviors.

Discussion: The priority requires the Academy to focus its staff and resources on all three of the identified focus areas.

Changes: None.

Comment: One commenter requested clarification as to how researchers will benefit from the Academy's activities and asked whether only original researchers can apply for the Academy.

Discussion: The priority states the teacher education programs will benefit by integrating research advances into their respective preservice preparation programs, and that researchers will benefit from learning how the findings of their research impact and may be used to improve personnel preparation programs. Both statements were intended as examples of the potential benefits of bridging the gap between research and practice, and were not

intended to impose any restrictions on the pool of eligible applicants.

Changes: None.

Focus 2—Developing a National Plan for Training Personnel to Serve Blind and Low-Vision Children

Comment: One commenter requested that Focus 2 of the priority use ''person-first language'' (e.g., ''children with blindness'') as opposed to ''blind children.''

Discussion: The Secretary agrees with commenter and has amended the priority accordingly.

Changes: The Secretary has changed all references to ''blind and low-vision children'' in the proposed priority to ''children with blindness and low-vision.''

Comment: Two commenters recommended that the needs of students with multiple and severe disabilities (including vision loss) be addressed by the priority. One of the commenters stated that the curricula at the institutions of higher education should support the development of knowledge and skills related to the education of children who are blind and have multiple disabilities, including those with deaf-blindness.

Discussion: The intent of the priority is to understand the systemic nature of the problem of preparing personnel to teach children with blindness and low-vision. The project, based on a systemic and systematic needs assessment, shall design a comprehensive approach that includes strategies for solving the shortage problem of personnel in this area. While curricula at institutions of higher education might address the needs of children who are blind and have multiple disabilities, it would be premature to require that such issues be part of an eventual strategy. The Secretary prefers to retain the broad language of the priority, and allow the project to identify and address critical issues (including, if appropriate, severe and multiple disabilities such as deaf-blindness) and to recommend a solution in the National Plan.

Changes: None.

Comment: Three commenters recommended that the National Plan for training personnel to meet the needs of children with blindness and low-vision include training of both orientation and mobility specialists and teachers of children with deaf-blindness. One commenter noted that students often enter dual certification programs for orientation and mobility instructors and teachers of children with deaf-blindness or other visual impairments. One commenter recommended requiring early childhood, adolescence, and technology issues, and collaboration techniques as part of the plan developed under Focus 2.

Discussion: The Secretary agrees with the commenters that personnel with a wide range of skills and knowledge are necessary to address the various needs of children with visual impairments. At the same time, however, the Secretary believes that it is particularly important to address the need for teachers.

Changes: The priority has been revised in its title and in the text to refer to personnel to ''serve'' rather than ''teach'' or ''educate'' children with blindness and visual impairments. However, language has also been added to the priority to emphasize the importance of addressing the need for qualified personnel ''particularly in the area of teaching''.

Comment: Two commenters recommended that the National Plan under Focus 2 be developed as quickly as possible. One commenter suggested that the Department require the project to be completed in 2 years given the immediate need for personnel to teach children with blindness and low-vision. Specifically, the commenter proposed a 5–6 month period to conduct the needs assessment, and one and a half years to develop the National Plan.

Discussion: The Secretary is committed to developing a comprehensive National Plan as quickly as possible, and believes a two-year time frame is adequate. The project period (up to 24 months) is identified in the application notice for this competition.

Changes: None.

Comment: Two commenters made suggestions concerning the funding level needed to develop a National Plan for training personnel to teach children with blindness and low vision. One commenter stated that a total allocation of $300,000 would be sufficient, while another commenter recommended that funding be sufficient to allow all interested parties (e.g., parents, teachers, universities, consumers, State and local educational agencies, professional organizations, national service agencies, national accreditation agencies) to participate in the development of the plan by traveling to meetings and/or utilizing distance technologies (e.g., video conferencing). The latter commenter stated that if all such parties collaborate during the development of the National Plan, the plan is more likely to be implemented successfully.

Discussion: The Secretary agrees that a funding level of $300,000 for up to two years should be sufficient to develop a national strategy that includes appropriate collaboration of interested parties. This maximum award level is reflected in the application notice for this competition.

Changes: None.

Comment: One commenter stated that the project under Focus 2 identify and utilize the most accurate data regarding the numbers of children served in connection with the needs assessment. The commenter noted various discrepancies in counts and stated that the discrepancies exist because the annual count provisions under IDEA require State departments of education to categorize children by a primary disability. The commenter asserted that the project's analysis of the personnel shortage will be faulty without identifying all children with blindness and low-vision and their service needs, and that the analysis must account for the numbers of children underserved or not currently served.

Discussion: The Secretary agrees that the accuracy of the number of children with blindness and low-vision, types of services needed, and the personnel needed to provide necessary services are important issues that may be considered in determining the extent of the personnel shortage and in developing the National Plan. The commenter has raised a few of the many potential issues that applicants may address in describing their plan for conducting the needs assessment. Nevertheless, the Secretary prefers to retain the broad authority in the priority that affords applicants the discretion to propose and justify the needs assessment plan that they consider most appropriate.

Changes: None.

Comment: Two commenters recommended that the National Plan ensure that programs preparing personnel to teach children with blindness and visual impairments meet nationally-recognized personnel standards. One commenter specifically recommended that: (1) University programs be required to adhere to the ''Standards for University Personnel Preparation Programs in Education of Students with Visual Impairments'' recently developed by the Association for Education and Rehabilitation of the Blind and Visually Impaired (AER); (2) the curriculum of university teacher preparation programs recognize and address teacher competencies related to the ''Core Curriculum for Students With Visual Impairments: Developed in Conjunction with Goal #8 of the National Agenda for Education of Children and Youths with Visual Impairments, Including Those with Multiple Disabilities''; and (3) the curriculum of each university program address teacher competencies relative to meeting the cultural, racial, and ethnic

diversities of students, and to the extent possible, assure that those diversities are reflected in the personnel preparing to enter the field.

Discussion: The Secretary expects that the National Plan will address standards and curriculum for preparing capable and qualified personnel to educate children with blindness and low-vision. Given the variety of approaches to preparing personnel who are capable and qualified to teach children with varying levels of visual disabilities, the Secretary prefers to afford applicants the discretion to propose, as appropriate, curricula or personnel standards based on the needs of children with blindness and visual impairments.

Changes: None.

Comment: One commenter identified the age ranges of students with blindness or low-vision as a major cause behind the shortages of personnel to teach children with visual impairments. The commenter stated that approaches and strategies for addressing educational and developmental needs of visually-impaired infants and pre-schoolers are far different from those used to teach high-school age students with visual impairments. Consequently, the commenter recommended that the required needs assessment under Focus 2 reflect the need for personnel to teach students of different ages.

Discussion: The Secretary agrees that the needs of children with blindness and low-vision vary according to their developmental and academic progress, and has revised the priority accordingly.

Changes: The priority has been revised to clarify the National Plan must address the need for qualified personnel to teach blind and low-vision children across all age ranges.

Comment: One commenter recommended that the needs assessment and the comprehensive approach under Focus 2 specifically address the underrepresentation of minorities among personnel working with children with low-vision and that the project develop strategies to address this problem.

Discussion: The Secretary agrees that the project should address the participation level of underrepresented populations in the field of teaching children with blindness and low-vision and has revised the priority accordingly.

Changes: The priority has been amended to require that the comprehensive approach for preparing personnel under Focus 2 address the level of participation among underrepresented populations in the applicable field.

Comment: One commenter recommended that Focus 2 of the priority include more specificity about the source of public input in the development of the needs assessment and in the design of a comprehensive teacher preparation strategy. Specifically, the commenter recommended that the project be required to: (1) Obtain input from State departments of education, visually impaired professionals, university personnel, and other special education personnel; and (2) consider successful models in preparing personnel to teach children with blindness and low-vision.

Discussion: The Secretary expects applicants to obtain input from relevant sources in developing the needs assessment and recommended strategy. The approach recommended by the commenter is a permissible data gathering technique that applicants may consider. The Secretary prefers, however, to allow applicants the opportunity to propose and justify the particular approach for obtaining information that they believe is most useful.

Changes: None.

Priority—Research Institute on Secondary Education Services for Children and Youth With Disabilities

Comment: One commenter recommended adding to the priority requirements to study: (1) The inclusion of students in the National Assessment of Educational Progress (NAEP) and their progress on the various areas of assessment; (2) strategies that are being used to assist students to access the general education curriculum; (3) the extent to which students with disabilities are progressing toward standards established by States and districts; and (4) the rates of graduation with a regular diploma, special diploma, and GED.

Discussion: The Secretary agrees that the NAEP, State, and district standards, and rates of graduation are important issues for secondary students with disabilities, and notes that the Department is currently funding projects that address those concerns. The Secretary also notes that the priority, as written, does not preclude an applicant from proposing to include those issues in its application for funding. The recommendation to include the study of strategies that assist students with disabilities in accessing the general education curriculum would be included under the requirement for the study of effective strategies for restructuring academic and vocational courses to accommodate students with disabilities. The Secretary concurs that adding language to the priority would clarify that accessing the general education curriculum is included under the requirement.

Changes: Language has been added to the priority to clarify that the institute requirements include the study of strategies to assist students with disabilities in accessing the general education curriculum.

Comment: One commenter expressed the concern that the priority addresses only macro-type factors such as classroom restructuring and more effective use of counseling services, while ignoring important micro-type factors such as skill acquisition routines or practice strategies for insuring student mastery of critical concepts. The commenter recommended that the priority be revised to require applicants to address questions surrounding effective instructional conditions that result in successful skill acquisition and generalization as well as successful understanding and mastery of critical content.

Discussion: The priority, as written, requires the study of effective support strategies, supplementary aids, and services aimed at improving educational results for secondary students with disabilities. It was intended that the reference in the priority to ''support strategies, supplementary aids and services'' included instruction. The Secretary concurs that the priority should be clarified to include the study of effective instructional practices that result in successful skill acquisition and generalization as well as successful understanding and mastery of critical content.

Change: The priority has been amended to clarify that the study of effective instructional practices aimed at improving educational results for secondary students with disabilities is included in the requirements.

Comment: One commenter recommended that successful transition to postsecondary settings be the major focus of a separate priority.

Discussion: The priority, as written, requires the research institute to study issues surrounding transition to postsecondary education and employment. The Secretary agrees that successful transition to postsecondary settings is critical for improving results for secondary students with disabilities, and notes that a number of the Department's funded projects address this issue. Also, projects proposing to address this issue in more depth are eligible to submit an application under this priority and are encouraged to apply.

Changes: None.

General Comments

Comment: One commenter recommended that all Department of Education grants should be capped at some reasonable indirect rate, such as 8 percent, regardless of whether the grant category is personnel preparation, model demonstration, outreach, or research.

Discussion: The subject of indirect cost rates is a Department-wide issue, and is addressed in the Education Department General Administrative Regulations (EDGAR). It is not an issue that can be addressed in individual priority announcements. The Department will consider the indirect cost rate issue in its review of the EDGAR regulations.

Changes: None.

Comment: One commenter stated that collaboration with other important service providers such as Mental Retardation/Developmental Disabilities agencies or programs, mental health and health care providers, and University Affiliated Programs, etc. should be required elements in all of the proposed priorities.

Discussion: The Secretary acknowledges that collaboration with other service providers is often an important element in improving results for children with disabilities. As written, the various priorities include language on evaluating, coordinating, and collaborating with other stakeholders, other technical assistance providers, other information sources, other experts and researchers in related subject matter and methodological fields, etc; and none of the priorities preclude an applicant from proposing collaboration with the agencies and programs recommended by the commenter. Given the variety of potential collaboration strategies applicants could propose, the Secretary believes it would be impossible to provide a comprehensive list in any priority. The Secretary prefers to maintain the broad language of the priorities, and allow applicants to propose and justify their particular strategy.

Changes: None.

Priorities

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet one of the following priorities. The Secretary will fund under these competitions only applications that meet one of these absolute priorities:

Absolute Priority 1—Center on Implementing Inclusive Education for Children With Disabilities in Urban Districts, Particularly Students With Severe Disabilities, as Part of Systemic Education Reform Efforts

Background

During the past ten years research and demonstration activities related to inclusive education have expanded dramatically. Increasing numbers of State and local education agencies are involved in school reform and inclusion efforts to ensure that all students, including those with severe disabilities, are provided with equal educational opportunities, meaningful access to the general curriculum, and effective educational and related services in their neighborhood schools.

However, in the midst of multiple social and economic problems, urban districts are confronted with increasingly complex issues that have made the pursuit of inclusion and systemic education reform initiatives difficult. The need is compelling, considering that forty percent of our Nation's students attend four percent of the country's school districts.

Priority: This priority is national in scope and is designed to help bridge the gap between the knowledge base and the state of practice in urban districts by: (a) Incorporating extant theory and research findings about the inclusion of students with disabilities, particularly students with severe disabilities, into systemic educational reform efforts, including efforts to improve education in multicultural environments; (b) increasing the capacity of urban school districts to provide high quality inclusive educational opportunities for students with disabilities, particularly students with severe disabilities; and (c) creating a national network of parents, education professionals (including teacher's organizations and unions), and advocacy groups interested in pursuing inclusion of students with disabilities, particularly students with severe disabilities, as a component of systemic education reform in urban districts in order to facilitate increased exchange of information and collaborative problem solving among these stakeholders.

The Center must—

(a) Prepare a synthesis of the relevant extant systemic reform, systems change, and inclusion theory and research with emphasis on urban schools with diverse populations to serve as the conceptual and empirical basis for center activities;

(b) Translate this knowledge base into educational practices and materials that promote the inclusion of children with disabilities in regular education programs, and can be used by program implementers and policy makers in urban areas at district, building, and classroom levels;

(c) Provide training and technical assistance via direct technical assistance as well distance learning and other innovative methods in the adoption, use, and maintenance of inclusive educational practices involving access to the general education curriculum in urban settings;

(d) Evaluate the effectiveness of the center's activities in promoting inclusive educational practices in multiple urban settings by assessing: (1) The number of school sites where activities are conducted; (2) the number of people trained; (3) the types of follow-up activities that appear most valuable; and (4) the number of children with disabilities who are served in inclusive educational programs;

(e) Evaluate the effect of the Center's activities on results for children with disabilities;

(f) Produce a variety of evaluation data, including: (1) Factors that contribute to the successful adoption, use, and maintenance of inclusive educational efforts in urban districts; (2) descriptions of the instructional contexts and settings, and classroom instructional supports; (3) school governance, organizational, and administrative patterns at the building and district levels; (4) the attitudes and involvement of school administrators, school personnel, union membership, families, students, and other stakeholders; (5) information about student results and the social validity of project activities; (6) information about how project activities are integrated in broader school reform efforts including State assessment and public accountability systems; and (7) analysis of policies, procedures, governance, and fiscal implications at the urban district level;

(g) Develop linkages with U.S. Department of Education technical assistance providers and disseminators to communicate findings and distribute products;

(h) Coordinate activities on an on-going basis with other relevant efforts sponsored by the Office of Special Education Programs (OSEP), including the Consortium for Inclusive Schooling Practices, and State-wide Systems Change projects;

(i) Provide training and experience in translating research to practice, materials development, technical assistance, dissemination, and program evaluation for a limited number of graduate students including students

who are from traditionally underrepresented groups;

(j) Conduct topical meetings and other activities on issues and emerging or promising inclusion practices in urban education; and

(k) Collect and ensure timely dissemination of information on inclusion to urban policymakers and program implementers.

Under this priority, the Secretary anticipates making one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the Urban Center for the fourth and fifth years of the project, the Secretary, in addition to considering factors in 34 CFR 75.253(a), will consider—

(a) The recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day site visit to the project are to be performed during the last half of the Center's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the Center's budget for year two. These costs are estimated to be approximately $4,000;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Center; and

(c) The degree to which the Center's technical assistance, evaluation, and dissemination activities demonstrate the potential for significantly increasing the capacity of urban schools to serve children with disabilities in inclusive school and community settings.

This award will be jointly funded under two statutory authorities: (1) The Research in Education of Individuals with Disabilities Program; and (2) the Program for Children with Severe Disabilities. The Secretary has determined that this joint award is necessary to address not only the needs of children with severe disabilities in urban settings, but also the broader needs of all children with disabilities in urban settings.

Program Authority: 20 U.S.C. 1441 and 1424.

Absolute Priority 2—Center to Promote the Access To and Participation By Minority Institutions in Discretionary Programs Authorized Under the Individuals With Disabilities Education Act (IDEA)

Background

The Congress has found that the Federal Government must be responsive to the growing needs of an increasingly diverse society and that a more equitable distribution of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals, including children with disabilities. Specifically, the Congress has concluded that increasing the participation in awards for IDEA grants, cooperative agreements and contracts by Historically Black Colleges and Universities (HBCUs), other institutions of higher education whose minority enrollment is at least 25 percent (OMIs), and other eligible institutions as defined under section 312 of the Higher Education Act of 1965 (OEIs) can greatly improve our success in educating children with disabilities from diverse backgrounds.

Priority: This priority is part of the Secretary's plan for increasing participation of minority entities in grant competitions. The purpose of this priority is to improve educational results for children with disabilities from diverse backgrounds by supporting a national center to: (a) Promote the participation of HBCUs, OMIs, and OEIs in personnel preparation competitions authorized by IDEA; and (b) increase the capacity of HBCUs, OMIs, and OEIs to prepare personnel to work with children with disabilities. The Center must—

(1) Identify the universe of HBCUs, OMIs, and OEIs;

(2) Establish and maintain contacts with the minority entities;

(3) Conduct needs assessments and negotiate technical assistance agreements on an annual basis with each HBCU, OMI, or OEI requesting assistance. The Center may propose cross-institutional activities if similar objectives are established in several agencies and if combining activities could create cost savings or extend benefits to minority entities requesting assistance. In developing these activities, the Center must analyze the needs of each entity and determine the most effective and cost efficient means of addressing those needs. In developing each specific technical assistance agreement, the Center must—

(i) Reconcile the needs identified by the entity with the Center's resources and its ability to respond;

(ii) Describe the strategies and mechanisms it will use to respond to the technical assistance and professional development needs;

(iii) Identify the persons involved in the technical assistance activity;

(iv) Specify the beginning and end date of the activity;

(v) Describe how the technical assistance activity will contribute to promoting the immediate and long-term goals of the project, including improved educational results for children with disabilities; and

(vi) Describe a plan for coordinating with other technical assistance providers (e.g., the Regional Resource Centers) that may be involved in related activities;

(4) Analyze the performance of grantees to serve as a basis for providing technical assistance, especially in the areas of recruitment and retention of students in personnel preparation programs, improving the quality of those programs, placement of students after graduation, and other areas that contribute to improved results for children with disabilities;

(5) Develop materials and implement strategies that are necessary to carry out the center's activities.

(6) Prepare and disseminate materials explaining personnel preparation competitions under IDEA to the HBCUs, OMIs, and OEIs;

(7) Analyze the results of each competition in terms of the degree to which the HBCUs, OMIs, and OEIs applied, and the degree to which they were successful, and submit this analysis to the Department and the HBCUs, OMIs, and OEIs served by the project;

(8) Provide advice as requested by the Department on strategies to further the purposes of section 610(j) of IDEA; and,

(9) Disseminate state-of-the-art practices in personnel preparation, recruitment, and retention through linkages with U.S. Department of Education dissemination and technical assistance providers, in particular those technical assistance providers supported under IDEA.

The Secretary anticipates making one award for a grant with project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the Center for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a), will consider—

(a) The timeliness and effectiveness with which all requirements of the negotiated scope of work have been or are being met by the Center; and

(b) The degree to which minority entities applied and were successful in participating in personnel preparation programs under IDEA.

Program Authority: 20 U.S.C. 1409(j) and 1431.

Absolute Priority 3—Technical Assistance to Parent Projects

This priority is issued under the Program for Training Personnel for the Education of Individuals with Disabilities—Parent Training and Information Centers. This priority focuses primarily on the provision of technical assistance for establishing, developing, and coordinating parent training and information projects supported under the Individuals with Disabilities Education Act (hereinafter referred to as PTIs). The project must:

(a) Plan and conduct one national and four regional conferences each year;

(b) Conduct an assessment of the training and information needs of the PTIs;

(c) Provide direct technical assistance and disseminate information through a variety of mechanisms to individual parent training and information projects on management processes or content areas (e.g., special education and related services issues, educational reform, laws and regulations, alternative dispute resolution, networking) as identified through the needs assessment;

(d) Maximize the computer and technological capabilities of the PTIs by: (1) Systematizing data collection to conduct needs assessments (e.g., of who is and is not being served, where and what kinds of problems or successes exist in States, tracking effects of Federal and State initiatives), (2) linking the PTIs together electronically using a web page and bulletin boards that are user-friendly, enable PTIs to access and communicate with each other, and link PTIs directly to the National Information Center for Children and Youth with Disabilities (NICHCY) and other information sources, and (3) implementing other appropriate strategies.

(e) Identify effective strategies for working with parents, families, and schools, and incorporate these strategies into training materials, technical assistance activities, and conferences; and

(f) Provide direct technical assistance to PTIs and other parent centers (including, as appropriate, non-IDEA funded community-based centers) that serve underserved and underrepresented populations.

Program Authority: 20 U.S.C. 1431(e).

Absolute Priority 4—Special Projects—National Initiatives

This priority is issued under the Program for Training Personnel for the Education of Individuals with Disabilities. The purpose of this priority is to support projects of national significance related to the preparation of personnel needed to serve infants, toddlers, children, and youth with disabilities. Projects funded under this priority must address one of the following focus areas:

Focus 1—An Academy: Linking Teacher Education to Advances in Research

The purpose of this project will be to link teacher education programs with recent advances in research that have documented successful methods and strategies for assisting children with disabilities to achieve better results. The teacher education programs will benefit by integrating these research advances into their respective preservice preparation programs for preparing personnel to work with children with disabilities, including special education, early intervention, related services personnel, and regular educators. The researchers will benefit from understanding how the findings of their research impact and improve the personnel preparation programs. A preservice program is defined as one that leads toward a degree, certification, or professional license or standard, and may be supported at the associate, baccalaureate, master's or specialist level.

The Academy must focus its staff and resources on research advancements that improve results for children with disabilities in: (a) Teaching reading to children with learning disabilities; (b) using technology to enhance educational results for children with disabilities; and (c) using positive behavioral supports to teach children with disabilities who exhibit challenging behaviors.

Activities: The Academy must—

(a) Design an approach, consistent with principles of effective professional development, for linking teacher education programs to the recent advances in research listed above. The professional development approach must consider a range of strategies for facilitating the exchange of knowledge between researchers and individuals who prepare personnel to work with children with disabilities. Strategies may include, for example, face to face meetings, electronic networks, seminars, retreats, mentoring agreements, and building local resource banks;

(b) Design a comprehensive approach for reaching out to teacher education programs across the country in each of the three research areas identified above;

(c) Design innovative tools to facilitate the exchange of knowledge, such as experiential activities, videos, course syllabi, interactive media, etc.; and

(d) Evaluate the progress of linking research advances to teacher education programs.

Focus 2—Developing A National Plan for Training Personnel to Serve Children With Blindness and Low-Vision

In recent years, the number of institutions of higher education that offer teacher training programs for teachers of children with blindness and low-vision has significantly diminished. Today, very few vision training programs for teachers of individuals with visual impairments exist across the country. In some geographic areas, no such program exists. There has also been a concurrent reduction in the number of personnel available to meet the needs of children who are blind or have low-vision. Institutions currently respond to this shortage by offering abbreviated courses, off-campus courses, and distance learning. Both individual institutions and regional organizations are seeking more effective responses to this problem.

These problems are significant. Thus, immediate attention must be devoted to developing a national strategy for addressing the need for qualified personnel to serve children with blindness and low-vision across all age ranges, particularly in the area of teaching.

Activities: The project must—

(a) Conduct a systemic and systematic needs assessment of the personnel shortage identified above; and

(b) Design a comprehensive approach for preparing capable and qualified personnel to serve students with blindness and low-vision across all age ranges, including strategies for solving this shortage problem, consideration and comparisons of the merits of each alternative strategy, and a recommended solution. The comprehensive approach shall also address the level of participation in the profession by underrepresented populations.

Program Authority: 20 U.S.C 1431.

Absolute Priority 5—Research Institute on Secondary Education Services for Children and Youth With Disabilities

This priority is issued under the Secondary Education and Transitional Services for Youth with Disabilities Program. This institute supports a strategic program of research to study a variety of strategies to improve

educational results for students with disabilities in secondary education settings (including urban, rural, and suburban community settings), and promote their successful transition to postsecondary settings.

The secondary research institute must design and conduct a strategic program of research to study—

(a) The range of effective support strategies, supplementary aids, and services (e.g., instructional practices, counseling, tutoring, assistive technology) aimed at improving educational results for students with disabilities in a wide range of typical secondary education experiences (e.g., academic, vocational, extracurricular) as well as their retention in school and their engagement in the educational process. This includes the study of strategies to assist students in accessing the general education curriculum;

(b) Effective strategies that secondary school personnel can use to restructure academic and vocational courses to accommodate students with disabilities with diverse learning needs and styles;

(c) The extent to which secondary schools are effectively implementing the transition services requirement of IDEA;

(d) The extent to which secondary academic and vocational curricula promote postsecondary education and employment; and

(e) Standards and models for developing instructional and transition plans for students who are entering or enrolled in secondary school programs.

The program of research must include, but need not be limited to, studying school based exemplars, or designing and implementing interventions using a rich array of research methods to reach the intended goals of this priority as articulated by the proposed research hypotheses. In addition, the research must be designed in a manner that is likely to lead to improved services and results for children and youth with disabilities, including those who are members of cultural, linguistic, or racial minority groups.

The institute must—

(a) Design and conduct a strategic program of research across multiple sites to represent organizational and demographic diversity;

(b) Collect, analyze, and communicate student results data and supporting context data; and multiple results data for teachers, parents, and administrators, as appropriate;

(c) Collaborate with other research institutes supported under the Individuals with Disabilities Education Act and experts and researchers in related subject matter and methodological fields, to design and conduct the activities of the institute;

(d) Carry out the research within a conceptual framework, based on previous research or theory, that provides a basis for the issues that will be studied, the research methods and instrumentation that will be used, and the specific target populations and settings that will be studied;

(e) Collaborate with communication specialists and professional and advocacy organizations to ensure that findings are prepared in formats that are useable for specific audiences such as teachers, administrators, and other service providers;

(f) Develop linkages with U.S. Department of Education dissemination and technical assistance providers, in particular those supported under IDEA, to communicate research findings and distribute products;

(g) Provide training and research opportunities for a limited number of graduate students, including students who are from traditionally underrepresented groups;

(h) Coordinate research and dissemination activities with other relevant efforts sponsored by the U.S. Department of Education and with the U.S. Department of Labor, including other research institutes, and information clearinghouses; and

(i) Meet with the Office of Special Education Programs (OSEP) project officer in the first four months of the project to review the program of research and communication approaches.

The Institute must budget for two trips annually to Washington, DC. for: (1) A two-day Research Project Directors' meeting; and (2) another meeting to collaborate with the OSEP project officer.

Under this priority, the Secretary anticipates making one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In determining whether to continue the Institute for the fourth and fifth years of the project period, the Secretary, in addition to the requirements of 34 CFR 75.253(a), will consider—

(a) The recommendation of a review team consisting of three experts selected by the Secretary. The services of the review team, including a two-day site visit to the project, are to be performed during the last half of the Institute's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the Institute's budget for year two. These costs are estimated to be approximately $4,000;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Institute; and

(c) The degree to which the Institute's research designs, methodologies, and activities demonstrate the potential for advancing significant new knowledge.

Program Authority: 20 U.S.C. 1425.

(Catalog of Federal Domestic Assistance Numbers: Research in Education of Individuals with Disabilities Program, 84.023; Training Personnel for the Education of Individuals with Disabilities Program—Grants for Personnel Training and Parent Training and Information Centers, 84.029; Program for Children with Severe Disabilities, 84.086; and Secondary Education and Transitional Services for Youth with Disabilities Program, 84.158)

Dated: June 4, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–15032 Filed 6–9–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year 1997.

SUMMARY: This notice provides closing dates and other information regarding the transmittal of applications for fiscal year 1997 competitions under programs authorized by the Individuals with Disabilities Education Act. This notice supports the National Education Goals by helping to improve results for children with disabilities.

Note: The Department of Education is not bound by any estimates in this notice.

Priorities: Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priorities. The Secretary will fund under these competitions only those applications that meet any one of these absolute priorities:

Absolute Priority 1—Center on Implementing Inclusive Education for Children With Disabilities in Urban Districts, Particularly Students With Severe Disabilities, as Part of Systemic Education Reform Efforts (84.086C)

The priority Center on Implementing Inclusive Education for Children with Disabilities in Urban Districts,

Particularly Students with Severe Disabilities, as Part of Systemic Education Reform Efforts in the notice of final priorities under programs authorized by the Individuals with Disabilities Education Act, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Eligible Applicants: State and local educational agencies; institutions of higher education; and other public agencies and nonprofit private organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) the regulations for this program in 34 CFR Part 315.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Applications Available: June 13, 1997.

Deadline for Transmittal of Applications: July 29, 1997.

Deadline for Intergovernmental Review: September 26, 1997.

Estimated Number of Awards: 1.

Project Period: Up to 60 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding $1,000,000 for any single budget period of 12 months. However, because of budgetary considerations contingent upon congressional action, the Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: Part III of the application, the Application Narrative, requires applicants to address the selection criteria that will be used by reviewers in evaluating individual proposals. The applicant must limit the Part III—Application Narrative to no more than 100 double-spaced 8½ x 11″ pages (on one side only) with one inch margins (top, bottom, and sides). This page limitation applies to all material presented in the application narrative—including, for example, any charts, tables, figures, and graphs. The application narrative page limit does not apply to: Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications. Also, the one-page abstract, resumes, bibliography, or letters of support, while considered part of the application, are not subject to the page limitation. Applicants should note that reviewers are not required to review any information provided in addition to the application information listed above. All sections of text in the application narrative must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 14 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch. Double-spacing and font requirements do not apply within charts, tables, figures, and graphs, but the information presented in those formats should be easily readable. The Secretary rejects and does not consider an application that does not adhere to these requirements.

Program Authority: 20 U.S.C. 1441 and 1424.

Absolute Priority 2—Center to Promote the Access To and Participation by Minority Institutions in Discretionary Programs Authorized Under the Individuals With Disabilities Education Act (IDEA) (84.920T)

The priority Center to Promote the Access To and Participation By Minority Institutions in Discretionary Programs Authorized Under the Individuals with Disabilities Education Act (IDEA) in the notice of final priorities under programs authorized by the Individuals with Disabilities Education Act, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Selection Criteria: In evaluating applications for grants under this program, the Secretary uses the EDGAR selection criteria in 34 CFR 75.210.

Eligible Applicants: Eligible applicants are institutions of higher education, State agencies, and other appropriate nonprofit agencies.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Applications available: June 13, 1997.

Deadline for Transmittal of Applications: July 29, 1997.

Deadline for Intergovernmental Review: September 26, 1997.

Estimated Number of Awards: 1.

Project Period: Up to 60 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding $1,500,000 for any single budget period of 12 months. However, because of budgetary considerations contingent upon congressional action, the Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: Part III of the application, the Application Narrative, requires applicants to address the selection criteria that will be used by reviewers in evaluating individual proposals. The applicant must limit the Part III—Application Narrative to no more than 75 double-spaced 8 ½ x 11'' pages (on one side only) with one inch margins (top, bottom, and sides). This page limitation applies to all material presented in the application narrative—including, for example, any charts, tables, figures, and graphs. The application narrative page limit does not apply to: Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications. Also, the one-page abstract, resumes, bibliography, or letters of support, while considered part of the application, are not subject to the page limitation. Applicants should note that reviewers are not required to review any information provided in addition to the application information listed above. All sections of text in the application narrative must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 14 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch. Double-spacing and font requirements do not apply within charts, tables, figures, and graphs, but the information presented in those formats should be easily readable. The Secretary rejects and does not consider an application that does not adhere to these requirements.

Program Authority: 20 U.S.C. 1409.

Absolute Priority 3—Technical Assistance to Parent Projects (84.029R)

The priority Technical Assistance to Parent Projects in the notice of final priorities under programs authorized by the Individuals with Disabilities Education Act, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Eligible Applicants: Parent Organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 316.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Applications Available: June 13, 1997.

Deadline for Transmittal of Applications: July 29, 1997.

Deadline for Intergovernmental Review: September 26, 1997.

Estimated Number of Awards: 1.

Project Period: Up to 60 months.

Maximum Award: The Secretary rejects and does not consider an application that proposes a budget exceeding $1,200,000 for any single budget period of 12 months. However, because of budgetary considerations contingent upon congressional action, the Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: Part III of the application, the Application Narrative, requires applicants to address the selection criteria that will be used by reviewers in evaluating individual proposals. The applicant must limit the Part III—Application Narrative to no more than 75 double-spaced 8 ½ x 11″ pages (on one side only) with one inch margins (top, bottom, and sides). This page limitation applies to all material presented in the application narrative—including, for example, any charts, tables, figures, and graphs. The application narrative page limit does not apply to: Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications. Also, the one-page abstract, resumes, bibliography, or letters of support, while considered part of the application, are not subject to the page limitation. Applicants should note that reviewers are not required to review any information provided in addition to the application information listed above. All sections of text in the application narrative must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 14 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch. Double-spacing and font requirements do not apply within charts, tables, figures, and graphs, but the information presented in those formats should be easily readable. The Secretary rejects and does not consider an application that does not adhere to these requirements.

Program Authority: 20 U.S.C. 1431(e).

Absolute Priority 4—Special Projects—National Initiatives (84.029K3)

The priority Special Projects—National Initiatives in the notice of final priorities under programs authorized by the Individuals with Disabilities Education Act, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Eligible Applicants: Institutions of higher education; State agencies; and other appropriate nonprofit agencies.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) the regulations for this program in 34 CFR part 318.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Applications Available: June 13, 1997.

Deadline for Transmittal of Applications: July 29, 1997.

Deadline for Intergovernmental Review: September 26, 1997.

Estimated Number of Awards: 1 award for Focus 1—An Academy: Linking Teacher Education to Advances in Research; and 1 award for Focus 2—Developing a National Plan for Training Personnel to Serve Children with Blindness and Low-Vision.

Project Period: For Focus 1, up to 36 months; for Focus 2, up to 24 months.

Maximum Award: For Focus 1—An Academy: Linking Teacher Education to Advances in Research, the Secretary rejects and does not consider an application that proposes a budget exceeding $1,000,000 for any single budget period of 12 months.

For Focus 2—Developing a National Plan for Training Personnel to Serve Children with Blindness and Low-Vision, the Secretary rejects and does not consider an application that proposes a budget exceeding $150,000 for any single budget period of 12 months.

However, because of budgetary considerations contingent upon congressional action, the Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: Part III of the application, the Application Narrative, requires applicants to address the selection criteria that will be used by reviewers in evaluating individual proposals. The applicant must limit the Part III—Application Narrative to no more than 75 double-spaced 8 ½ x 11″ pages (on one side only) with one inch margins (top, bottom, and sides). This page limitation applies to all material presented in the application narrative—including, for example, any charts, tables, figures, and graphs. The application narrative page limit does not apply to: Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications. Also, the one-page abstract, resumes, bibliography, or letters of support, while considered part of the application, are not subject to the page limitation. Applicants should note that reviewers are not required to review any information provided in addition to the application information listed above. All sections of text in the application narrative must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 14 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch. Double-spacing and font requirements do not apply within charts, tables, figures, and graphs, but the information presented in those formats should be easily readable. The Secretary rejects and does not consider an application that does not adhere to these requirements.

Program Authority: 20 U.S.C. 1431.

Absolute Priority 5—Research Institute on Secondary Education Services for Children and Youth With Disabilities (84.158J)

The priority Research Institute on Secondary Education Services for Children and Youth with Disabilities in the notice of final priorities under programs authorized by the Individuals with Disabilities Education Act, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Eligible Applicants: Institutions of higher education, State educational agencies, local educational agencies, and other public and nonprofit private institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 326.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Applications Available: June 13, 1997.

Deadline for Transmittal of Applications: July 29, 1997.

Deadline for Intergovernmental Review: September 26, 1997.

Estimated Number of Awards: 1.

Project Period: Up to 60 months.

Maximum Award: The Secretary rejects and does not consider an

application that proposes a budget exceeding $700,000 for any single budget period of 12 months. However, because of budgetary considerations contingent upon congressional action, the Secretary may change the maximum amount through a notice published in the **Federal Register**.

Page Limits: Part III of the application, the Application Narrative, requires applicants to address the selection criteria that will be used by reviewers in evaluating individual proposals. The applicant must limit the Part III—Application Narrative to no more than 75 double-spaced 8½ × 11″ pages (on one side only) with one inch margins (top, bottom, and sides). This page limitation applies to all material presented in the application narrative—including, for example, any charts, tables, figures, and graphs. The application narrative page limit does not apply to: Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications. Also, the one-page abstract, resumes, bibliography, or letters of support, while considered part of the application, are not subject to the page limitation. Applicants should note that reviewers are not required to review any information provided in addition to the application information listed above. All sections of text in the application narrative must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 14 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch. Double-spacing and font requirements do not apply within charts, tables, figures, and graphs, but the information presented in those formats should be easily readable. The Secretary rejects and does not consider an application that does not adhere to these requirements.

Program Authority: 20 U.S.C. 1425.

For Applications and General Information Contact: Requests for applications and general information should be addressed to the Grants and Contracts Services Team, 600 Independence Avenue, SW, room 3317, Switzer Building, Washington, DC 20202–2641. The preferred method for requesting information is to FAX your request to: (202) 205–8717. Telephone: (202) 260–9182.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953. Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Department as listed above.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at Gopher://gcs.ed.gov); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

(Catalog of Federal Domestic Assistance Numbers: Research in Education of Individuals with Disabilities Program, 84.023; Program for Children with Severe Disabilities, 84.086; Training Personnel for the Education of Individuals with Disabilities—Grants for Personnel Training and Parent Training and Information Centers, 84.029; and Secondary Education and Transitional Services for Youth with Disabilities Program, 84.158)

Dated: June 4, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–15033 Filed 6–9–97; 8:45 am]

BILLING CODE 4000–01–P

federal register

Tuesday
June 10, 1997

Part IV

Department of the Treasury

Internal Revenue Service

26 CFR Part 54

Department of Labor

Pension and Welfare Benefits Administration

29 CFR Parts 2590 and 2520

Department of Health and Human Services

Health Care Financing Administration

45 CFR Subtitle A, Parts 144, 146, and 148

Interim Rules for Health Insurance Portability for Group Health Plans; Corrections; Final Rule

Interim Rules Amending ERISA Disclosure Requirements for Group Health Plans; Correction; Final Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[TD 8716]

RIN 1545–AV05

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2590

RIN 1210–AA54

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

45 CFR Subtitle A, Parts 144 and 146

[BPD–890-CN2]

RIN 0938–AI08

Interim Rules for Health Insurance Portability for Group Health Plans; Correction

AGENCIES: Internal Revenue Service, Department of the Treasury; Pension and Welfare Benefits Administration, Department of Labor; Health Care Financing Administration, Department of Health and Human Services.

ACTION: Correction to interim rules.

SUMMARY: This document contains corrections to interim rules which were published in the **Federal Register** on Tuesday, April 8, 1997 (62 FR 16894). The interim rules govern the access, portability and renewability requirements for group health plans and issuers of health insurance coverage offered in connection with a group health plan under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

EFFECTIVE DATE: June 1, 1997.

FOR FURTHER INFORMATION CONTACT: Julie Walton, Health Care Financing Administration, at 410–786–1565; Amy J. Scheingold, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Department of Labor, at 202–219–4377; or Russ Weinheimer, Internal Revenue Service, at 202–622–4695. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

The interim rules that are subject to these corrections are issued under sections 102(c)(4), 101(g)(4), and 401(c)(4) of HIPAA.

Need for Correction

As published, the interim rules contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the interim rules which are the subject of FR Doc. 97–8275 is corrected as follows:

1. On page 16895, column 3, in the preamble under the paragraph heading **"C. Overview of Coordination of Group Market Regulation Among Departments",** line 3 from the top of the column, the language ''Part A of Title XXVII of the PHS Act, a'' is corrected to read ''Title XXVII of the PHS Act, a''.

2. On page 16896, column 1, in the preamble under the paragraph heading **"D. Special Information Concerning State Insurance Law",** line 2 from the bottom of the column, the language ''sections 144 through 148 in the PHS Act'' is corrected to read ''parts 144 through 148 in the PHS Act''.

3. On page 16896, column 2, in the preamble under the paragraph heading **"D. Special Information Concerning State Insurance Law",** lines 3 through 7, the language ''(See section 146) and the individual market (see section 148). The group market is further divided into the large group market and the small group market. Section 146 of the PHS Act'' is corrected to read ''(see part 146) and the individual market (see part 148). The group market is further divided into the large group market and the small group market. Part 146 of the PHS Act''.

4. On page 16896, column 2, in the preamble, the paragraph heading *''Definitions—26 CFR 54.9801–2, 29 CFR 2590.701–2, 45 CFR 144.103''*, is corrected to read *''Definitions—26 CFR 54.9801–2T, 29 CFR 2590.701–2, 45 CFR 144.103''*.

5. On page 16896, column 3, in the preamble, the paragraph heading *''Limitation on Preexisting Condition Exclusion Period—26 CFR 54.9801–3, 29 CFR 2590.71–3, 45 CFR 146.111''*, is corrected to read *''Limitation on Preexisting Condition Exclusion Period—26 CFR 54.9801–3T, 29 CFR 2590.701–3, 45 CFR 146.111''*.

6. On page 16896, column 3, in footnote 4, in the last line, the reference to ''26 CFR 54.9801–3'' is corrected to read ''26 CFR 54.9801–3T''.

7. On page 16897, column 3, in the preamble, the paragraph heading *''Rules Relating to Creditable Coverage—26 CFR 54.9801–4, 29 CFR 2590.701–4, 45 CFR 146.113''* is corrected to read *''Rules Relating to Creditable Coverage—26 CFR 54.9801–4T, 29 CFR 2590.701–4, 45 CFR 146.113''*.

8. On page 16899, column 1, in the preamble, the paragraph heading *''Certificates and Disclosure of Previous Coverage—26 CFR 54.9801–5, 29 CFR 2590.701–5, 45 CFR 146.115''* is corrected to read *''Certificates and Disclosure of Previous Coverage—26 CFR 54.9801–5T, 29 CFR 2590.701–5, 45 CFR 146.115''*.

9. On page 16899, column 2, in the preamble under the paragraph heading *''Certificates and Disclosure of Previous Coverage—26 CFR 54.9801–5T, 29 CFR 2590.701–5, 45 CFR 146.115''*, the first full paragraph, line 2, the language ''Paragraph (a)(5) describes the rights of'' is corrected to read ''Paragraph (a)(2) describes the rights of''.

10. On page 16900, column 3, in the preamble under the paragraph heading *''Certificates and Disclosure of Previous Coverage—26 CFR 54.9801–5T, 29 CFR 2590.701–5, 45 CFR 146.115''*, lines 6 and 7 from the top of the column, the language ''category of benefits described in paragraph (b). The requested entity may'' is corrected to read ''of the specified categories of benefits. The requested entity may''.

11. On page 16900, column 3, in the preamble under the heading of the model form **"Information on Categories of Benefits",** in the unnumbered paragraph of the model form, lines 1 through 7 are corrected as follows:

> ''For each category above, (i) enter 'N/A' if the individual had no coverage within the category, (ii) enter both the date that the individual's coverage within the category began and the date that the individual's coverage within the category ended (or indicate if continuing), or (iii) enter 'same' ''.

12. On page 16901, column 2, in the preamble under the heading of the model certificate **"Certificate of Group Health Plan Coverage",** number 8, line 2, the language ''line 5 has at least 18 months of creditable'' is corrected to read ''line 5 has (have) at least 18 months of creditable''.

13. On page 16901, column 2, in the preamble under the heading of the model certificate **"Certificate of Group Health Plan Coverage",** in the paragraph entitled **"Note:",** last line, the language ''the participant and each beneficiary.'' is corrected to read ''the participant and each dependent.''.

14. On page 16901, column 2, in the preamble, the paragraph heading *''Special Enrollment Periods—26 CFR 54.9801–6, 29 CFR 2590.701–6, 45 CFR 146.117''* is corrected to read *''Special Enrollment Periods—26 CFR 54.9801–6T, 29 CFR 2590.701–6, 45 CFR 146.117''*.

15. On page 16902, column 2, in the preamble, the paragraph heading *''Nondiscrimination in Eligibility and*

Premiums in the Group Market—26 CFR 54.9802–1, 29 CFR 2590.702, 45 CFR 146.121'' is corrected to read *''Nondiscrimination in Eligibility and Premiums in the Group Market—26 CFR 54.9802–1T, 29 CFR 2590.702, 45 CFR 146.121''*.

16. On page 16903, column 2, in the preamble, the paragraph heading *''Special Rules—Excepted Plans and Excepted Benefits—26 CFR 54.9804–1, 29 CFR 2590.732, 45 CFR 146.145''* is corrected to read *''Special Rules—Excepted Plans and Excepted Benefits—26 CFR 54.9804–1T, 29 CFR 2590.732, 45 CFR 146.145''*.

17. On page 16906, column 2, in the preamble, the paragraph heading *''Effective Dates—26 CFR 54.9806–1, 29 CFR 2590.736, 45 CFR 146.125''* is corrected to read *''Effective Dates—26 CFR 54.9806–1T, 29 CFR 2590.736, 45 CFR 146.125''*.

18. On page 16907, column 1, in the preamble, under the paragraph heading **''G. Interim Rules and Request for Comments'',** line 3, the language ''NMHPA), Section 2707 of the PHS Act,'' is corrected to read ''NMHPA), Section 2792 of the PHS Act,''.

19. On page 16909, column 2, in the preamble, the fourth full paragraph, line 9, the language ''help level the playing for small'' is corrected to read ''help level the playing field for small''.

20. On page 16913, column 2, in the preamble, the second full paragraph, line 10, the language ''explore innovative options and intend'' is corrected to read ''explore innovative options and HHS intends''.

20a. On page 16919, column 2, in the preamble, under the paragraph heading ''Exclusion of Certain Plans from the PHS Act Group Market Requirements'', first paragraph, line 8, the language ''Act. Section 146.180(b) includes rules'' is corrected to read ''Act. Section 146.180 includes rules''.

21. On page 16921, column 2, in the preamble, line 2 from the top of the column, the language ''for certification (29 CFR 2590.710(e) and'' is corrected to read ''for certification (29 CFR 2590.736(e) and''.

22. On page 16923, column 1, in the preamble, the paragraph heading *''Estimated Total Burden Cost''* is removed.

23. On page 16924, column 2, in the preamble, the paragraph heading *''45 CFR 146.120 Certificates and Disclosure of Previous Coverage''* is corrected to read *''45 CFR 146.115 Certificates and Disclosure of Previous Coverage''*.

24. On page 16925, column 1, in the preamble, the paragraph heading *''45 CFR 146.122 Special Enrollment Periods''* is corrected to read *''45 CFR 146.117 Special Enrollment Periods''*.

25. On page 16925, column 2, in the preamble, lines 1 through 4 from the bottom of the column, the language ''annually per issuer, for a total burden of 2,800 hours. The cost associated with this hour burden is estimated to be $30,800 annually.'' is corrected to read ''per issuer, for a total burden of 2,800 hours. The cost associated with this hour burden is estimated to be $30,800.''.

26. On page 16927, column 1, in the preamble, the paragraph heading is corrected to read as follows: *''45 CFR 146.180 Treatment of Non-Federal Governmental Plans''*.

26a. On page 16927, column 1, in the preamble, under the paragraph heading ''45 CFR 146.180 Treatment of Non-Federal Governmental Plans'', first paragraph, line 1, the language ''Section 145.180(b) includes rules'' is corrected to read ''Section 146.180 includes rules''.

27. On page 16927, column 2, in the preamble, under the paragraph heading **''Statutory Authorities''**, the third paragraph, last line, the language ''the authority contained in Section.'' is corrected to read ''the authority contained in 26 U.S.C. 7805, 9806; Sec. 401, Pub. L. 104–191, 101 Stat. 1936.''.

26 CFR PART 54—[CORRECTED]

§ 54.9801–1T [Corrected]

28. On page 16927, column 3, § 54.9801–1T, paragraph (c), line 6, the language ''sections 701, 702, 703, 705, and 706 of'' is corrected to read ''sections 701, 702, 703, 732, and 733 of''.

§ 54.9801–2T [Corrected]

29. On page 16928, column 1, § 54.9801–2T, paragraph (3) of the definition ''COBRA'', line 2, the language ''means sections 601–608 of the ERISA,'' is corrected to read ''means sections 601–608 of ERISA,''.

§ 54.9801–3T [Corrected]

30. On page 16930, column 1, § 54.9801–3T, paragraph (a)(1)(iii), line 2 from the top of the column, the language '' 'coverage' as such term is used in'' is corrected to read '' 'coverage' as such phrase is used in''.

31. On page 16930, column 3, § 54.9801–3T, paragraph (b)(1)(ii), paragraph (ii) of the *Example.*, line 5 from the bottom of the paragraph, the language ''to 2 months for any preexisting condition of'' is corrected to read ''to 65 days for any preexisting condition of''.

§ 54.9801–4T [Corrected]

32. On page 16931, column 3, § 54.9801–4T, paragraph (b)(2)(iv), paragraph (i) of *Example 6.*, line 5, the language ''ceases. *C* is then unemployed for 51 days'' is corrected to read ''ceases. *C* is then unemployed and does not have any creditable coverage for 51 days''.

33. On page 16932, column 1, § 54.9801–4T, paragraph (b)(2)(iv), paragraph (ii) of *Example 7.*, line 3, the language ''coverage under the policy ultimately became'' is corrected to read ''and coverage under the policy ultimately became''.

34. On page 16932, column 1, § 54.9801–4T, paragraph (b)(2)(v)(B), paragraph (ii) of the *Example.*, line 9, the language ''month anniversary of her enrollment (May'' is corrected to read ''month anniversary of *F*'s enrollment (May''.

§ 54.9801–5T [Corrected]

35. On page 16933, column 1, § 54.9801–5T, paragraph (a)(1)(i), lines 3 and 4 from the top of the column, the language ''accordance with this paragraph (a) of this section. (See PHSA section 2701(e)'' is corrected to read ''accordance with this paragraph (a). (See PHSA section 2701(e)''.

36. On page 16933, column 2, § 54.9801–5T, paragraph (a)(1)(iv)(B)(*1*), line 24, the language ''request made under paragraph (b)(2) of'' is corrected to read ''request made under paragraph (b)(1) of''.

37. On page 16933, column 2, § 54.9801–5T, paragraph (a)(1)(iv)(B)(*2*), paragraph (i) of the *Example.*, lines 7 through 9, the language ''agreement with the plan to provide automatic certificates as permitted under paragraph (a)(2)(ii) of this section.'' is corrected to read ''agreement with the plan to provide certificates as permitted under paragraph (a)(1)(iii) of this section.''.

38. On page 16934, column 1, § 54.9801–5T, paragraph (a)(2)(iv), paragraph (i) of *Example 4.*, line 8, the language ''expiration of a 30-day grace period, *S*'s group'' is corrected to read ''expiration of a 30-day grace period, Employer *S*'s group''.

39. On page 16934, column 2, § 54.9801–5T, paragraph (a)(2)(iv), paragraph (i) of *Example 5.*, line 2 from the top of the column, the language ''premitted under paragraph (a)(2)(iii). Under'' is corrected to read ''permitted under paragraph (a)(2)(iii) of this section. Under''.

40. On page 16935, column 1, § 54.9801–5T, paragraph (a)(5)(i)(A), line 5, the language ''relating to the dependent coverage. In'' is corrected to

read ''relating to dependent coverage. In''.

41. On page 16935, columns 1 and 2, § 54.9801–5T, paragraph (a)(5)(i)(B), paragraph (ii) of the *Example.*, the last line of column 1 and first line of column 2, the language ''the standard in this paragraph (a)(5)(i) of this section that it make reasonable efforts to'' is corrected to read ''the standard in this paragraph (a)(5)(i) that it make reasonable efforts to''.

42. On page 16935, column 3, § 54.9801–5T, paragraph (a)(6)(ii), line 2 from the bottom of the paragraph, the language ''requirements of Subparts 1 and 3 of Part'' is corrected to read ''requirements of Subparts 1 through 3 of Part''.

43. On page 16936, column 2, § 54.9801–5T, paragraph (c)(2)(ii), line 3 from the top of the column, the language ''explanations of benefit claims (EOB) or'' is corrected to read ''explanations of benefit claims (EOBs) or''.

44. On page 16937, column 1, § 54.9801–5T, paragraph (d)(3), paragraph (ii) of *Example 3.*, last 4 lines of the paragraph, the language ''is consistent with the urgency of *H*'s *health condition* (this determination may be modified as permitted under paragraph (d)(2) of this section).'' is corrected to read ''is consistent with the urgency of *H*'s health condition. (This determination may be modified as permitted under paragraph (d)(2) of this section.)''.

§ 54.9801–6T [Corrected]

45. On page 16938, column 1, § 54.9801–6T, paragraph (b)(2), line 6, the language ''enrolled, in the plan, the individual'' is corrected to read ''enrolled, for coverage under the terms of the plan, the individual''.

46. On page 16938, column 1, § 54.9801–6T, paragraph (b)(4) introductory text, line 2, the language ''who is eligible, but not enrolled, in the'' is corrected to read ''who is eligible, but not enrolled, for coverage under the terms of the''.

47. On page 16938, column 1, § 54.9801–6T, paragraph (b)(6), line 4, the language ''eligible, but not enrolled, in the plan,'' is corrected to read ''eligible, but not enrolled, for coverage under the terms of the plan,''.

§ 54.9806–1T [Corrected]

48. On page 16940, column 1, § 54.9806–1T, paragraph (a)(1), line 6, the language ''through 54.9804–1T apply with respect'' is corrected to read ''through 54.9801–6T, 54.9802–1T, and 54.9804–1T apply with respect''.

49. On page 16940, column 1, § 54.9806–1T, paragraph (a)(2), line 12, the language ''1T through 54.9804–1T do not apply to'' is corrected to read ''1T through 54.9801–6T, 54.9802–1T, and 54.9804–1T do not apply to''.

50. On page 16940, column 1, § 54.9806–1T, paragraph (a)(2), line 3 from the bottom of the paragraph, the language ''requirement of such part, is not treated'' is corrected to read ''requirement of such Chapter, is not treated''.

51. On page 16940, column 3, § 54.9806–1T, paragraph (d), line 11, the language ''and a health insurance issuer is not'' is corrected to read ''and a health insurance issuer are not''.

52. On page 16940, column 3, § 54.9806–1T, paragraph (e)(3)(i), line 4, the language ''§ 54.9801–5T(a)(5)(ii), that occur on or'' is corrected to read ''§ 54.9801–5T(a)(2)(ii), that occur on or''.

53. On page 16940, column 3, § 54.9806–1T, paragraph (e)(3)(iv), last line, the language ''5T(a)(5)(iii).'' is corrected to read ''5T(a)(2)(iii).''

54. On page 16941, column 1, in the signature block, the language ''*Assistant Secretary of the Treasury*'' is corrected to read ''*Acting Assistant Secretary of the Treasury*''.

29 CFR PART 2590—[CORRECTED]

§ 2590.701–2 [Corrected]

55. On pages 16941 and 16492, columns 3 and 1, respectively, § 2590.701–2, the definitions of ''*Enrollment date*'' and ''*Late enrollment*'' are corrected to read as follows:

* * * * *

Enrollment date definitions (*enrollment date* and *first day of coverage*) are set forth in § 2590.701–3(a)(2) (i) and (ii).

* * * * *

Late enrollment definitions (*late enrollee* and *late enrollment*) are set forth in § 2590.701–3(a)(2) (iii) and (iv).

* * * * *

§ 2590.701–3 [Corrected]

56. On page 16943, column 1, § 2590.701–3, paragraph (a)(1)(i)(C), paragraph (i) of *Example 3.*, line 2 from the bottom of the paragraph, the language ''plan. Two months later, *B* is hospitalized'' is corrected to read ''plan. Two months later, *B* is hospitalized for''.

57. On page 16943, column 2, § 2590.701–3, paragraph (a)(1)(iii), line 2 from the bottom of the paragraph, the language ''term is used in section 701(a)(3) of the'' is corrected to read ''phrase is used in section 701(a)(3) of the''.

58. On page 16944, column 1, § 2590.701–3, paragraph (b)(1)(ii), paragraph (ii) of the *Example.*, line 5 from the bottom of the paragraph, the language ''to 2 months for any preexisting condition of'' is corrected to read ''to 65 days for any preexisting condition of''.

59. On page 16944, column 2, § 2590.701–3, paragraph (c), line 3, the language ''plan, and health insurance issuer'' is corrected to read ''plan, and a health insurance issuer''.

§ 2590.701–4 [Corrected]

60. On page 16945, column 2, § 2590.701–4, paragraph (b)(2)(iv), paragraph (i) of *Example 6*, line 5, the language ''ceases. *C* is then unemployed for 51 days'' is corrected to read ''ceases. *C* is then unemployed and does not have any creditable coverage for 51 days''.

§ 2590.701–5 [Corrected]

61. On page 16946, column 2, § 2590.701–5, paragraph (a)(1)(i), last line, the language ''this paragraph (a) of this section.'' is corrected to read ''this paragraph (a).''.

62. On page 16946, column 3, § 2590.701–5, paragraph (a)(1)(iv)(B)(*1*), line 12 from the bottom of the column, the language ''request made under paragraph (b)(2) of'' is corrected to read ''request made under paragraph (b)(1) of''.

63. On page 16947, column 1, § 2590.701–5, paragraph (a)(1)(iv)(B)(*2*), paragraph (i) of the *Example.*, last 3 lines, the language ''agreement with the plan to provide automatic certificates as permitted under paragraph (a)(2)(ii) of this section.'' is corrected to read ''agreement with the plan to provide certificates as permitted under paragraph (a)(1)(iii) of this section.''.

64. On page 16947, column 3, § 2590.701–5, paragraph (a)(2)(iv), paragraph (i) of *Example 4.*, line 8, the language ''expiration of a 30-day grace period, *S*'s group'' is corrected to read ''expiration of a 30-day grace period, Employer *S*'s group''.

65. On page 16948, column 3, § 2590.701–5, paragraph (a)(5)(i)(A), line 5, the language ''relating to the dependent coverage. In'' is corrected to read ''relating to dependent coverage. In''.

66. On page 16948, column 3, § 2590.701–5, paragraph (a)(5)(i)(B), paragraph (ii) of the *Example.*, lines 2 and 3, the language ''the standard in this paragraph (a)(5)(i) of this section that it make reasonable efforts to'' is corrected to read ''the standard in this paragraph (a)(5)(i) that it make reasonable efforts to''.

66a. On page 16949, column 2, § 2590.701–5, paragraph (a)(6)(ii), line 3

from the top of the column, the language ''requirements of subparts 1 and 3 of part'' is corrected to read ''requirements of Subparts 1 through 3 of Part''.

67. On page 16949, column 3, § 2590.701–5, paragraph (c)(2)(ii), line 5, the language ''explanations of benefit claims (EOB) or'' is corrected to read ''explanations of benefit claims (EOBs) or''.

§ 2590.701–6 [Corrected]

68. On page 16951, column 3, § 2590.701–6, paragraph (b)(2), line 6, the language ''enrolled, in the plan, the individual'' is corrected to read ''enrolled, for coverage under the terms of the plan, the individual''.

69. On page 16951, column 3, § 2590.701–6, paragraph (b)(4) introductory text, line 2, the language ''who is eligible, but not enrolled, in the'' is corrected to read ''who is eligible, but not enrolled, for coverage under the terms of the''.

70. On page 16951, column 3, § 2590.701–6, paragraph (b)(6), line 4, the language ''eligible, but not enrolled, in the plan'' is corrected to read ''eligible, but not enrolled, for coverage under the terms of the plan''.

§ 2590.731 [Corrected]

71. On page 16953, column 3, § 2590.731, paragraph (d)(1), line 2, the language ''purposes of this § 2590.736 the term'' is corrected to read ''purposes of this section the term''.

§ 2590.736 [Corrected]

72. On page 16955, column 1, § 2590.736, paragraph (d), line 11, the language ''and a health insurance issuer is not'' is corrected to read ''and a health insurance issuer are not''.

73. On page 16955, column 1, § 2590.736, paragraph (e)(3)(i), line 4, the language ''§ 2590.701–5(a)(5)(ii), that occur on or'' is corrected to read ''§ 2590.701–5(a)(2)(ii), that occur on or''.

74. On page 16955, column 2, § 2590.736, paragraph (e)(3)(iv), last line, the language ''5(a)(5)(iii).'' is corrected to read ''5(a)(2)(iii).''.

45 CFR PART 144—[CORRECTED]

§ 144.103 [Corrected]

75. On page 16956, column 3, § 144.103, the definitions of ''*Creditable coverage*'' and ''*Enrollment date*'' are corrected to read as follows:

* * * * *

Creditable coverage has the meaning given the term under 45 CFR 146.113(a).

* * * * *

Enrollment date definitions (*enrollment date* and *first day of coverage*) are set forth in 45 CFR 146.111(a)(2)(i) and (a)(2)(ii).

* * * * *

76. On page 16956, column 3, § 144.103, paragraph (2) under the definition ''*Excepted benefits*'', line 1, the language ''(2) The individual market provisions'' is corrected to read ''(2) Individual market provisions''.

77. On page 16957, column 2, § 144.103, in the definition ''*Medical care*'', line 1, the language ''*Medical care* or *condition* means'' is corrected to read ''*Medical care* means''.

78. On page 16957, column 2, § 144.103, in the definition ''*Medical condition*'', line 1, the language ''*Medical condition* means any'' is corrected to read ''*Medical condition* or *condition* means any''.

79. On page 16957, column 3, § 144.103, in the definition ''*Non-Federal governmental plan*'', line 3, the language ''a Federal government plan.'' is corrected to read ''a Federal governmental plan.''.

80. On page 16957, column 3, § 144.103, in the definition ''*PHS Act*'', line 2, the language ''Service Act.'' is corrected to read ''Service Act (42 U.S.C. 201, *et seq.*).''.

81. On page 16958, column 1, § 144.103, in the definition ''*Public health plan*'', lines 1 and 2, the language ''*Public health plan* means 'public health plan' within the meaning of 45'' is corrected to read ''*Public health plan* has the meaning given the term under 45''.

82. On page 16958, column 2, § 144.103, in the definition ''*State health benefits risk pool*'', lines 1 through 3, the language ''*State health benefits risk pool* means a 'State health benefits risk pool' within the meaning of 45 CFR'' is corrected to read ''*State health benefits risk pool* has the meaning given the term under 45 CFR''.

45 CFR PART 146—[CORRECTED]

§ 146.111 [Corrected]

83. On page 16959, column 2, § 146.111, paragraph (a)(1)(i)(C), paragraph (ii) of *Example 3*, line 4, the language ''this of illness because the care is related to'' is corrected to read ''this illness because the care is related to''.

84. On page 16959, column 3, § 146.111, paragraph (a)(1)(iii), line 7 from the top of the column, the language ''creditable coverage' as such term is'' is corrected to read ''creditable coverage' as such phrase is''.

85. On page 16960, column 2, § 146.111, paragraph (b)(1)(ii), paragraph (ii) of the *Example*, line 5 from the bottom of the paragraph, the language ''to 2 months for any preexisting condition of'' is corrected to read ''to 65 days for any preexisting condition of''.

86. On page 16960, column 2, § 146.111, paragraph (c), line 3, the language ''plan, and health insurance issuer'' is corrected to read ''plan, and a health insurance issuer''.

§ 146.113 [Corrected]

87. On page 16961, column 3, § 146.113, paragraph (b)(2)(iv), paragraph (i) of *Example 6*, line 5, the language ''ceases. *C* is then unemployed for 51 days'' is corrected to read ''ceases. *C* is then unemployed and does not have any creditable coverage for 51 days''.

88. On page 16962, column 1, § 146.113, paragraph (c)(1), last line, the language ''(b).'' is corrected to read ''(b) of this section.''

89. On page 16962, column 2, § 146.113, paragraph (c)(7)(ii), line 7, the language ''paragraph (b), up to a total of 365 days'' is corrected to read ''paragraph (b) of this section, up to a total of 365 days''.

90. On page 16962, column 3, § 146.113, paragraph (c)(7)(iii), paragraph (ii) of the *Example*, lines 4 and 5, the language ''drug benefits because *D* had the equivalent of 90-days of creditable coverage relating to'' is corrected to read ''drug benefits because *D* had 90 days of creditable coverage relating to''.

§ 146.115 [Corrected]

91. On page 16962, column 3, § 146.115, paragraph (a)(1)(i), line 5, the language ''required to certificates of creditable'' is corrected to read ''required to furnish certificates of creditable''.

92. On page 16962, column 3, § 146.115, paragraph (a)(1)(ii), line 2 from the bottom of the paragraph, the language ''paragraph (a)(3) with respect to the'' is corrected to read ''paragraph (a)(3) of this section with respect to the''.

93. On page 16963, column 1, § 146.115, paragraph (a)(1)(iv)(B)(*1*), line 21, the language ''paragraph (b)(2) of this section (relating'' is corrected to read ''paragraph (b)(1) of this section (relating''.

94. On page 16963, column 1, § 146.115, paragraph (a)(1)(iv)(B)(*2*), paragraph (i) of the *Example*, last 3 lines, the language ''agreement with the plan to provide automatic certificates as permitted under paragraph (a)(2)(ii) of this section.'' is corrected to read ''agreement with the plan to provide certificates as permitted under paragraph (a)(1)(iii) of this section.''.

95. On page 16963, column 2, § 146.115, paragraph (a)(2)(i), line 2 from the bottom of the paragraph, the language ''described in paragraph (a)(2)(ii) and'' is corrected to read ''described in paragraph (a)(2)(ii) or''.

96. On page 16963, column 2, § 146.115, paragraph (a)(2)(ii) introductory text, line 2, the language ''paragraph (a)(2)(ii) of this section are'' is corrected to read ''paragraph (a)(2)(ii) are''.

97. On page 16963, column 2, § 146.115, paragraph (a)(2)(ii)(A), line 4 from the bottom of the paragraph, the language ''section 606 of the Act, section'' is corrected to read ''section 606 of ERISA, section''.

98. On page 16963, column 3, § 146.115, paragraph (a)(2)(iii), line 8 from the bottom of the paragraph, the language ''acting in a reasonable or prompt fashion'' is corrected to read ''acting in a reasonable and prompt fashion,''.

99. On page 16964, column 1, § 146.115, paragraph (a)(2)(iv), paragraph (i) of *Example 4*., line 8, the language ''expiration of a 30-day grace period, *S*'s group'' is corrected to read ''expiration of a 30-day grace period, Employer *S*'s group''.

100. On page 16964, column 1, § 146.115, paragraph (a)(2)(iv), paragraph (i) of *Example 5*., line 4, the language ''permitted under paragraph (a)(2)(iii). Under'' is corrected to read ''permitted under paragraph (a)(2)(iii) of this section. Under''.

101. On page 16964, column 1, § 146.115, paragraph (a)(3)(i)(B)(*3*), line 3, the language ''to accept the information in paragraph'' is corrected to read ''to accept the information in this paragraph''.

102. On page 16964, column 3, § 146.115, paragraph (a)(5)(i)(A), line 4, the language ''needed for a certificate relating to the'' is corrected to read ''needed for a certificate relating to''.

103. On page 16965, column 1, § 146.115, paragraph (a)(5)(iii)(B), line 9, the language ''requested to be provided. It does not'' is corrected to read ''requested to be provided. If a certificate does not''.

104. On page 16965, column 2, § 146.115, paragraph (a)(6)(ii), line 5 from the bottom of the column, the language ''requirements of subparts 1 and 3 of part'' is corrected to read ''requirements of Subparts 1 through 3 of Part''.

105. On page 16966, column 1, § 146.115, paragraph (c)(2)(ii), line 5, the language ''explanations of benefit claims EOB) or'' is corrected to read ''explanations of benefit claims (EOBs) or''.

106. On page 16966, column 2, § 146.115, paragraph (c)(2)(iv), paragraph (i) of the *Example*, line 1, the language ''*Example*: (i) Employer *X*'s group health'' is corrected to read ''*Example*: (i) Individual *F* terminates employment with Employer *W* and, a month later, is hired by Employer *X*. Employer *X*'s group health''.

107. On page 16966, column 3, § 146.115, paragraph (d)(3), paragraph (i) of the *Example*, lines 1 through 3, the language ''*Example*: (i) Individual *F* terminates employment with Employer *W* and, a month later, is hired by Employer *X*. *Example 1:*'' is corrected to read ''*Example 1:* (i)''.

§ 146.117 [Corrected]

108. On page 16968, column 1, § 146.117, paragraph (b)(2), line 1, the language ''enrolled, in the plan, the individual'' is corrected to read ''enrolled, for coverage under the terms of the plan, the individual''.

109. On page 16968, column 1, § 146.117, paragraph (b)(4) introductory text, line 2, the language ''who is eligible, but not enrolled, in the'' is corrected to read ''who is eligible, but not enrolled, for coverage under the terms of the''.

110. On page 16968, column 1, § 146.117, paragraph (b)(6), line 4, the language ''eligible, but not enrolled, in the plan,'' is corrected to read ''eligible, but not enrolled, for coverage under the terms of the plan,''.

§ 146.121 [Corrected]

111. On page 16969, column 1, § 146.121, paragraph (a)(1)(ii), last line, the language ''defined in § 146.102'' is corrected to read ''defined in 45 CFR 144.103''.

112. On page 16969, column 1, § 146.121, paragraph (a)(1)(vi), last line, the language ''§ 146.102.'' is corrected to read ''45 CFR 144.103.''.

§ 146.125 [Corrected]

113. On page 16970, column 1, § 146.125, paragraph (c), line 2, the language ''enforcement action is taken, under,'' is corrected to read ''enforcement action is to be taken''.

114. On page 16970, column 1, § 146.125, paragraph (d), line 4 from the bottom of the column, the language ''health insurance issuer is not subject to'' is corrected to read ''health insurance issuer are not subject to''.

115. On page 16970, column 2, § 146.125, paragraph (e)(3)(i), line 3, the language ''events described in § 146.115(a)(5)(ii),'' is corrected to read ''events described in § 146.115(a)(2)(ii),''.

116. On page 16970, column 2, § 146.125, paragraph (e)(3)(iv), last line, the language ''§ 146.115(a)(5)(iii).'' is corrected to read ''§ 146.115(a)(2)(iii).''.

§ 146.150 [Corrected]

117. On page 16971, column 3, § 146.150, paragraph (a)(2), last 5 lines in the paragraph, the language ''eligible individual, which is inconsistent with the nondiscrimination provisions of § 146.121 on an eligible individual being a participant or beneficiary.'' is corrected to read ''eligible individual's being a participant or beneficiary, which is inconsistent with the nondiscrimination provisions of § 146.121.''.

118. On page 16972, column 2, § 146.150, paragraph (d)(5), line 3, the language ''paragraph (d) of this section on a'' is corrected to read ''paragraph (d) on a''.

§ 146.180 [Corrected]

119. On page 16973, column 3, § 146.180, paragraph (a) introductory text, line 2, the language ''election described in this paragraph (a)'' is corrected to read ''election described in this section''.

120. On page 16973, column 3, § 146.180, paragraph (a)(2), last 2 lines, the language ''individuals (and dependents) losing other coverage (§ 146.117).'' is corrected to read ''individuals and dependents (§ 146.117).''.

121. On page 16974, column 1, § 146.180, paragraph (c)(4), line 1, the language ''requirements described in paragraph (a)'' is corrected to read ''requirements described in paragraph (a) of this section''.

122. On page 16974, column 2, § 146.180, paragraph (i)(2), line 4, the language ''of paragraphs (f) through (h), and has'' is corrected to read ''of paragraphs (f) through (h) of this section, and has''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate), Department of the Treasury.

Signed at Washington, DC this 2nd day of June 1997.

Daniel Maguire,

Director, Health Care Task Force, Pension and Welfare Benefits Administration, Department of Labor.

Dated: June 2, 1997.

Neil J. Stillman,

Deputy Assistant, Secretary for Information Resources Management, Department of Health and Human Services.

[FR Doc. 97–14884 Filed 6–9–97; 8:45 am]

BILLING CODE 4120–01–U

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2520

RIN 1210–AA55

Interim Rules Amending ERISA Disclosure Requirements for Group Health Plans; Correction

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Correction to interim rules.

SUMMARY: This document contains corrections to the interim rules which were published Tuesday, April 8, 1997, (62 FR 16979). The interim rules implement the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) and govern the content of the summary plan description (SPD) for group health plans, the furnishing of summaries of material reductions in covered services or benefits by group health plans, and the disclosure of SPD and related information through electronic media.

EFFECTIVE DATE: June 1, 1997.

FOR FURTHER INFORMATION CONTACT: Eric A. Raps (202) 219–8515 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The interim rules affect administrators of group health plans who are subject to HIPAA's and NMHPA's requirements on SPDs and furnishing summaries of material reductions in covered services or benefits.

Need for Correction

As published, the interim rules contains misprints which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on April 8, 1997 of interim rules which were subject of FR Doc. 97–8173, is corrected as follows:

§ 2520.102–3 [Corrected]

Paragraph 1. On page 16984, in the third column, in amendatory instruction 3, lines 3 and 4 are corrected to read ''the undesignated text at the end of paragraph (t)(2) to read as follows:''.

Par. 2. On page 16984, in the third column, in § 2520.102–3, the last sentence of the undesignated text at the end of paragraph (t)(2), ninth line, the word ''Benefit'' is corrected to read ''Benefits''.

Par. 3. On page 16984, in the third column, in § 2520.102–3, paragraph (v)(1), third and fourth lines, the words ''the last two sentences'' are corrected to read ''the last sentence''.

Robert J. Doyle,

Director of Regulations and Interpretations, Pension and Welfare Benefits Administration.

[FR Doc. 97–14810 Filed 6–9–97; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 148

[BPD–882–CN2]

Individual Market Health Insurance Reform: Portability From Group to Individual Coverage; Federal Rules for Access in the Individual Market; State Alternative Mechanisms to Federal Rules; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule; correction.

SUMMARY: This document corrects an interim rule and a previous correction to the interim rule published in the **Federal Register** of April 8, 1997 that implement the health insurance portability, availability, and renewability provisions of the Health Insurance Portability and Accountability Act of 1996 in the individual health insurance market.

EFFECTIVE DATE: These corrections are effective on April 8, 1997.

FOR FURTHER INFORMATION CONTACT: Michelle Bruggy, (410) 786–4675.

Correction

I. In the interim rule, FR document 97–8217, beginning on page 16985 in the **Federal Register** of April 8, 1997, make the following corrections:

a. On page 16986, in column 2, in the first paragraph under ''I. Summary of Recent Legislation'', the phrase ''Sections 101 through 103'' is corrected to read ''Sections 101, 102, and 401'' and, in the last paragraph, the phrase ''substantially fails to'' is corrected to read ''fails to substantially''.

b. On page 16987, in column 1, in the first paragraph under the first bullet, the following amendments are made:

1. The reference to ''Part 146'' is corrected to read ''Part 144''.

2. The reference to ''IHS'' is corrected to read ''the Indian Health Service''.

c. On page 16989, column 3, the first paragraph of the Certificate of Individual Health Insurance Coverage is corrected to read as follows:

*Important—This certificate provides evidence of your prior health coverage. You may need to furnish this certificate if you become eligible under a group health plan that excludes coverage for certain medical conditions that you have before you enroll. This certificate may need to be provided if medical advice, diagnosis, care, or treatment was recommended or received for the condition within the 6-month period prior to your enrollment in the new plan. If you become covered under a group health plan, check with the plan administrator to see if you need to provide this certificate. You may also need this certificate to buy, for yourself or your family, an insurance policy that does not exclude coverage for medical conditions that are present before you enroll.

* * * * *

d. On page 16989, column 3, item 7 of the Certificate of Individual Health Insurance Coverage is corrected to read as follows:

* * * * *

7. If the individual(s) identified in items 2 and 4 has (have) at least 18 months of creditable coverage (disregarding periods of coverage before a 63-day break), check here _____ and skip items 8 and 9.

* * * * *

§ 148.102 [Corrected]

e. On page 16996, in column 1, in § 148.102, the following corrections are made:

1. A new heading is added for paragraph (a)(1) to read ''*Scope*.''.

2. A new heading is added for paragraph (a)(2) to read ''*Applicability*.''.

3. Paragraph (b) is corrected to read as follows:

* * * * *

(b) *Effective dates*—(1) *General effective date*. Except as provided in paragraph (b)(2) of this section, and § 148.128 (State flexibility in individual market reforms—alternative mechanisms), the requirements of this part apply to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs.

(2) *Effective date for certification requirements*—(i) *General rule*. Subject to the transitional rule in § 148.124(b)(4)(iii), the certification requirements of § 146.115 of this subchapter apply to events occurring after June 30, 1996.

(ii) *Period covered by certificate*. A certificate is not required to reflect coverage before July 1, 1996.

(iii) *No certificate before June 1, 1997*. No certificate must be provided before June 1, 1997.

§ 148.120 [Corrected]

f. On page 16996, in column 2, in § 148.120(c)(1), a new heading is added to read ''*General rule*.''

g. On page 16997, in column 3, in § 148.120(f)(3), in Example 2, line 11, the word ''converge'' is corrected to read ''coverage''.

§ 148.122 [Corrected]

h. On page 16998, in column 1, in § 148.122(c)(1), the phrase ''terms of health insurance coverage'' is corrected to read ''terms of the health insurance coverage''.

i. On page 16998, in column 2, in § 148.122(e)(2), line 3, the word ''insurance'' is corrected to read ''issuance''.

§ 148.124 [Corrected]

j. Beginning on page 16998, in column 3, in § 148.124, the following corrections are made:

1. In paragraph (a)(2)(i), the word ''regulated'' is corrected to read ''required''.

2. A new paragraph (a)(2)(iii) is added to read as follows:

* * * * *

(a) * * *

(2) * * *

(iii) Short-term, limited duration coverage defined in § 144.103 of this subchapter.

* * * * *

3. Paragraph (b)(1) introductory text is corrected as follows:

i. The word ''dependents,'' is corrected to read ''dependents''.

ii. The phrase ''for the following'' is corrected to read ''as follows''.

4. In paragraph (b)(1)(ii), the following corrections are made:

i. In lines 1 and 2, the phrase ''A request for a certificate'' is corrected to read ''Requests for certificates''.

ii. In line 13, the word ''promptly'' is corrected to read ''by the earliest date that the issuer, acting in a reasonable and prompt fashion, can provide the certificate''.

iii. In line 16, the phrase ''previously received'' is corrected to read ''previously received a certificate under this paragraph (b)(1)(ii) or''.

5. In paragraph (b)(2)(i)(A), the phrase ''the HCFA)'' is corrected to read ''HCFA).''.

6. In paragraph (b)(2)(i)(B) introductory text, the phrase ''if the following occurs'' is corrected to read ''if all of the following occur''.

7. On page 16999, in column 1, in paragraph (b)(2)(iii), line 2, the word ''any'' is corrected to read ''an''.

8. On page 16999, in column 2, in paragraph (b)(3)(i), line 16, the phrase ''dependent does not reside at'' is corrected to read ''dependent's last known address is different than''.

9. On page 16999, in column 3, in paragraph (b)(4)(iii), the following corrections are made:

i. In the heading, the phrase ''before July 1,'' is corrected to read ''through June 30,''.

ii. In paragraph (b)(4)(iii)(A), line 9, the word ''provided'' is corrected to read ''described''.

iii. In paragraph (b)(4)(iii)(B), lines 9 and 10, the phrase ''If an issuer responsible for providing a certificate does not provide'' is corrected to read ''If a certificate does not include''.

iv. Paragraph (b)(4)(iii)(C) is corrected to read as follows:

* * * * *

(b) * * *

(4) * * *

(iii) * * *

(C) *Demonstrating a dependent's creditable coverage.* See paragraph (d)(3) of this section for special rules to demonstrate dependent status.

* * * * *

v. Paragraph (b)(4)(iii)(E) is removed.

10. New paragraph (b)(5) is added to read as follows:

* * * * *

(b) * * *

(5) *Optional notice.* This paragraph applies to events described in paragraph (b)(1)(i) of this section, that occur after September 30, 1996, but before June 1, 1997. An issuer offering individual health insurance coverage is deemed to satisfy paragraphs (b)(1) and (b)(2) of this section if a notice is provided in accordance with the provisions of § 146.125 (e)(3)(ii) through (e)(3)(iv) of this subchapter.

* * * * *

11. On page 17000, in column 1, paragraph (c)(2) is corrected to read as follows:

* * * * *

(c) * * *

(2) *Information to be disclosed.* The prior entity must identify to the requesting entity the categories of benefits under which the individual was covered and with respect to which the requesting entity is using the alternative method of counting creditable coverage, and the requesting entity may identify specific information that the requesting entity reasonably needs to determine the individual's creditable coverage with respect to any of those categories. The prior entity must promptly disclose to the requesting entity the creditable coverage information that was requested.

* * * * *

§ 148.128 [Corrected]

k. Beginning on page 17001, in column 2, in § 148.128, the following corrections are made:

1. In paragraph (c)(2), the reference to ''paragraph (e)(4)(1)'' is corrected to read ''paragraph (e)(4)''.

2. In paragraph (e)(2), a new heading is added to read ''*An acceptable alternative mechanism*.''.

3. On page 17001, in column 3, in paragraph (e)(4)(ii)(B), the words ''are effective'' are removed.

4. On page 17002, in column 2, in paragraph (h), the phrase ''on any basis other than a mechanism'' is corrected to read ''on any basis other than that a mechanism''.

§ 148.202 [Corrected]

l. On page 17003, in column 3, in § 148.202(i)(1), the phrase ''the Administrator or other office imposing the penalty'' is corrected to read ''HCFA''.

§ 148.220 [Corrected]

m. On page 17004, in column 1, in § 148.220(b)(4), the term ''MedSup'' is corrected to read ''MedSupp''.

§ 148.128 [Corrected]

II. In the interim rule; correction, FR document 97–9124, in the **Federal Register** of April 8, 1997, on page 17005, in column 3, remove amendatory instruction 4 that corrects § 148.128 and add in column 2 immediately after amendatory instruction b. the following:

c. On page 17001, in column 1, in § 148.128(a)(2)(i) introductory text and (a)(2)(ii)(B), the phrase ''part 144'' is corrected to read ''title 27 of the PHS Act''.

Authority: Secs. 2701 through 2763, 2791, and 2792 of the PHS Act, 42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92.

Dated: June 2, 1997.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 97–14894 Filed 6–9–97; 8:45 am]

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federal register

Tuesday
June 10, 1997

Part V

The President

Proclamation 7009—Flag Day and National Flag Week, 1997

Federal Register
Vol. 62, No. 111
Tuesday, June 10, 1997

Presidential Documents

Title 3—

The President

Proclamation 7009 of June 6, 1997

Flag Day and National Flag Week, 1997

By the President of the United States of America

A Proclamation

Our Nation's flag has always flown in the vanguard of the American journey, reminding us of our proud past and beckoning us into a future full of promise. Its bold colors reflect the courage and exuberance of the American people, and its simple but inspired design symbolizes both the unity and diversity that define our Nation.

Adopted by the Continental Congress on June 14, 1777, the Stars and Stripes became the official flag of the young United States and a compelling symbol of our new independence. Woven into its folds were the hopes, dreams, and determination of the extraordinary individuals who founded this country—hopes for a system of government that would honor the rights and dignity of every citizen; dreams that their great experiment in democracy would succeed; and determination to ensure that success, even at the cost of their own lives. Since that time, generations of Americans have invested the flag with their own hopes and dreams. Millions of immigrants, traveling to these shores to flee poverty or oppression, have rejoiced at their first glimpse of the American flag, confident that its promise of freedom, equality, and opportunity would prove true for them and their families.

We have carried Old Glory to places undreamed of by our founders, from the depths of Earth's oceans to the Sea of Tranquility on the Moon. Through conflict and in peace, on missions of exploration and on missions of mercy, the flag has led us wherever our questing spirits have been willing to venture, and whenever America's freedom, security, and values have been threatened.

On Flag Day and during National Flag Week, I encourage all Americans to join me in reflecting on the proud history and profound meaning of our flag. And let us pledge to keep faith with those generations of patriots, both military and civilian, who gave their lives to keep the flag flying over a Nation that is free, strong, and true to our highest ideals.

To commemorate the adoption of our flag, the Congress, by joint resolution approved August 3, 1949 (63 Stat. 492), designated June 14 of each year as ''Flag Day'' and requested the President to issue an annual proclamation calling for its observance and for the display of the Flag of the United States on all Federal Government buildings. The Congress also requested the President, by joint resolution approved June 9, 1966 (80 Stat. 194), to issue annually a proclamation designating the week in which June 14 occurs as ''National Flag Week'' and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim June 14, 1997, as Flag Day and the week beginning June 8, 1997, as National Flag Week. I direct the appropriate officials to display the flag on all Federal Government buildings during that week, and I urge all Americans to observe Flag Day and National Flag Week by flying the Stars and Stripes from their homes and other suitable places.

I also call upon the people of the United States to observe with pride and all due ceremony those days from Flag Day through Independence Day, also set aside by the Congress (89 Stat. 211), as a time to honor our Nation, to celebrate our heritage in public gatherings and activities, and to publicly recite the Pledge of Allegiance to the Flag of the United States of America.

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

William J. Clinton

[FR Doc. 97–15386
Filed 6–9–97; 10:37 am]
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