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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–131–AD; Amendment 39–10078; AD 97–15–05]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain British Aerospace (Jetstream) Model 4101 airplanes. This action requires an inspection to determine the data on the label of certain hose assemblies, and replacement of all hose assemblies from any discrepant batch with certain new hose assemblies. This amendment is prompted by a report of failure of a hose assembly in the fire extinguisher system of the engine nacelle due to cracks, caused during manfacture of the hose assemblies, in the swaged ferrule that attaches the hose to the end fitting. The actions specified in this AD are intended to ensure that such discrepant hose assemblies are replaced. Discrepant hose assemblies could fail and consequently prevent the proper distribution of fire extinguishing agent within the engine nacelle in the event of a fire.

DATES: Effective July 31, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 31, 1997.

Comments for inclusion in the Rules Docket must be received on or before September 15, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–131–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2148; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace (Jetstream) Model 4101 airplanes. The CAA advises that it has received a report of failure of a hose assembly in the fire extinguisher system of the engine nacelle on an in-service airplane. Investigation revealed that the cause of such a failure was attributed to cracks in the swaged ferrule that attaches the hose to the end fitting. These cracks were caused apparently during manufacture of two batches of hose assemblies. Defective hose assemblies, if not corrected, could result in failure of the hose assemblies and consequently prevent the proper distribution of fire extinguishing agent within the engine nacelle in the event of a fire.

Explanation of Relevant Service Information

The manufacturer has issued Jetstream Alert Service Bulletin J41–A26–007, dated December 13, 1996, which describes procedures for performing a one-time detailed visual inspection to determine the data on the label of the two suspect hose assemblies having part number 14191001–56. The service bulletin also describes procedures for replacement of all hose assemblies from any discrepant batch with certain new hose assemblies (i.e., from a non-discrepant batch) that has different data on the identification label. The CAA classified this alert service bulletin as mandatory and issued British airworthiness directive 001–12–96 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, 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 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, this AD is being issued to ensure all hose assemblies from the two discrepant batches are replaced; discrepant assemblies could fail and consequently prevent the proper distribution of the fire extinguishing agent within the engine nacelle in the event of a fire. This AD requires a one-time detailed visual inspection to determine the data on the label of certain hose assemblies, and replacement of all hose assemblies from any discrepant batch with certain new hose assemblies. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

Determination of Rule's Effective Date

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

Comments Invited

Although this action is in the form of a final rule that involves requirements

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–131–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–15–05 British Aerospace Regional Aircraft [Formerly: Jetstream Aircraft Limited, British Aerospace (Commercial Aircraft) Limited], Amendment 39–10078. Docket 97–NM–131–AD.

Applicability: Jetstream Model 4101 airplanes, constructors numbers 41004 through 41096 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the hose assemblies, which could prevent the proper distribution of the fire extinguishing agent within the engine nacelle in the event of a fire, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a one-time detailed visual inspection to determine the data on the label of the two hose assemblies having part number 14191001–56, in accordance with Jetstream Alert Service Bulletin J41–A26–007, dated December 13, 1996.

(1) If the data on any hose assembly are not identical to the data shown on either Label 1 or Label 2 of Figure 2 of the Accomplishment Instructions of the alert service bulletin, no further action is required by this AD.

(2) If the data on any hose assembly are identical to the data shown in either Label 1 or Label 2 in Figure 2 of the Accomplishment Instructions of the alert service bulletin, prior to the accumulation of 60 flight hours following accomplishment of the inspection required by paragraph (a) of this AD, replace the hose assembly with a new hose assembly that has different data on the identification label, in accordance with the alert service bulletin.

(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.

(d) The inspection and replacement shall be done in accordance with Jetstream Alert Service Bulletin J41–A26–007, dated December 13, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on July 31, 1997.

Issued in Renton, Washington, on July 9, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–18503 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–123–AD; Amendment 39–10079; AD 97–15–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737, 747, 757, and 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 737, 747, 757, and 767 series airplanes. This action requires a one-time operational test of the pilots' seat locks and the seat tracks to ensure that the seats lock in position and the seat tracks are aligned correctly; and re-alignment of the seat tracks, if necessary. This amendment is prompted by reports indicating that a pilot's seat slid from the forward position to the aft-most position during acceleration and take-off of the airplane due to misalignment of the seat tracks. The actions specified in this AD are intended to prevent uncommanded movement of the pilots' seats during acceleration and take-off of the airplane, and consequent reduced controllability of the airplane.

DATES: Effective July 31, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 31, 1997.

Comments for inclusion in the Rules Docket must be received on or before September 15, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–123–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

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

FOR FURTHER INFORMATION CONTACT: Monica Nemecek, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2773; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received reports indicating that a pilot seat slid to the aft-most position during acceleration and take-off on a Boeing Model 737 series airplane. Investigation revealed that the seat track was aligned incorrectly; misalignment of the seat tracks can occur when seat tracks have been re-installed or replaced without fully testing the seat lock mechanism. Such misalignment of the seat tracks, if not corrected, could result in uncommanded movement of the pilots' crew seats during acceleration and take-off of the airplane, and consequent reduced controllability of the airplane.

Similar Models Subject to the Unsafe Condition

Lock mechanisms of the seat tracks of the pilots' seats installed on Model 737 series airplanes are similar to those installed on Boeing Model 747, 757, and 767 series airplanes; therefore, all of these models may be subject to this same unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved the following Boeing Service Bulletins, all dated December 19, 1996:

- 737–25–1334 (for Model 737 series airplanes);
- 747–25–3132 (for Model 747 series airplanes);
- 757–25–0183 (for Model 757 series airplanes); and
- 767–25–0244 (for Model 767 series airplanes).

These service bulletins describe procedures for a one-time operational test of the pilots' seat locks and the seat tracks to ensure that the seats lock in position and the seat tracks are aligned correctly. These service bulletins also describe procedures to re-align the seat tracks, if necessary.

Additionally, these service bulletins point out that the appropriate Airplane Maintenance Manuals (AMM) have been revised to include procedures for accomplishing continuing operational tests of the seat locks, and re-alignment of the seat tracks, if necessary. The one-time operational test of the pilots' seat locks and seat tracks, and re-alignment, if necessary, as described in the service bulletins, along with continued accomplishment of those procedures in accordance with the AMM, will prevent uncommanded movement of the pilots' seats during acceleration and take-off of the airplane.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 737, 747, 757, and 767 series airplanes of the same type design, this AD is being issued to prevent uncommanded movement of the pilots' seats due to misalignment of the seat tracks. This AD requires a one-time operational test of the pilots' seat locks and the seat tracks to ensure that the seats lock in position and that the seat tracks are aligned correctly. This AD also requires re-alignment of the seat tracks, if necessary. The actions are required to be accomplished in accordance with the applicable service bulletin described previously.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments

submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–123–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–15–06 Boeing: Amendment 39–10079. Docket 97–NM–123–AD.

Applicability: Model 737, 747, 757, and 767 series airplanes equipped with IPECO pilots' seats; as listed in Boeing Service Bulletins 737–25–1334, 747–25–3132, 757–25–0183, and 767–25–0244; all dated December 19, 1996; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded movement of the pilots' seats during acceleration and take-off of the airplane; accomplish the following:

(a) Within 90 days after the effective date of this AD, perform a one-time operational test of the pilots' seats and the seat locks to determine that the lock pin of the seat track fully engages in all lock positions of the seat track, in accordance with Boeing Service Bulletin 737–25–1334 (for Model 737 series airplanes), 747–25–3132 (for Model 747 series airplanes), 757–25–0183 (for Model 757 series airplanes), or 767–25–0244 (for Model 767 series airplanes); all dated December 19, 1996; as applicable.

(1) If the seat lock pin fully engages in all lock positions of the seat track, no further action is required by this AD.

(2) If the seat lock pin does not fully engage in all positions of the seat track, prior to further flight, re-align the seat tracks, in accordance with the applicable service bulletin specified in paragraph (a) of this AD.

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

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

(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.

(d) The actions shall be done in accordance with Boeing Service Bulletin 737–25–1334, dated December 19, 1996; Boeing Service Bulletin 747–25–3132, dated December 19, 1996; Boeing Service Bulletin 757–25–0183, dated December 19, 1996; or Boeing Service Bulletin 767–25–0244, dated December 19, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on July 31, 1997.

Issued in Renton, Washington, on July 9, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–18502 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–13–P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

Debt Collection—Procedural Rules for Salary Offset, Administrative Offset, and Tax Refund Offset

AGENCY: International Trade Commission.

ACTION: Interim rules with request for comments.

SUMMARY: The U.S. International Trade Commission (the Commission) is issuing interim regulations setting forth procedures for the collection of debts owed the Commission. The Debt Collection Improvement Act of 1996, as well as earlier Federal statutes on debt collection, require agencies to promulgate regulations on this subject. In these interim regulations, the Commission sets forth the procedures it plans to follow in collecting debts through salary offset, administrative offset, and tax refund offset.

DATES: These regulations are effective July 16, 1997. Comments must be submitted on or before September 15, 1997.

ADDRESSES: Written comments (original and 14 copies) may be submitted to the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Gail S. Usher, Office of the General Counsel, telephone (202) 205–3152. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810.

SUPPLEMENTARY INFORMATION:

Background

These rules take into account changes to the law made by the Debt Collection Improvement Act of 1996. Moreover, the rules are consistent with regulations on salary offset promulgated by the Office of Personnel Management (5 CFR part 550, subpart K); the Federal Claims Collection Standards (4 CFR part 102); and with regulations on tax refund offset promulgated by the Internal Revenue Service (26 CFR 301.6402–6).

In issuing these interim regulations, in addition to the legal authorities cited herein, the Commission is acting pursuant to 19 U.S.C. 1335 which authorizes the Commission to adopt such reasonable regulations as it deems necessary to carry out its functions and duties.

The Commission has determined that these rules are interpretative and pertain to agency practice and procedure. Accordingly, the rules are not subject to the notice and comment requirements of the Administrative Procedures Act (APA). 5 U.S.C. 553(b). Moreover, the Commission has an urgent need to have regulations in place. The Commission has outstanding debts that it seeks to collect through offset. As a consequence, the rules are exempt from the notice and comment requirements of the APA for the additional reason that providing the notice and comment period prior to having effective regulations in place would not be in the public interest. 5 U.S.C. 553(b).

For the same reasons, the rules can be made effective immediately. Specifically, the fact that the rules are interpretative and pertain to agency practice and procedure and that the Commission has an urgent need to have regulations in place to effect offset for debts currently pending excepts the agency from the APA's requirement that rules be published at least 30 days before their effective date. 5 U.S.C. 553(d).

While no notice and comment period is required prior to the issuance of the interim rules, the Commission does invite comments on these rules which it will take into consideration in promulgating its final rules.

Salary Offset

When an agency determines that an employee of the agency is indebted to the United States, or when the agency is notified of such a debt by another agency, the debt may be collected by deductions from the current pay account of the individual. 5 U.S.C. 5514(a)(1). Salary offset is a form of administrative offset governed by statute (5 U.S.C. 5514) and by regulations issued by the Office of Personnel Management (5 CFR part 550, subpart K). The statute (5 U.S.C. 5514(b)(1)) requires agencies to promulgate their own regulations. Before final regulations can become effective, they must be approved by the Office of Personnel Management (5 CFR 550.1105(a)(1)).

Administrative Offset

Pursuant to 31 U.S.C. 3716, an agency may collect debts owed the agency through administrative offset. Under this method of collection, an agency collects a debt owed to it by an employee, organization, or entity by withholding money payable by the Government or held by the Government for the debtor. Generally, the offset is accomplished against monies other than salaries. Agencies must promulgate regulations on the procedures used in administrative offset. 4 CFR 102.3(b)(1).

Tax Refund Offset

Where collection by salary offset or administrative offset is not feasible, an agency must seek to recover monies owed the agency by requesting that the Department of the Treasury (Treasury) reduce a tax refund to a debtor by the amount of the debt and pay such monies to the agency. 31 U.S.C. 3720A; 26 CFR 301.6402–6. The IRS, which presently administers this program, requires that the agency promulgate its own regulations on salary offset, administrative offset, and tax refund offset. 26 CFR 301.6402–6(b). (*See* 31 U.S.C. 3720A(b)(4)).

Executive Order 12866

These interim rules are not classified as ''significant rules'' under Executive Order 12866 (58 FR 51735 (Oct. 4, 1994)) because they will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required.

Regulatory Flexibility Act

Pursuant to 5 U.S.C. 605(b), the Commission hereby certifies that the rules set forth in this notice are not likely to have a significant economic impact on a substantial number of small business entities. This conclusion is premised on the past experience of the Commission of rarely having debts owed to it. Moreover, those debts that have been owed to the Commission have generally been owed by individual persons, not business entities.

Contract With America Advancement Act of 1996

Pursuant to the Contract With America Advancement Act of 1996 (Pub. L. 104–121), the Commission has submitted a report to the General Accounting Office and to each House of Congress describing these debt collection regulations and attaching the text of the regulations.

Paperwork Reduction Act

These interim rules are not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since they do not contain any new information collection requirements.

List of Subjects in 19 CFR Part 201

Administrative practice and procedure; Debt collection.

For the reasons set out in the preamble, the U.S. International Trade Commission hereby amends 19 CFR part 201 by adding subpart H to read as follows:

PART 201—RULES OF GENERAL APPLICATION

Sec

Subpart H—Debt Collection

201.201 Definitions.
201.202 Purpose and scope of salary and administrative offset rules.
201.203 Delegation of authority.
201.204 Salary offset.
201.205 Salary adjustments.
201.206 Administrative offset.
201.207 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.
201.208 Tax refund offset.

Authority: 19 U.S.C. 1335; 5 U.S.C. 5514(b)(1); 31 U.S.C. 3716(b); 31 U.S.C. 3720A(b)(4); 4 CFR 102.3(b)(1); 26 CFR 301.6402–6(b).

§ 201.201 Definitions.

Except where the context clearly indicates otherwise or where the term is defined elsewhere in this section, the following definitions shall apply to this subpart.

(a) *Agency* means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of Government, including government corporations.

(b) *Certification* means a written statement received by a paying agency from a creditor agency that requests the paying agency to offset the salary of an employee and specifies that required

procedural protections have been afforded the employee.

(c) *Chairman* means the Chairman of the Commission.

(d) *Compromise* means the settlement or forgiveness of a debt.

(e) *Creditor agency* means an agency of the Federal government to which the debt is owed.

(f) *Director* means the Director, Office of Finance and Budget of the Commission or an official designated to act on the Director's behalf.

(g) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, and, in the case of an employee not entitled to basic pay, other authorized pay, remaining for each pay period after the deduction of any amount required by law to be withheld. The Commission shall allow the following deductions in determining the amount of disposable pay that is subject to salary offset:

(1) Federal employment taxes;

(2) Amounts mandatorily withheld for the United States Soldiers' and Airmen's Home;

(3) Fines and forfeiture ordered by a court-martial or by a commanding officer;

(4) Amounts deducted for Medicare;

(5) Federal, state, or local income taxes to the extent authorized or required by law, but no greater than would be the case if the employee claimed all dependents to which he or she is entitled and such additional amounts for which the employee presents evidence of a tax obligation supporting the additional withholding;

(6) Health insurance premiums;

(7) Normal retirement contributions, including employee contributions to the Thrift Savings Plan;

(8) Normal life insurance premiums (e.g., Serviceman's Group Life Insurance and ''Basic Life'' Federal Employee's Group Life Insurance premiums), not including amounts deducted for supplementary coverage.

(h) *Employee* means a current employee of the Commission or other agency, including a current member of the Armed Forces or a Reserve of the Armed Forces of the United States.

(i) *Federal Claims Collection Standards* (FCCS) means standards published at 4 CFR chapter II.

(j) *Hearing official* means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed and for rendering a decision on the basis of such hearing. A hearing official may not be under the supervision or control of the Chairman when the Commission is the creditor agency but may be an administrative law judge.

(k) *Notice of Intent to Offset* or *Notice of Intent* means a written notice from a creditor agency to an employee, organization, or entity stating that the debtor is indebted to the creditor agency and apprising the debtor of certain procedural rights.

(l) *Notice of Salary Offset* means a written notice from the paying agency to an employee after a certification has been issued by a creditor agency, informing the employee that salary offset will begin at the next officially established pay interval.

(m) *Office of Finance and Budget* means the Office of Finance and Budget of the Commission.

(n) *Paying agency* means the agency of the Federal government that employs the individual who owes a debt to an agency of the Federal government. In some cases, the Commission may be both the creditor agency and the paying agency.

§ 201.202 Purpose and scope of salary and administrative offset rules.

(a) *Purpose.* The purpose of §§ 201.201 through 201.207 is to implement 5 U.S.C. 5514, 31 U.S.C. 3716, and 31 U.S.C. 3720A which authorize the collection by salary offset, administrative offset, or tax refund offset of debts owed by persons, organizations, or entities to the Federal government. Generally, however, a debt may not be collected by such means if it has been outstanding for more than ten years after the agency's right to collect the debt first accrued. These proposed regulations are consistent with the Office of Personnel Management regulations on salary offset, codified at 5 CFR part 550, subpart K, and with regulations on administrative offset codified at 4 CFR part 102.

(b) *Scope.* (1) Sections 201.201 through 201.207 establish agency procedures for the collection of certain debts owed the Government.

(2) Sections 201.201 through 201.207 apply to collections by the Commission from:

(i) Federal employees who are indebted to the Commission;

(ii) Employees of the Commission who are indebted to other agencies; and

(iii) Other persons, organizations, or entities that are indebted to the Commission.

(3) Sections 201.201 through 201.207 do not apply:

(i) To debts or claims arising under the Internal Revenue Code of 1986 (26 U.S.C. et seq.), the Social Security Act (42 U.S.C. 301 et seq.), or the tariff laws of the United States;

(ii) To a situation to which the Contract Disputes Act (41 U.S.C. 601 et seq.) applies; or

(iii) In any case where collection of a debt is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 4108).

(4) Nothing in §§ 201.201 through 201.207 precludes the compromise, suspension, or termination of collection actions where appropriate under the standards implementing the Federal Claims Collection Act (31 U.S.C. 3711 et seq.), namely, 4 CFR chapter II.

§ 201.203 Delegation of authority.

Authority to conduct the following activities is hereby delegated to the Director:

(a) Initiate and effectuate the administrative collection process;

(b) Accept or reject compromise offers and suspend or terminate collection actions where the claim does not exceed $100,000 or such higher amount as the Chairman may from time to time prescribe, exclusive of interest, administrative costs, and penalties as provided herein, as set forth in 31 U.S.C. 3711(a)(2);

(c) Report to consumer reporting agencies certain data pertaining to delinquent debts;

(d) Use offset procedures to effectuate collection; and

(e) Take any other action necessary to facilitate and augment collection in accordance with the policies contained herein and as otherwise provided by law.

§ 201.204 Salary offset.

(a) *Notice requirements before offset where the Commission is the creditor agency.* Deductions under the authority of 5 U.S.C. 5514 will not be made unless the Commission provides the employee with a written Notice of Intent to Offset a minimum of 30 calendar days before salary offset is initiated. The Notice of Intent shall state:

(1) That the Director has reviewed the records relating to the claim and has determined that a debt is owed;

(2) The Director's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest is paid in full;

(3) The amount of the debt and the facts giving rise to the debt;

(4) A repayment schedule that includes the amount, frequency, proposed beginning date, and duration of the intended deductions;

(5) The opportunity for the employee to propose an alternative written schedule for the voluntary repayment of the debt, in lieu of offset, on terms acceptable to the Commission. The employee shall include a justification in the request for the alternative schedule.

The schedule shall be agreed to and signed by both the employee and the Director;

(6) An explanation of the Commission's policy concerning interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused in accordance with the Federal Claims Collection Standards;

(7) The employee's right to inspect and copy all records of the Commission not exempt from disclosure pertaining to the debt claimed or to receive copies of such records if the debtor is unable personally to inspect the records, due to geographical or other constraints;

(8) The name, address, and telephone number of the Director to whom requests for access to records relating to the debt must be sent;

(9) The employee's right to a hearing conducted by an impartial hearing official (an administrative law judge or other hearing official not under the supervision or control of the Chairman) with respect to the existence and amount of the debt claimed or the repayment schedule (i.e., the percentage of disposable pay to be deducted each pay period), so long as a request is filed by the employee as prescribed in paragraph (c)(1) of this section;

(10) The name, address, and telephone number of the Director to whom a proposal for voluntary repayment must be sent and who may be contacted concerning procedures for requesting a hearing;

(11) The method and deadline for requesting a hearing;

(12) That the timely filing of a request for a hearing on or before the 15th calendar day following receipt of the Notice of Intent will stay the commencement of collection proceedings;

(13) The name and address of the office to which the request should be sent;

(14) That the Commission will initiate certification procedures to implement a salary offset not less than 30 days from the date of receipt of the Notice of Intent to Offset, unless the employee files a timely request for a hearing;

(15) That a final decision on whether a hearing will be held (if one is requested) will be issued at the earliest practical date;

(16) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under 5 U.S.C. Chapter 75, 5 CFR part 752, or any other applicable statutes or regulations;

(ii) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or under any other applicable statutory authority; or

(iii) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or under any other applicable statutory authority;

(17) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(18) That unless there are applicable contractual or statutory provisions to the contrary, amounts paid on or deducted from debts that are later waived or found not to be owed to the United States will be promptly refunded to the employee; and

(19) That proceedings with respect to such debt are governed by 5 U.S.C. 5514.

(b) *Review of Commission records related to the debt.* (1) An employee who desires to inspect or copy Commission records related to a debt owed to the Commission must send a letter to the Director as designated in the Notice of Intent requesting access to the relevant records. The letter must be received in the office of the Director within 15 calendar days after the employee's receipt of the Notice of Intent.

(2) In response to a timely request submitted by the debtor, the Director will notify the employee of the location and time when the employee may inspect and copy records related to the debt.

(3) If the employee is unable personally to inspect the records, due to geographical or other constraints, the Director shall arrange to send copies of such records to the employee.

(c) *Opportunity for a hearing where the Commission is the creditor agency.*—(1) *Request for a hearing.* (i) An employee who requests a hearing on the existence or amount of the debt held by the Commission or on the offset schedule proposed by the Commission must send such request to the Director. The request for a hearing must be received by the Director on or before the 15th calendar day following receipt by the employee of the notice.

(ii) The employee must specify whether an oral hearing is requested. If an oral hearing is desired, the request should explain why the matter cannot be resolved by review of the documentary evidence alone. The request must be signed by the employee and must fully identify and explain with reasonable specificity all the facts, evidence, and witnesses, if any, that the employee believes support his or her position.

(2) *Failure to timely submit.* If the employee files a request for hearing after the expiration of the 15-calendar-day period provided for in paragraph (c)(1) of this section, the Director may accept the request if the employee can show that the delay was the result of circumstances beyond his or her control or that he or she failed to receive actual notice of the filing deadline.

(3) *Obtaining the services of a hearing official.* (i) When the debtor is not a Commission employee and the Commission cannot provide a prompt and appropriate hearing before an administrative law judge or other hearing official, the Commission may request a hearing official from an agent of the paying agency, as designated in 5 CFR part 581, appendix A, or as otherwise designated by the paying agency.

(ii) When the debtor is a Commission employee, the Commission may contact any agent of another agency, as designated in 5 CFR part 581, appendix A, or as otherwise designated by the agency, to request a hearing official.

(4) *Procedure.* (i) *Notice.* After the employee requests a hearing, the hearing official shall notify the employee of the form of the hearing to be provided. If the hearing will be oral, the notice shall set forth the date, time, and location of the hearing, which must occur no more than 30 calendar days after the request is received, unless the employee requests that the hearing be delayed. If the hearing will be conducted by examination of documents, the employee shall be notified within 30 calendar days that he or she should submit evidence and arguments in writing to the hearing official.

(ii) *Oral hearing.* An employee who requests an oral hearing shall be provided an oral hearing if the hearing official determines that the matter cannot be resolved by review of documentary evidence alone (e.g., when an issue of credibility or veracity is involved). The hearing need not be an adversarial adjudication, and rules of evidence need not apply. Witnesses who testify in oral hearings shall do so under oath or affirmation. Oral hearings may take the form of, but are not limited to:

(A) Informal conferences with the hearing official in which the employee and agency representative are given full opportunity to present evidence, witnesses, and argument;

(B) Informal meetings in which the hearing examiner interviews the employee; or

(C) Formal written submissions followed by an opportunity for oral presentation.

(iii) *Documentary hearing.* If the hearing official determines that an oral hearing is not necessary, he or she shall make the determination based upon a review of the written record.

(iv) *Record.* The hearing official shall maintain a summary record of any hearing conducted under this section.

(5) *Date of decision.* The hearing official shall issue a written opinion stating his or her decision, based upon all evidence and information developed at the hearing, as soon as practicable after the hearing, but not later than 60 calendar days after the date on which the request was received by the Commission, unless the hearing was delayed at the request of the employee, in which case the 60 day decision period shall be extended by the number of days by which the hearing was postponed. The decision of the hearing official shall be final.

(6) *Content of decision.* The written decision shall include:

(i) A summary of the facts concerning the origin, nature, and amount of the debt;

(ii) The hearing official's findings, analysis, and conclusions; and

(iii) The terms of any repayment schedules, if applicable.

(7) *Failure to appear.* If, in the absence of good cause shown (e.g., illness), the employee or the representative of the Commission fails to appear, the hearing official shall proceed with the hearing as scheduled, and make his or her determination based upon the oral testimony presented and the documentation submitted by both parties. At the request of both parties, the hearing official may schedule a new hearing date. Both parties shall be given reasonable notice of the time and place of this new hearing.

(d) *Certification where the Commission is the creditor agency.* (1) The Director shall issue a certification in all cases where:

(i) The hearing official determines that a debt exists; or

(ii) The employee admits the existence and amount of the debt, for example, by failing to request a hearing.

(2) The certification must be in writing and must state:

(i) That the employee owes the debt;

(ii) The amount and basis of the debt;

(iii) The date the Government's right to collect the debt first accrued;

(iv) That the Commission's regulations have been approved by OPM pursuant to 5 CFR part 550, subpart K;

(v) If the collection is to be made by lump-sum payment, the amount and date such payment will be collected;

(vi) If the collection is to be made in installments, the number of installments to be collected, the amount of each installment, and the date of the first installment, if a date other than the next officially established pay period; and

(vii) The date the employee was notified of the debt, the action(s) taken pursuant to the Commission's regulations, and the dates such actions were taken.

(e) *Voluntary repayment agreements as alternative to salary offset where the Commission is the creditor agency.* (1) In response to a Notice of Intent, an employee may propose to repay the debt in accordance with scheduled installment payments. Any employee who wishes to repay a debt without salary offset shall submit in writing a proposed agreement to repay the debt. The proposal shall set forth a proposed repayment schedule. Any proposal under paragraph (e) of this section must be received by the Director within 15 calendar days after receipt of the Notice of Intent.

(2) In response to a timely proposal by the debtor, the Director shall notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within the discretion of the Director to accept, reject, or propose to the debtor a modification of the proposed repayment agreement.

(3) If the Director decides that the proposed repayment agreement is unacceptable, the employee shall have 15 calendar days from the date he or she received notice of the decision in which to file a request for a hearing.

(4) If the Director decides that the proposed repayment agreement is acceptable or the debtor agrees to a modification proposed by the Director, the agreement shall be put in writing and signed by both the employee and the Director.

(f) *Special review where the Commission is the creditor agency.* (1) An employee subject to salary offset or a voluntary repayment agreement may, at any time, request a special review by the Director of the amount of the salary offset or voluntary payment, based on materially changed circumstances, including, but not limited to, catastrophic illness, divorce, death, or disability.

(2) In determining whether, as a result of materially changed circumstances, an offset would prevent the employee from meeting essential subsistence expenses (costs incurred for food, housing, clothing, transportation, and medical care), the employee shall submit to the Director a detailed statement and supporting documents for the employee, his or her spouse, and dependents indicating:

(i) Income from all sources;

(ii) Assets;

(iii) Liabilities;

(iv) Number of dependents;

(v) Expenses for food, housing, clothing, and transportation;

(vi) Medical expenses; and

(vii) Exceptional expenses, if any.

(3) If the employee requests a special review under paragraph (f) of this section, the employee shall file an alternative proposed offset or payment schedule and a statement, with supporting documents, showing why the current salary offset or payments result in extreme financial hardship to the employee.

(4) The Director shall evaluate the statement and supporting documents and determine whether the original offset or repayment schedule imposes extreme financial hardship on the employee. The Director shall notify the employee in writing within 30 calendar days of such determination, including, if appropriate, his or her acceptance of a revised offset or payment schedule.

(5) If the special review results in a revised offset or repayment schedule, the Director shall provide a new certification to the paying agency.

(g) *Notice of salary offset where the Commission is the paying agency.* (1) Upon issuance of a proper certification by the Director (for debts owed to the Commission) or upon receipt of a proper certification from another creditor agency, the Office of Finance and Budget shall send the employee a written notice of salary offset. Such notice shall advise the employee:

(i) Of the certification that has been issued by the Director or received from another creditor agency;

(ii) Of the amount of the debt and of the deductions to be made; and

(iii) Of the initiation of salary offset at the next officially established pay interval or as otherwise provided for in the certification.

(2) The Office of Finance and Budget shall provide a copy of the notice to the creditor agency and advise such agency of the dollar amount to be offset and the pay period when the offset will begin.

(h) *Procedures for salary offset where the Commission is the paying agency.*—(1) *Generally.* (i) The Director shall coordinate salary deductions under this section.

(ii) The Director shall determine the amount of an employee's disposable pay and the amount of the salary offset subject to the requirements in this paragraph.

(iii) Deductions shall begin the pay period following the issuance of the certification by the Director or the receipt by the Office of Finance and Budget of the certification from another agency or as soon thereafter as possible.

(2) *Types of collection.*—(i) *Lump-sum payment.* If the amount of the debt is equal to or less than 15 percent of the employee's disposable pay, such debt ordinarily will be collected in one lump-sum payment.

(ii) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any pay period will not exceed 15 percent of the disposable pay from which the deduction is made unless the employee has agreed in writing to the deduction of a greater amount. The installment payment should normally be sufficient in size and frequency to liquidate the debt in no more than three years. Installment payments of less than $50 should be accepted only in the most unusual circumstances.

(iii) *Lump-sum deductions from final check.* In order to liquidate a debt, a lump-sum deduction exceeding 15 percent of disposable pay may be made pursuant to 31 U.S.C. 3716 from any final salary payment due a former employee, whether the former employee was separated voluntarily or involuntarily.

(iv) *Lump-sum deductions from other sources.* Whenever an employee subject to salary offset is separated from the Commission, and the balance of the debt cannot be liquidated by offset of the final salary check, the Commission, pursuant to 31 U.S.C. 3716, may offset any later payments of any kind to the former employee to collect the balance of the debt.

(3) *Multiple debts.* Where two or more creditor agencies are seeking salary offset, or where two or more debts are owed to a single creditor agency, the Office of Finance and Budget may, at its discretion, determine whether one or more debts should be offset simultaneously within the 15 percent limitation.

(4) *Order of precedence for recovery of debts owed the Government.* (i) For Commission employees, subject to paragraph (h)(3) of this section and (paragraph (h)(4)(ii) of this section, offsets to recover debts owed the United States Government shall be made from disposable pay in the following order of precedence:

(A) Indebtedness due the Commission;

(B) Indebtedness due other agencies.

(ii) In the event that a debt to the Commission is certified while an employee is subject to salary offset to repay another agency, the Office of Finance and Budget may, at its discretion, determine whether the debt to the Commission should be repaid before the debt to the other agency, repaid simultaneously, or repaid after the debt to the other agency.

(iii) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over other deductions under this section, as provided in 5 U.S.C. 5514(d).

(i) *Coordinating salary offset with other agencies.*—(1) *Responsibility of the Commission as the creditor agency.* (i) The Director shall be responsible for:

(A) Arranging for a hearing upon proper request by a Federal employee;

(B) Preparing the Notice of Intent to Offset consistent with the requirements of paragraph (a) of this section;

(C) Obtaining hearing officials from other agencies pursuant to paragraph (c)(3) of this section; and

(D) Ensuring that each certification of debt is sent to a paying agency pursuant to paragraph (d)(2) of this section.

(ii) Upon completion of the procedures established in paragraphs (a) through (f) of this section, the Director shall submit a certified debt claim and an installment agreement or other instruction on the payment schedule, if applicable, to the employee's paying agency.

(iii) If the employee is in the process of separating from Government employment, the Commission shall submit its debt claim to the employee's paying agency for collection by lump-sum deduction from the employee's final check. The paying agency shall certify the total amount of its collection and furnish a copy of the certification to the Commission and to the employee.

(iv) If the employee is already separated and all payments due from his or her former paying agency have been paid, the Commission may, unless otherwise prohibited, request that money due and payable to the employee from the Federal Government be administratively offset to collect the debt.

(v) When an employee transfers to another paying agency, the Commission shall not repeat the procedures described in paragraphs (a) through (f) of this section in order to resume collecting the debt. Instead, the Commission shall review the debt upon receiving the former paying agency's notice of the employee's transfer and shall ensure that collection is resumed by the new paying agency.

(2) *Responsibility of the Commission as the paying agency.*—(i) *Complete claim.* When the Commission receives a certified claim from a creditor agency, the employee shall be given written notice of the certification, the date salary offset will begin, and the amount of the periodic deductions. Deductions shall be scheduled to begin at the next officially established pay interval or as otherwise provided for in the certification.

(ii) *Incomplete claim.* When the Commission receives an incomplete certification of debt from a creditor agency, the Commission shall return the debt claim with notice that procedures under 5 U.S.C. 5514 and 5 CFR 550.1104 must be followed and that a properly certified debt claim must be received before action will be taken to collect from the employee's current pay account.

(iii) *Review.* The Commission is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(iv) *Employees who transfer from one paying agency to another agency.* If, after the creditor agency has submitted the debt claim to the Commission, the employee transfers to an agency outside the Commission before the debt is collected in full, the Commission must certify the total amount collected on the debt. One copy of the certification shall be furnished to the employee and one copy shall be sent to the creditor agency along with notice of the employee's transfer. If the Commission is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it must provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount) and that the requirements set forth herein and in the Office of Personnel Management's regulation (5 CFR part 550) have been fully met.

(j) *Interest, Penalties, and Administrative Costs.* Where the Commission is the creditor agency, it shall assess interest, penalties, and administrative costs pursuant to 31 U.S.C. 3717 and 4 CFR 102.13.

(k) *Refunds.* (1) Where the Commission is the creditor agency, it shall promptly refund any amount deducted under the authority of 5 U.S.C. 5514 when:

(i) The debt is compromised or otherwise found not to be owing to the United States; or

(ii) An administrative or judicial order directs the Commission to make a refund.

(2) Unless required by law or contract, refunds under this paragraph (k) shall not bear interest.

(l) *Request from a creditor agency for the services of a hearing official.* (1) The Commission may provide a hearing official upon request of the creditor agency when the debtor is employed by the Commission and the creditor agency cannot provide a prompt and appropriate hearing before a hearing official furnished pursuant to another lawful arrangement.

(2) The Commission may provide a hearing official upon request of a creditor agency when the debtor works for the creditor agency and that agency cannot arrange for a hearing official.

(3) The Director shall arrange for qualified personnel to serve as hearing officials.

(4) Services rendered under this paragraph (l) shall be provided on a fully reimbursable basis pursuant to 31 U.S.C. 1535.

(m) *Non-waiver of rights by payments.* A debtor's payment, whether voluntary or involuntary, of all or any portion of a debt being collected pursuant to this section shall not be construed as a waiver of any rights that the debtor may have under any statute, regulation, or contract except as otherwise provided by law or contract.

(n) *Exception to due process procedures.* The procedures set forth in this section shall not apply to adjustments described in 5 U.S.C. 5514(a)(3).

§ 201.205 Salary adjustments.

Any negative adjustment to pay arising out of an employee's election of coverage, or a change in coverage, under a Federal benefits program requiring periodic deductions from pay shall not be considered collection of a ''debt'' for the purposes of this section if the amount to be recovered was accumulated over four pay periods or less. In such cases, the Commission need not comply with § 201.204, but it will provide a clear and concise statement in the employee's earnings statement advising the employee of the previous overpayment at the time the adjustment is made.

§ 201.206 Administrative offset.

(a) *Collection.* The Director may collect a claim pursuant to 31 U.S.C. 3716 from a person, organization, or entity other than an agency of the United States Government by administrative offset of monies payable by the Government. Collection by administrative offset shall be undertaken where the claim is certain in amount, where offset is feasible and desirable and not otherwise prohibited, where the applicable statute of limitations has not expired, and where the offset is in the best interest of the United States.

(b) *Offset prior to completion of procedures.* Prior to the completion of the procedures described in paragraph (c) of this section, the Commission may effect offset if:

(1) Failure to offset would substantially prejudice the Commission's ability to collect the debt; and

(2) The time before the payment is to be made does not reasonably permit completion of the procedures described in paragraph (c) of this section. Such prior offsetting shall be followed promptly by the completion of the procedures described in paragraph (c) of this section.

(c) *Debtor's rights.* (1) Unless the procedures described in paragraph (b) of this section are used, prior to collecting any claim by administrative offset or referring such claim to another agency for collection through administrative offset, the Director shall provide the debtor with the following:

(i) Written notification of the nature and amount of the claim, the intention of the Director to collect the claim through administrative offset, and a statement of the rights of the debtor under this paragraph;

(ii) An opportunity to inspect and copy the records of the Commission not exempt from disclosure with respect to the claim;

(iii) An opportunity to have the Commission's determination of indebtedness reviewed by the Director. Any request for review by the debtor shall be in writing and be submitted to the Commission within 30 calendar days of the date of the notice of the offset. The Director may waive the time limit for requesting review for good cause shown by the debtor. The Commission shall provide the debtor with a reasonable opportunity for an oral hearing when:

(A) An applicable statute authorizes or requires the Commission to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or

(B) The debtor requests reconsideration of the debt and the Commission determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity. Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary hearing, although the Commission shall document all significant matters discussed at the hearing. In those cases where an oral hearing is not required by this section, the Commission shall nevertheless accord the debtor a ''paper hearing,'' (i.e., the Commission will make its determination on the request for waiver or reconsideration based upon a review of the written record); and

(iv) An opportunity to enter into a written agreement for the repayment of the amount of the claim at the discretion of the Commission.

(2) If the procedures described in paragraph (b) of this section are employed, the procedures described in this paragraph shall be effected after offset.

(d) *Interest.* Pursuant to 31 U.S.C. 3717 and 4 CFR 102.3, the Commission shall assess interest, penalties and administrative costs on debts owed to the United States. The Commission is authorized to assess interest and related charges on debts that are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

(e) *Refunds.* Amounts recovered by offset but later found not to be owed to the Government shall be promptly refunded.

(f) *Requests for offset to other Federal agencies.* The Director may request that a debt owed to the Commission be administratively offset against funds due and payable to a debtor by another Federal agency. In requesting administrative offset, the Commission, as creditor, will certify in writing to the Federal agency holding funds of the debtor:

(1) That the debtor owes the debt;

(2) The amount and basis of the debt; and

(3) That the Commission has complied with the requirements of its own administrative offset regulations and the applicable provisions of 4 CFR part 102 with respect to providing the debtor with due process.

(g) *Requests for offset from other Federal agencies.* Any Federal agency may request that funds due and payable to its debtor by the Commission be administratively offset in order to collect a debt owed to such Federal agency by the debtor. The Commission shall initiate the requested offset only upon:

(1) Receipt of written certification from the creditor agency:

(i) That the debtor owes the debt;

(ii) The amount and basis of the debt;

(iii) That the agency has prescribed regulations for the exercise of administrative offset; and

(iv) That the agency has complied with its own administrative offset regulations and with the applicable provisions of 4 CFR part 102, including providing any required hearing or review.

(2) A determination by the Commission that collection by offset against funds payable by the Commission would be in the best interest of the United States as determined by the facts and circumstances of the particular case and that such offset would not otherwise be contrary to law.

§ 201.207 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund

(a) Unless otherwise prohibited by law, the Commission may request that moneys which are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order to collect in one full payment or a minimal number of payments debt owed to the Commission by the debtor. Such requests shall be made to the appropriate officials of the Office of Personnel Management in accordance with such regulations as may be prescribed by the Director of that Office.

(b) When making a request for administrative offset under paragraph (a) of this section, the Commission shall include a written certification that:

(1) The debtor owes the Commission a debt, including the amount of the debt;

(2) The Commission has complied with the applicable statutes, regulations, and procedures of the Office of Personnel Management; and

(3) The Commission has complied with the requirements of 4 CFR 102.3, including any required hearing or review.

(c) Once the Commission decides to request administrative offset under paragraph (a) of this section, it shall make the request as soon as practical after completion of the applicable procedures. This will satisfy any requirement that offset be initiated prior to expiration of the applicable statute of limitations. At such time as the debtor makes a claim for payments from the Fund, if at least a year has elapsed since the offset request was originally made, the debtor shall be permitted to offer a satisfactory repayment plan in lieu of offset upon establishing that changed financial circumstances would render the offset unjust.

(d) If the Commission collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, the Commission shall act promptly to modify or terminate its request for offset under paragraph (a) of this section.

§ 201.208 Tax refund offset.

(a) *Scope.* The provisions of 26 U.S.C. 6402(d) and 31 U.S.C. 3720A authorize the Secretary of the Treasury to offset a delinquent debt owed to the United States Government from the tax refund due a taxpayer when other collection efforts have failed to recover the amount due.

(b) *Definitions.*—(1) *Debt.* Debt means money owed by an individual, organization or entity from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, services, overpayments, civil and criminal penalties, damages, interest, fines, administrative costs, and all other similar sources. A debt becomes eligible for tax refund offset procedures if:

(i) It cannot currently be collected pursuant to the salary offset procedures of 5 U.S.C. 5514(a)(1);

(ii) the debt is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2) or cannot currently be collected by administrative offset under 31 U.S.C. 3716(a); and

(iii) the requirements of this section are otherwise satisfied.

(2) *Dispute.* A dispute is a written statement supported by documentation or other evidence that all or part of an alleged debt is not past due or legally enforceable, that the amount is not the amount currently owed, that the outstanding debt has been satisfied, or, in the case of a debt reduced to judgment, that the judgment has been satisfied or stayed.

(3) *Notice.* Notice means the information sent to the debtor pursuant to § 201.208(d). The date of the notice is the date shown on the notice letter as its date of issuance.

(4) *Past due.* All judgment debts are past due for purposes of this section. Such debts remain past due until paid in full.

(c) The Commission may refer any past due, legally enforceable non-judgment debt of an individual, organization or entity to Treasury for offset if the Commission's or the referring agency's rights of action accrued more than three months but less than ten years before the offset is made. Debts reduced to judgment may be referred at any time. Debts in amounts lower than $25.00 are not subject to referral.

(d) The Commission will provide the debtor with written notice of its intent to offset before initiating the offset. Notice will be mailed to the debtor at the current address of the debtor, as determined from information obtained from the IRS pursuant to 26 U.S.C. 6103(m)(2), (4), (5) or from information regarding the debt maintained by the Commission. The notice sent to the debtor will state the amount of the debt and inform the debtor that:

(1) The debt is past due;

(2) The Commission intends to refer the debt to Treasury for offset from tax refunds that may be due to the taxpayer;

(3) The Commission intends to provide information concerning the delinquent debt exceeding $100 to a consumer reporting bureau unless such debt has already been disclosed; and

(4) The debtor has 65 calendar days from the date of notice in which to present evidence that all or part of the debt is not past due, that the amount is not the amount currently owed, that the outstanding debt has been satisfied, or, if a judgment debt, that the debt has been satisfied, or stayed, before the debt is reported to a consumer reporting agency, if applicable, and referred to Treasury for offset from tax refunds.

(e) If the debtor neither pays the amount due nor presents evidence that the amount is not past due or is satisfied or stayed, the Commission will report the debt to a consumer reporting agency at the end of the notice period, if applicable, and refer the debt to Treasury for offset from the taxpayer's federal tax refund. The Commission shall certify to Treasury that reasonable efforts have been made by the Commission to obtain payment of such debt.

(f) A debtor may request a review by the Commission if the debtor believes that all or part of the debt is not past due or is not legally enforceable, or, in the case of a judgment debt, that the debt has been stayed or the amount satisfied, as follows:

(1) The debtor must send a written request for review to the Director at the address provided in the notice.

(2) The request must state the amount disputed and the reasons why the debtor believes that the debt is not past due, is not legally enforceable, has been satisfied, or, if a judgment debt, has been satisfied or stayed.

(3) The request must include any documents that the debtor wishes to be considered or state that additional

information will be submitted within the time permitted.

(4) If the debtor wishes to inspect records establishing the nature and amount of the debt, the debtor must make a written request to the Director for an opportunity for such an inspection. The office holding the relevant records not exempt from disclosure shall make them available for inspection during normal business hours within one week from the date of receipt of the request.

(5) The request for review and any additional information submitted pursuant to the request must be received by the Director at the address stated in the notice within 65 calendar days of the date of issuance of the notice.

(6) The Commission will review disputes and shall consider its records and any documentation and arguments submitted by the debtor. The Commission's decision to refer to Treasury any disputed portion of the debt shall be made by the Chairman. The Commission shall send a written notice of its decision to the debtor. There is no administrative appeal of this decision.

(7) If the evidence presented by the debtor is considered by a non-Commission agent or other entities or persons acting on the Commission's behalf, the debtor will be accorded at least 30 calendar days from the date the agent or other entity or person determines that all or part of the debt is past-due and legally enforceable to request review by an officer or employee of the Commission of any unresolved dispute.

(8) Any debt that previously has been reviewed pursuant to this section or any other section of this subpart, or that has been reduced to a judgment, may not be disputed except on the grounds of payments made or events occurring subsequent to the previous review or judgment.

(g) The Commission will notify Treasury of any change in the amount due promptly after receipt of payments or notice of other reductions.

(h) In the event that more than one debt is owed, the tax refund offset procedure will be applied in the order in which the debts became past due.

Issued: July 10, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–18696 Filed 7–15–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 814

[Docket No. 91N–0404]

RIN 0910–AA09

Medical Devices; Humanitarian Use Devices; Lift of Stay of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; lift of stay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is lifting a stay of the effective date of certain provisions in a final rule on humanitarian use devices. The Office of Management and Budget (OMB) has approved the collection of information requirements contained in the final rule, and they are now effective.

EFFECTIVE DATE: July 16, 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.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 26, 1996 (61 FR 33232), FDA published a final rule prescribing the procedures for submitting humanitarian device exemption (HDE) applications, amendments, and supplements; procedures for obtaining an extension of the exemption; and the criteria for FDA review and approval of HDE's.

In the final rule (61 FR 33232 at 33243), FDA requested comments on the collection of information requirements contained in the final rule by August 26, 1996. FDA received no comments in response to this request. In the **Federal Register** of October 29, 1996 (61 FR 55804), FDA announced that the information collection requirements contained in the final rule had been submitted to OMB for approval under the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

In a separate document also published on October 29, 1996 (61 FR 55741), FDA announced that it was staying the effective date of the information collection requirements pending OMB clearance for §§ 814.102, 814.104, 814.106, 814.108, 814.110(a), 814.112(b), 814.116(b), 814.118(d), 814.120(b), 814.124(b), and 814.126(b)(1).

On November 25, 1996, OMB sent FDA a notice of action stating that the collection of information requirements are approved for use through November 30, 1999, under OMB control No. 0910–0332. FDA announced OMB approval of the collection of information provisions in the **Federal Register** of January 22, 1997 (62 FR 3297).

Therefore, under secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–393) and under authority delegated to the Commissioner of Food and Drugs, the stay for §§ 814.102, 814.104, 814.106, 814.108, 814.110(a), 814.112(b), 814.116(b), 814.118(d), 814.120(b), 814.124(b) and 814.126(b)(1) that was published in the **Federal Register** of October 29, 1996 (61 FR 55742) is lifted and these provisions are effective July 16, 1997.

Dated: June 17, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–18596 Filed 7-15-97; 8:45 am]

BILLING CODE 4160–01–F

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 201

[A.I.D. Reg. 1]

RIN 0412–AA–33

Rules and Procedures Applicable to Commodity Transactions Financed by A.I.D.: Source, Origin and Nationality

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The U.S. Agency for International Development (USAID) is amending its Regulation 1 to replace the coverage on source, origin and nationality of commodities and commodity-related services with references to the ''Rules on Source, Origin and Nationality For Commodities and Services'' in part 228 of chapter II of Title 22 of the Code of Federal Regulations. Also, the acronym ''USAID'' is replacing ''A.I.D.'' throughout the regulation.

EFFECTIVE DATE: August 15, 1997.

FOR FURTHER INFORMATION CONTACT: Kathleen J. O'Hara, Office of Procurement, Procurement Policy Division (M/OP/PP), USAID, Room 1600 A, Washington, DC 20523–1435. Telephone (703) 875–1534, facsimile (703) 875–1243.

SUPPLEMENTARY INFORMATION: USAID published a notice of proposed

rulemaking on February 5, 1996 (61 FR 4240) which covered rules on source, origin and nationality of commodities and services.

The final rule was published on October 15, 1996 (61 FR 53615), effective November 14, 1996, adding part 228 to Title 22 of the Code of Federal Regulations. The substantive changes made to Regulation 1 in this notice incorporate the applicable rules of part 228 by reference.

USAID has determined that this rule is not a significant regulatory action under Executive Order 12866. The rule has been reviewed in accordance with the requirement of the Regulatory Flexibility Act. USAID has determined that the rule will not have a significant economic impact on a substantial number of small entities, and, therefore, a Regulatory Flexibility Analysis is not required. There are no information collection requirements in this rule as contemplated by the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 201

Administrative practice and procedure, Commodity procurement—foreign relations.

For the reasons set out in the preamble, 22 CFR part 201 is amended as follows.

1. The authority citation continues to read as follows:

Authority: 22 U.S.C. 2381.

PART 201—[AMENDED]

2. Part 201 is amended by removing ''A.I.D.'' wherever it appears and adding ''USAID'' in its place; by removing ''A.I.D.-financed'' wherever it appears and adding ''USAID-financed'' in its place; and by removing ''A.I.D./W'' wherever it appears and adding ''USAID/W'' in its place.

3. Section 201.11, is amended by revising paragraphs (b), (e) and (j) to read as follows:

§ 201.11 Eligibility of commodities.

* * * * *

(b) *Source*. The authorized source for procurement shall be a country or countries authorized in the implementing document by name or by reference to a USAID geographic code. The source and origin of a commodity must be an authorized source country. The applicable rules on source, origin and nationality for commodities and commodity-related services are in subparts (B), (C), and (F) of part 228 of this chapter.

* * * * *

(e) *Marine insurance*. In accordance with the provisions of § 228.23 of this chapter, USAID may require that any USAID-financed commodity shipped to the cooperating country shall be insured against marine risks and that such insurance shall be placed in the United States with a company or companies authorized to do marine insurance business in a State of the United States.

* * * * *

(j) *Purchases from eligible suppliers*. Commodities procured with funds made available under this part 201 shall be purchased from eligible suppliers. The rules on the nationality of suppliers of commodities are in section 228.14 of this chapter.

* * * * *

4. Section 201.12 is amended by revising paragraph (d) and adding a new paragraph (e) as follows:

§ 201.12 Eligibility of incidental services.

* * * * *

(d) The supplier of such services, prior to approval of the USAID Commodity Approval Application, has neither been suspended or debarred by USAID under part 208 of this chapter, nor has been placed on the ''Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs,'' published by the U.S. General Services Administration.

(e) The supplier of such services meets the requirements of § 228.25 of this chapter.

5. Section 201.13 is amended by revising paragraphs (a), (b) and (c) as follows:

§ 201.13 Eligibility of delivery services.

(a) *General*. Delivery of USAID-financed commodities may be financed under the implementing document provided the delivery services meet the requirements of this section and the applicable provisions in part 228, subpart C of this chapter.

(b) *Transportation costs*. USAID will not finance transportation costs:

(1) For shipment beyond the point of entry in the cooperating country except when intermodal transportation service covering the carriage of cargo from point of origin to destination is used, and the point of destination, as stated in the carrier's through bill of lading, is established in the carrier's tariff; or

(2) On a transportation medium owned, operated or under the control of any country not included in Geographic Code 935; or

(3) Under any ocean or air charter covering full or part cargo (whether for a single voyage, consecutive voyages, or a time period) which has not received prior approval by USAID/W, Office of Procurement, Transportation Division); or

(4) Which are attributable to brokerage commissions which exceed the limitations specified in § 201.65(h) or to address commissions, dead freight, demurrage or detention.

(c) *Inspection services*. USAID will finance inspection of USAID-financed commodities when inspection is required by USAID, or in those cases where inspection is required by the importer and such inspection is specified in the purchase contract, performed by independent inspectors and is either customary in export transactions for the commodity involved or is necessary to determine conformity of the commodities to the contract. Section 228.24 of this chapter covers the nationality requirements for suppliers of inspection services.

* * * * *

6. Section 201.14 is amended by adding a sentence at the end of the paragraph as follows:

§ 201.14 Eligibility of bid and performance bonds and guaranties.

* * * Nationality requirements for sureties, insurance companies or banks who issue bonds or guaranties under A.I.D.-financed transactions are set forth in § 228.38(b) of this chapter.

Dated: May 12, 1997.

Marcus L. Stevenson,

Procurement Executive.

[FR Doc. 97–18694 Filed 7–15–97; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8724]

RIN 1545–AU16

Section 1059 Extraordinary Dividends

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 1059(e) of the Internal Revenue Code. The final regulations clarify that certain distributions in redemption of stock held by a corporate shareholder are treated as extraordinary dividends notwithstanding provisions that otherwise might exempt the distributions from extraordinary dividend treatment. Corporations that receive a distribution in redemption of stock may be affected if the redemption is either part of a partial liquidation of the redeeming corporation or is not pro

rata as to all shareholders. The final regulations also provide that section 1059(e)(1) applies to certain exchanges described in section 356.

DATES: This regulation is effective July 16, 1997.

For date of applicability, see § 1.1059(e)–1(c).

FOR FURTHER INFORMATION CONTACT: Richard K. Passales, (202) 622–7530 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1996, the IRS published in the **Federal Register** a notice of proposed rulemaking (CO–9–96), 61 FR 30845, concerning certain distributions under section 1059(e)(1) of the Internal Revenue Code. The proposed rules were based on the conclusion that applying the exceptions to extraordinary dividend treatment found in sections 1059 (d)(6) and (e)(2) to amounts treated as extraordinary dividends under section 1059(e)(1) is inconsistent with the purposes of section 1059 and may create inappropriate consequences, such as basis shifting that eliminates gain or creates artificial loss.

The IRS received a few comments on the proposed regulations. No one requested to speak at the public hearing. After consideration of all the comments, the regulations are adopted as revised by this Treasury decision. The revisions and significant comments are discussed below.

Explanation of Revisions

Section 1.1059(e)–1(b) of the proposed regulations provides that for purposes of section 1059(e)(1), an exchange under section 356(a)(1) is treated as a redemption and, to the extent any amount is treated as a dividend under section 356(a)(2), it is treated as a dividend under section 301. One practitioner questioned whether section 1.1059(e)–1(b) applies to exchanges for section 306 stock that are treated as section 301 distributions under section 356(e). The final regulations clarify that for purposes of section 1059(e)(1), all exchanges under section 356 are treated as redemptions and all amounts treated as a dividend under section 356(a)(2) are treated as dividends under section 301. Accordingly, the final regulations delete the reference to subsection (a)(1) of section 356.

Special Analyses

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

Drafting Information

The principal author of these regulations is Richard K. Passales, Office of Assistant Chief Counsel (Corporate), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.1059(e)–1 also issued under 26 U.S.C. 1059 (e)(1) and (e)(2). * * *

Par. 2. In § 1.302–2, paragraph (c) introductory text is amended by adding a sentence immediately following the first sentence to read as follows:

§ 1.302–2 Redemptions not taxable as dividends.

* * * * *

(c) * * * (For adjustments to basis required for certain redemptions of corporate shareholders that are treated as extraordinary dividends, see section 1059 and the regulations thereunder.) * * *

* * * * *

Par. 3. Section 1.1059(e)–1 is added to read as follows:

§ 1.1059(e)–1 Non-pro rata redemptions.

(a) *In general.* Section 1059(d)(6) (exception where stock held during entire existence of corporation) and section 1059(e)(2) (qualifying dividends) do not apply to any distribution treated as an extraordinary dividend under section 1059(e)(1). For example, if a redemption of stock is not pro rata as to all shareholders, any amount treated as a dividend under section 301 is treated as an extraordinary dividend regardless of whether the dividend is a qualifying dividend.

(b) *Reorganizations.* For purposes of section 1059(e)(1), any exchange under section 356 is treated as a redemption and, to the extent any amount is treated as a dividend under section 356(a)(2), it is treated as a dividend under section 301.

(c) *Effective date.* This section applies to distributions announced (within the meaning of section 1059(d)(5)) on or after June 17, 1996.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

Approved: June 27, 1997.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 97–18750 Filed 7–15–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF JUSTICE

28 CFR Part 0

[DEA–159F]

Redelegation of Functions; Delegation of Authority to Drug Enforcement Administration Official

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration (DEA), Department of Justice, is amending the appendix to the Justice Department regulations which delegate certain functions and authorities vested in the Attorney General by the Controlled Substances Act and are redelegated to the Administrator.

EFFECTIVE DATE: July 16, 1997.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION: The Controlled Substances Import and Export Act (CSIEA) (21 U.S.C. 951 *et seq.*) and subsequent amendments establish a comprehensive system of controls over the importation and exportation of controlled substances. The CSIEA authorizes the Attorney General to register individuals to import and export controlled substances; issue import and export permits; and require import and export notifications and declarations (21 U.S.C. 952, 953 and 958).

The Attorney General has redelegated her functions under the CSIEA to the Administrator of the Drug Enforcement Administration (DEA) and has authorized the Administrator to redelegate any of his functions to any of his subordinates (21 U.S.C. 871 (a), 28 CFR 0.100(b) and 28 CFR 0.104).

The Administrator of the Drug Enforcement Administration further redelegated his functions regarding the issuance of Import and Export Permits to the Deputy Assistant Administrator of the Office of Diversion Control of the Drug Enforcement Administration pursuant to 28 CFR 0.104. To further enhance the administration of the CSIEA and its attendant regulations, the Administrator has further redelegated to the Deputy Administrator of the DEA the authority to carry out or to redelegate any of the functions which may be vested in the Administrator which are not specifically assigned to or reserved by him.

The Deputy Administrator is amending 28 CFR, Appendix to subpart R, section 6, to include three other individuals in addition to the one individual who was previously delegated the authority to sign and issue Import and Export Permits pursuant to Title 21 U.S.C. 952 and 953 and all issues in regard to transshipments and intransit shipments of controlled substances under 21 U.S.C. 954.

The Acting Deputy Administrator certifies that this action will have no impact on entities whose interests must be considered under the Regulatory Flexibility Act (5 U.S.C. 601).

This action relates only to the organization of functions within DEA. As such, it is not a significant regulatory action under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget and does not require certification under Executive Order 12778. This action has been analyzed in accordance with Executive Order 12616. It has been determined that this matter has no federalism implications which would require preparation of a federalism assessment.

List of Subjects in 28 CFR Part 0

Authority delegations (Government Agencies), Organizations and functions (Government Agencies).

For the reasons set forth above, and pursuant to the authority vested in the Attorney General and redelegated to the Administrator of the Drug Enforcement Administration and subsequently redelegated to the Deputy Administrator of the Drug Enforcement Administration by 28 CFR 0.100 and 0.104 and 21 U.S.C. 871, Title 28 of the Code of Federal Regulations, part 0, Appendix to Subpart R, Redelegation of Functions, is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 301, 3151: 28 U.S.C. 509, 510, 515–519.

2. The Appendix to Subpart R is amended by revising Section 6 to read as follows:

Appendix to Subpart R—Redelegation of Functions

* * * * *

Sec. 6. *Import and export permits.* The Deputy Assistant Administrator of the DEA Office of Diversion Control, the Deputy Director of the DEA Office of Diversion Control, the Chief of the Drug Operations Section of the DEA Office of Diversion Control, and the Chief of the International Drug Unit of the Drug Operations Section of the DEA Office of Diversion Control are authorized to perform all and any functions with respect to the issuance of importation and exportation permits for controlled substances under 21 U.S.C. 952 and 953, and all functions in regard to transshipments and intransit shipments of controlled substances under 21 U.S.C. 954.

* * * * *

Dated: July 7, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–18706 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–09–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 76

[CS Docket No. 96–46; FCC 97–130]

Cable Television Consumer Protection and Competition Act of 1992

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission's amendments regarding filing requirements for open video system certification applications, which contained modified information collection requirements, became effective on July 3, 1997. These amendments relate to implementation of provisions of the Telecommunications Act of 1996.

EFFECTIVE DATE: The amendments to 47 CFR §§ 1.4, 76.1502, 76.1503, and 76.1513 became effective on July 3, 1997.

FOR FURTHER INFORMATION CONTACT: Carolyn A. Fleming, Cable Services Bureau, (202) 418–1026.

SUPPLEMENTARY INFORMATION: On April 10, 1997, the Commission adopted an order revising the filing requirements for open video system certification applications, a summary of which was published in the **Federal Register**. See 62 FR 26235, May 13, 1997. The amendments, which imposed new or modified information collection requirements, became effective upon approval by the Office of Management and Budget (OMB). The amendments were approved by OMB on July 3, 997. See OMB No. 3060–0700. This publication satisfies the statement that the Commission would publish a document notifying the public of the effective date of the rule changes.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Reporting and recordkeeping requirements.

47 CFR Part 76

Administrative practice and procedure, Cable television, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–18735 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–23; RM–8972]

Radio Broadcasting Services; Glendo, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Vixon Valley Broadcasting, allots Channel 261A at Glendo, Wyoming, as the community's first local aural transmission service. *See* 62 FR 4227, January 29, 1997. Channel 261A can be allotted at Glendo in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 261A at Glendo are North Latitude 42–30–12 and West Longitude 105–01–30. With this action, this proceeding is terminated.

DATES: Effective August 25, 1997. The window period for filing applications

for Channel 261A at Glendo, Wyoming, will open on August 25, 1997, and close on September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–23, adopted June 25, 1997 and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Glendo, Channel 261A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18741 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–6; RM–8944]

Radio Broadcasting Services; Beatty, NV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Beatty Mountain Broadcasting Company, allots Channel 262A to Beatty, NV, as the community's first local aural transmission service. *See* 62 FR 3852, January 27, 1997. Channel 262A can be allotted to Beatty in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 36–54–24 North Latitude and 116–45–36 West Longitude. With this action, this proceeding is terminated.

DATES: Effective August 25, 1997. The window period for filing applications will open on August 25, 1997, and close on September 25, 1997.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–6, adopted June 25, 1997, and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by adding Beatty, Channel 262A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18739 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–89; RM–9029]

Radio Broadcasting Services; Manistique, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action in this document allots Channel 260A to Manistique, Michigan, as that community's first local FM broadcast service in response to a petition filed by Indian River Broadcasting Company. *See* 62 FR 12152, March 14, 1997. The coordinates for Channel 260A at Manistique are 45–57–24 and 86–14–48. Canadian concurrence has been obtained for this allotment. With this action, this proceeding is terminated.

DATES: Effective August 25, 1997. The window period for filing applications for Channel 260A at Manistique, Michigan, will open on August 25, 1997, and close on September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 97–89, adopted June 25, 1997, and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Manistique, Channel 260A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18743 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–57; RM–9016]

Radio Broadcasting Services; Hope, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Vixon Valley Broadcasting, allots Channel 284A to Hope, ND, as the community's first local aural broadcast service. *See* 62 FR 7982, February 21, 1997. Channel 284A can be allotted to Hope in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 47–19–24 North Latitude and 97–43–00 West Longitude. Canadian concurrence in the allotment has been received since Hope is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective August 25, 1997. The window period for filing applications will open on August 25, 1997, and close on September 25, 1997.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–57, adopted June 25, 1997, and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Dakota, is amended by adding Hope, Channel 284A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18742 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–270; RM–8323, RM–8339, RM–8428, RM–8429, and RM–8430]

FM Broadcasting Services; Nashville, Cordele, Dawson, Montezuma, Hawkinsville, Cuthbert, and Leary, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Chief, Allocations Branch, granted the counterproposal (RM–8428) filed by Tifton Broadcasting Corporation, licensee of Station WJYF(FM), Channel 237C3 (95.3 MHz), Nashville, Georgia, to upgrade that station by substituting Channel 237C2 for Channel 237C3 and modifying its license to operate on Channel 237C2. That counterproposal was filed in response to the *Notice of Proposed Rule Making,* 58 FR 58,671, published November 3, 1993, which had set forth two allotment proposals in response to the interrelated petitions for rule making filed by Radio Cordele, Inc. (''RCI'') (RM–8323), licensee of Station WKKN(FM), Cordele, Georgia, and by John F. Tuck and Phonson Donaldson, Bankruptcy Court Appointed Receivers for Dawson Broadcasting Company (''DBC'') (RM–8339), licensee of Station WAZE(FM), Dawson, Georgia. With this action, the proceeding is terminated.

DATES: Effective September 2, 1997. The window period for filing applications for Channel 251A at Dawson, Georgia will open on August 25, 1997, and close on September 25, 1997.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: Channel 237C2 can be allotted at Nashville, Georgia in compliance with the Commission's minimum distance separation requirements at a site restricted to 6.3 kilometers (3.9 miles) northwest of the community at coordinates North Latitude 31–15–18 and West Longitude 83–17–08. RCI's petition was denied and DBC's petition and its later-filed counterproposal (RM–8430) were dismissed because the license for Station WAZE(FM) was canceled, creating a vacant allotment at Dawson, Georgia. Accordingly, a filing window is being opened for Dawson. A counterproposal jointly filed by Tri-County Broadcasting, Inc., licensee of Station WQSY(FM), Hawkinsville, Georgia, and Montezuma Broadcasting, licensee of Station WLML(FM), Montezuma, Georgia (RM–8429), was also dismissed. This is a summary of the Commission's *Report and Order,* MM Docket No. 93–270 adopted June 25, 1997 and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in Commission's Reference Center (Room 239), 1919 M Street, N.W., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, N.W., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 reads continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, under Georgia, is amended by removing Channel 237C3 at Nashville and adding Channel 237C2.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18736 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–3; RM–8945]

Radio Broadcasting Services; Bend, OR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Sunriver Broadcasting Company, allots Channel 259A to Bend,

OR, as the community's sixth local commercial FM service. *See* 62 FR 3852, January 27, 1997. Channel 259A can be allotted to Bend in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 44–03–30 North Latitude; 121–18–30 West Longitude. With this action, this proceeding is terminated.

DATES: Effective August 25, 1997. The window period for filing applications will open on August 25, 1997, and close on September 25, 1997.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–3, adopted June 25, 1997, and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Channel 259A at Bend.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18737 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–4; RM–8923]

Radio Broadcasting Services; Huntsville, UT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of South Fork River Broadcasting, allots Channel 276C3 to Huntsville, Utah, as the community's first local aural transmission service. *See* 62 FR 03850, January 27, 1997. Channel 276C3 can be allotted to Huntsville in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.2 kilometers (12.6 miles) northeast in order to avoid a short-spacing conflict with the licensed operation of Station KRSP–FM, Channel 278C, Salt Lake City, Utah. The coordinates for Channel 276C3 at Huntsville are 41–25–12 NL and 111–39–24 WL. With this action, this proceeding is terminated.

DATES: Effective August 25, 1997. The window period for filing applications will open on August 25, 1997, and close on September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–4, adopted July 3, 1997, and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Utah, is amended by adding Huntsville, Channel 276C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18738 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–18; RM–8943; RM–9053]

Radio Broadcasting Services; Dolores and Durango, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 287A, in lieu of previously proposed Channel 243A, to Durango, Colorado, as that community's fourth local FM service, in response to a petition for rule making filed on behalf of Range Broadcasting Company (RM–8943). See, 62 FR 3854, January 27, 1997. GulfStar Communications New Mexico Licensee, Inc., licensee of Station KDAG(FM), Channel 245C1, Farmington, New Mexico, proposed the allotment of Channel 287A to Durango to eliminate a conflict with its modification application for Station KDAG(FM), pursuant to the Commission's policy of attempting to resolve conflicts between rulemaking petitions and later-filed FM applications. *See Conflicts Between Applications and Petitions for Rulemaking to Amend the FM Table of Allotments*, 58 FR 38536, July 19, 1993. Additionally, in response to a counterproposal filed on behalf of Four Corners Broadcasting, LLC (RM–9053), Channel 227C2 is allotted to Dolores, Colorado, as that community's first local aural transmission service, instead of requested Channel 243C2, to also eliminate a conflict with GulfStar's modification application at Farmington. Coordinates used for Channel 287A at Durango, Colorado, are 37–15–44 and 107–52–27. Coordinates used for Channel 227C2 at Dolores, Colorado, are 37–28–24 and 108–30–12. With this action, the proceeding is terminated.

DATES: Effective August 25, 1997. The window period for filing applications on Channel 287A at Durango, Colorado, and for Channel 227C2 at Dolores, Colorado, will open on August 25, 1997, and close on September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 287A at Durango, Colorado, and for Channel 227C2 at Dolores, Colorado, should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–18,

adopted July 3, 1997, and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Dolores, Channel 227C2.

3. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Channel 287A at Durango.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18740 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–119; RM–9072]

Radio Broadcasting Services; Victor, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document dismisses a petition for rule making filed by West Wind Broadcasting proposing the allotment of Channel 289A to Victor, Montana. *See* 62 FR 22901, April 28, 1997. No comments were received at the Commission stating an intention to file an application for the channel at Victor. It is Commission policy to refrain from making an allotment absent an expression of interest. With this action, this proceeding is terminated.

EFFECTIVE DATE: July 16, 1997.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 97–119, adopted July 3, 1997, and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18746 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL C0MUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–108; RM–9024]

Radio Broadcasting Services; Riley, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Donald Law, allots Channel 242C3 at Riley, Kansas, as the community's first local aural transmission service. *See* 62 FR 17772, April 11, 1997. Channel 242C3 can be allotted in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.7 kilometers (7.9 miles) east in order to avoid a short-spacing conflict with the vacant allotment of Channel 242C3 at Cawker City, Kansas. The coordinates for Channel 242C3 at Riley are 39–16–40 NL and 96–40–50 WL. With this action, this proceeding is terminated.

DATES: Effective August 25, 1997. The window period for filing applications will open on August 25, 1997, and close on September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–108, adopted July 3, 1997, and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Riley, Channel 242C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18745 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–93; RM–9013]

Radio Broadcasting Services; Hardinsburg, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 245A to Hardinsburg, Indiana, as that community's first local aural transmission service in response to a petition filed by Keith L. Reising. *See* 62 FR 13582, March 21, 1997. Coordinates used for Channel 245A at Hardinsburg are 38–30–42 and 86–22–22. With this action, the proceeding is terminated.

DATES: Effective August 25, 1997. The window period for filing applications for Channel 245A at Hardinsburg, Indiana, will open on August 25, 1997, and close on September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the

window application filing process for Channel 245A at Hardinsburg, Indiana, should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–93, adopted June 25, 1997, and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Indiana, is amended by adding Hardinsburg, Channel 245A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18744 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 369

[FHWA Docket No. MC–96–37 and No. FHWA–97–2286]

RIN 2125–AE02

Compensated Intercorporate Hauling

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is removing the regulation delineating the scope and notice filing requirements of the statutory exemption for compensated intercorporate hauling. Section 103 of the ICC Termination Act of 1995 (ICCTA), Pub. L. 104–88, 109 Stat. 803, removed the requirement that a notice be filed before initiation of exempt compensated intercorporate hauling operations.

EFFECTIVE DATE: August 15, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas T. Vining or Ms. Patricia A. Burke, Office of Motor Carrier Information Analysis, HIA–30, (202) 358-7028, or Ms. Grace Reidy, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, 400 Seventh St., SW., 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 October 21, 1996, the FHWA published a proposed rule and a request for comments in the **Federal Register** (61 FR 54711) on the regulation governing the filing of a notice prior to initiation of operations under the statutory exemption for compensated intercorporate hauling. The proposed rule would eliminate this regulation.

The former Interstate Commerce Act contained an exemption from ICC regulation at 49 U.S.C. 10524(b) for compensated transportation service by a member of a corporate family, for other members of the same family, if proper notice was given. To qualify for the exemption, the participants were required to be members of a corporate family in which the parent owned, either directly or indirectly, a 100 percent interest in the subsidiaries. Corporate entities availing themselves of the exemption were also required to file a notice, which was published in the **Federal Register**, listing the participating subsidiaries and certifying 100 percent ownership by the corporate parent.

The ICCTA reenacted the substantive exemption for compensated intercorporate hauling, but removed the requirement for filing of a notice of operations under the exemption, 49 U.S.C. 13505(b). Although the ICCTA does not prohibit imposition of a notice requirement by the FHWA, which has assumed responsibility for these regulations pursuant to the ICCTA, the prior **Federal Register** notice questioned the continuing need for a notice requirement or for any regulations on this subject.

The public comment period for the proposed rule closed on December 20, 1996. The FHWA received one comment from the National Private Truck Council (NPTC). This comment is available for review at the U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

The NPTC supports elimination of the regulation and notice filing requirement. The regulation at 49 CFR part 369 merely restates the scope of the statutory compensated intercorporate hauling exemption and provides the required form and content of the notice. The information that otherwise would be contained in the notice can be easily checked by the FHWA through other means if it ever appears that a corporation is conducting operations which exceed the scope of the exemption. Because the ICCTA essentially limits licensing requirements to compliance with safety and insurance requirements, there also appears to be no incentive for a corporation to use the exemption as a cover for unregistered transportation operations. The corporation could easily obtain operating authority for legitimate operations. Thus, the regulation at 49 CFR part 369 no longer serves any meaningful regulatory purpose, and it will be removed.

Executive Order 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures)

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. The economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. The rulemaking merely eliminates a notice filing requirement which applies to a small number of transportation entities. Neither the individual nor cumulative impact of this action will be significant.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The filing requirement currently only involves the preparation of a relatively simple notice by less than twenty transportation entities annually. Its elimination, while beneficial, will not have a significant economic impact.

Executive Order 12612 (Federalism Assessment)

This action was analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it was determined that this action does not have sufficient

federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* It eliminates the requirement that parties taking advantage of the exemption at 49 U.S.C. 13505(b) prepare and file a notice of their operations. This action is thus consistent with the goals of the Paperwork Reduction Act.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

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

List of Subjects in 49 CFR Part 369

Highways and roads.

In consideration of the foregoing and under the authority of section 103 of the ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803, and 49 CFR 1.48, the FHWA amends title 49, CFR, Chapter III, by removing part 369.

Issued on: July 7, 1997.

Jane F. Garvey,

Acting Administrator for the Federal Highway Administration

[FR Doc. 97–18697 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 372

[FHWA Docket No. MC–96–38 and No. FHWA–97–2280]

RIN 2125–AE03

Exemption of Notice Filing Requirements for Agricultural Cooperative Associations Which Conduct Compensated Transportation Operations for Nonmembers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document removes the regulation specifying the notice filing requirements for agricultural cooperative associations which conduct compensated transportation operations for nonmembers. These operations are exempt from regulation if certain statutory limitations on their scope are observed. Section 103 of the ICC Termination Act of 1995 (ICCTA), Pub. L. 104–88, 109 Stat. 803, removed the requirement that a notice be filed before initiation of operations under the exemption.

EFFECTIVE DATE: August 15, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas T. Vining or Ms. Patricia A. Burke, Office of Motor Carrier Information Analysis, HIA–30, (202) 358–7028, or Ms. Grace Reidy, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, 400 Seventh St., SW., 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 October 21, 1996, the FHWA published a proposed rule and a request for comments in the **Federal Register** (61 FR 54712) on the removal of the regulation specifying the notice filing requirement for agricultural cooperative associations which conduct compensated transportation operations for nonmembers. The former Interstate Commerce Act contained an exemption from ICC regulation at 49 U.S.C. 13506(a)(5) (formerly 49 U.S.C. 10526(a)(5)) for transportation provided by an agricultural cooperative association for nonmembers. To qualify for the exemption, the transportation services for nonmembers were required to be incidental to the cooperative's primary transportation operations, could not exceed annually 25 percent of the cooperative's total transportation between any two involved points, and, as a whole, could not exceed the transportation provided for the cooperative association and its members. The cooperative was also required to file a notice with the ICC of its intent to provide transportation for nonmembers.

The ICCTA reenacted the substantive exemption for nonmember transportation services by agricultural cooperatives, but removed the notice filing requirement. 49 U.S.C. 13506(a)(5). Although the ICCTA does not prohibit imposition of a notice requirement by the FHWA, which has assumed responsibility for this regulation pursuant to the ICCTA, the notice of proposed rulemaking questioned the continuing need for any required notice.

The public comment period for the proposed rule closed on December 20, 1996. No comments were submitted, and the proposed rule is adopted.

The Secretary is granted authority at 49 U.S.C. 13508 to require agricultural cooperatives to maintain records of transportation provided for members and nonmembers. Section 13508 makes these records subject to inspection and imposes specific penalties for reporting and recordkeeping violations. Regulations at 49 CFR 372.111 delineate the scope of the required records. The information contained in these records can be inspected by the FHWA if it ever appears that a cooperative is performing transportation services for nonmembers which exceed the scope of the exemption. Moreover, it is unlikely that a cooperative would have any incentive to conduct unlawful transportation operations. Under the ICCTA, licensing requirements are now essentially limited to compliance with safety and insurance standards. A cooperative could easily obtain operating authority for legitimate operations.

In these circumstances, the notice requirement at 49 CFR 372.113 no longer serves any legitimate purpose. Removal of this regulation, and the adoption of conforming amendments to 49 CFR 372.111, will eliminate unnecessary regulatory requirements.

Executive Order 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures)

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. The economic impact of this rulemaking is minimal; therefore, a full regulatory evaluation is not required. The rulemaking merely

eliminates a notice filing requirement which applies to a small number of transportation entities. Neither the individual nor cumulative impact of this action is significant.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The filing requirement currently only involves the preparation of a relatively simple notice by a limited number of transportation entities. Its elimination, while beneficial, will not have a significant economic impact.

Executive Order 12612 (Federalism Assessment)

This action was analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it was determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* On the contrary, it eliminates the requirement that parties taking advantage of the exemption at 49 U.S.C. 13506(a)(5) file Form OCP–102 (Office of Management and Budget #3120–0005, εχπιρεδ 11–30–95). Τηισ αψτιον ισ τηθσ ψονσιστεντ ςιτη τηε γοαλσ οφ τηε Παπερςορκ Ρεδθψτιον Αψτ.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

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

List of Subjects in 49 CFR Part 372

Agricultural commodities, Buses, Commercial zones, Freight forwarders, Highways and roads, Motor carriers of property, Reporting and recordkeeping requirements.

In consideration of the foregoing and under the authority of section 103 of the ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat 803, and 49 CFR 1.48, the FHWA amends title 49, CFR, Chapter III, Part 372 as set forth below:

PART 372—EXEMPTIONS, COMMERCIAL ZONES, AND TERMINAL AREAS

1. The authority citation for Part 372 continues to read as follows:

Authority: 49 U.S.C. 13504 and 13506; 49 CFR 1.48.

2. Section 372.111 is amended in paragraph (a) by removing the words ''which is required to give notice to the Commission under § 1047.23'', and in paragraph (b) by removing the words ''and required to give notice to this Commission under § 1047.23''.

§ 372.113 [Removed and reserved]

3. Section 372.113 is removed and reserved.

Issued on: July 7, 1997.

Jane F. Garvey,

Acting Administrator for the Federal Highway Administration.

[FR Doc. 97–18682 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 070997E]

Atlantic Tuna Fisheries; Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Fishery reopening.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna Harpoon category quota has not been reached. Therefore, NMFS reopens the Harpoon category for 3 days effective July 11, 1997. Closure of this 3-day fishery will be strictly enforced. This action is being taken to allow full harvest of the Harpoon category quota.

DATES: Effective Friday, July 11, at 1 a.m. local time until Sunday, July 13, at 11:30 p.m. local time.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301–713–2347, or Mark Murray-Brown, 508–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the U.S. quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories.

NMFS is required, under § 285.20(b)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of ABT will equal the quota and publish a **Federal Register** announcement to close the applicable fishery.

Implementing regulations for the Atlantic tuna fisheries at § 285.22 provide for a quota of 53 mt of large medium and giant ABT to be harvested from the regulatory area by vessels permitted in the Harpoon category.

Based on reported catch and effort, NMFS filed an action with the Office of the Federal Register on July 3, 1997, to close the Harpoon category fishery on July 7, 1997. NMFS has determined that, due to lower than expected fishing effort and landings, the full 53 mt has not been taken. Average catch rates for the month of June indicate that the remaining quota could be taken in 3 fishing days. Therefore, NMFS is reopening the Harpoon category effective 1 a.m., July 11, and closing 11:30 p.m., July 13 to ensure full attainment of the Harpoon category quota.

Classification

This action is taken under §§ 285.20(b) and 285.22 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: July 10, 1997.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–18587 Filed 7-10-97; 3:46 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 071097B]

Atlantic Tuna Fisheries; Inseason Adjustment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Catch limit adjustment.

SUMMARY: NMFS adjusts the daily catch limit for the Angling category fishery for Atlantic bluefin tuna (ABT) to four fish per vessel from the school size class and one fish per vessel from the large school or small medium size class. The duration of the catch limit adjustment is limited to August 7, 1997, whereupon the limit will revert to one ABT per vessel per day. This action is being taken to ensure reasonable fishing opportunities in all geographic areas without risking overharvest of this category.

EFFECTIVE DATE: The daily catch limit adjustment is effective 1:00 a.m., local time, July 11, 1997, until 11:30 p.m., local time, August 7, 1997.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301–713–2347, or Mark Murray-Brown, 508–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Implementing regulations for the Atlantic tuna fisheries at § 285.24 allow for adjustments to the daily catch limits in order to provide for maximum utilization of the quota spread over the longest possible period of time. The Assistant Administrator for Fisheries, NOAA, may increase or reduce the per angler catch limit for any size class bluefin tuna or may change the per angler limit to a per boat limit or a per boat limit to a per angler limit.

ABT landings reported in the southern area (Delaware and states south) in January, February and March 1997, were primarily small medium bluefin tuna. Given the limited quota available for the ABT Angling category and the large size (100–200 lbs) of individual fish landed in the winter fishery, NMFS reduced the daily catch limit to one fish per vessel. NMFS took further action to close the winter ABT fishery on March 2, 1997 to ensure that sufficient quota would remain for the summer ABT fisheries. On June 13, 1997, NMFS reopened the Angling category fishery but maintained the daily catch limit at one ABT per vessel to ensure that the southern area quota would not be exceeded.

Since the reopening, information collected by NMFS through dockside and telephone surveys indicates that the conservative catch limit of one fish per day has resulted in greatly reduced fishing pressure. Estimated landings for the month of June indicate that approximately 2.5 metric tons (mt) of school bluefin were landed in the southern area (quota of 51 mt) and approximately 2.6 mt of school bluefin were landed in the northern area (quota of 57 mt). No landings of large school or small medium ABT were reported during June. NMFS has determined that a catch limit adjustment is warranted to ensure reasonable fishing opportunities in all geographic areas without risking overharvest.

The daily catch limit is adjusted as follows: No more than four school bluefin tuna may be retained each day per Angling category vessel. In addition, one ABT per vessel may be landed from the large school or small medium size class. This catch limit adjustment is effective through August 7, 1997, whereupon the daily limit will revert to one ABT per day which may be from the school, large school or small medium size class.

Depending on the level of fishing effort and catch rates of ABT, NMFS may determine that an interim closure or additional catch limit adjustment is necessary to enhance scientific data collection from all geographic areas. Closures or subsequent adjustments to the daily catch limit, if any, shall be announced through publication in the **Federal Register**. In addition, anglers may call the Highly Migratory Species Information Line at 301–713–1279 or 508–281–9305 for updates on quota monitoring and catch limit adjustments. Anglers aboard Charter/Headboat and General category vessels, when engaged in recreational fishing for school, large school, and small medium ABT, are subject to the same rules as anglers aboard Angling category vessels.

Classification

This action is taken under 50 CFR 285.24(d)(3) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: July, 10, 1997.

Gary Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–18615 Filed 7–10–97; 4:53 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 961217359–7050–02; I.D. 070397C]

Pacific Halibut Fisheries; Oregon Sport Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason action.

SUMMARY: NMFS announces that the Area 2A sport fishery off Oregon on August 1, 2, and 9, 1997, in all-depths is closed. The restricted depth fishery will remain open until September 30, 1997, or until the Oregon sport fishery quota is reached.

DATES: Effective July 16, 1997. Comments will be accepted through July 31, 1997.

ADDRESSES: Comments may be mailed to William Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, Seattle, WA 98115. Information relevant to this action is available for public review during business hours at this address.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, 206–526–6143.

SUPPLEMENTARY INFORMATION: The Area 2A Catch Sharing Plan for Pacific halibut off Washington, Oregon, and California is implemented in the annual management measures for the Pacific halibut fisheries published on March 18, 1997 (62 FR 12759). The sport fishery in Oregon in the area from Cape Falcon, Oregon, to the Oregon/California border was divided in accordance with the Area 2A Catch Sharing Plan into three seasons with an overall quota of 137,600 lb (62.4 mt) for 1997. The first season in the area between Cape Falcon and the Siuslaw River, which was an all-depth fishery with a sub-quota of 86,703 lb (39.3 mt), closed on May 24. The first season in the area between the Siuslaw River and the Oregon/California border, which was an all-depth fishery with a sub-quota of 8,077 lb (3.7 mt), closed on May 17. The second season for both areas (from Cape Falcon to the Oregon/

California border), which is a restricted depth fishery (inside 30 fathoms), opened on the day after the closure of the all-depth fisheries in accordance with Section 22 of the annual regulations for the Pacific halibut fisheries (62 FR 12759, March 18, 1997) and is scheduled to continue until July 31. The third season for the entire area from Cape Falcon to the Oregon/California border is an all-depth fishery that is to open on August 1, 2, and 9, or until the Oregon sport fishery quota is taken.

The catch from the first season in the entire area between Cape Falcon and the Oregon/California border has been determined by NMFS, in consultation with Oregon Department of Fish and Wildlife (ODFW), to have exceeded the first season subquotas by over 30,000 lbs (13.6 mt). In consultation with ODFW, the Pacific Fishery Management Council, and the International Pacific Halibut Commission (IPHC), NMFS has determined based on past catch rates in restricted depth and all-depth sport fisheries off Oregon, that the remaining quota for this area is sufficient to maintain the current restricted depth fishery until July 31 and

possibly a 1-day, all-depth fishery on August 1, but the remaining quota is not sufficient to allow the scheduled 3-day, all-depth opening in August (third season). It is possible that there may be sufficient quota remaining on July 31 to allow an all-depth fishery on August 1, but that determination cannot be made until late July when the catch in the restricted depth fishery is accounted for. Because halibut catch rates are much lower in a restricted depth fishery than an all-depth fishery, the restricted depth fishery could remain open after the second season until September 30 without exceeding the quota.

NMFS Action

NMFS is taking inseason action to close the August 1, 2, and 9, 1997, all-depth fishery in the area from Cape Falcon to the Oregon/California border to prevent the quota for the Oregon sport fishery from being exceeded. The restricted depth fishery, limited to waters inside 30 fathoms as described in Section 22 of the annual management measures, in the area from Cape Falcon to the Oregon/California border, will remain open until September 30 or until the Oregon sport fishery quota is estimated to have been taken and the season is closed by IPHC. A determination on whether a 1-day, all-depth fishery can be allowed on August 1 without exceeding the quota will be made on July 18. Notice of an all-depth fishery opening will be provided by a telephone hotline administered by the Northwest Region, NMFS, at 206–526–6667 or 800–662–9825. No fishing will be allowed in the area beyond 30 fathoms on August 1, unless the opening has been announced by NMFS. The Regional Administrator has determined that this action is necessary to allow allocation objectives to be met, and will not result in exceeding the catch limits that were established prior to the season opening. Because of the need to provide adequate public notice on the closure, NMFS has determined that good cause exists for this action to be issued without affording a prior opportunity for public comment. Public comments will be received for a period of 15 days after the effectiveness of this action.

Classification

This action is authorized by Section 23 of the annual management measures for Pacific halibut fisheries published on March 18, 1997 (62 FR 12759) and has been determined to be not significant for purposes of E.O. 12866.

Dated: July 10, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–18589 Filed 7–15–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 960520141–7159–06; I.D. 021897B]

RIN 0648–AH05

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 1997 Scup Recreational Fishery Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to retain, for 1997, the 1996 recreational management measures for the scup fishery implemented under the regulations implementing the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP). This rule does not change the measures implemented under Amendment 8 to the FMP, that is, a 7–inch (17.78–cm) minimum fish size, no possession limit, and no closed season for the recreational scup fishery. The intent of this document is to comply with implementing regulations for the scup fishery that require NMFS to publish measures for the upcoming fishing year that will prevent overfishing of the resource.

DATES: Effective on August 14, 1997.

ADDRESSES: Copies of the Environmental Impact Statement for Amendment 8 and supporting documents used by the Monitoring Committee are available from: Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 S. New Street, Dover, DE 19901–6790.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, (508) 281–9221.

SUPPLEMENTARY INFORMATION: The FMP was developed jointly by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) in consultation with the New England and South Atlantic Fishery Management Councils. Implementing regulations for the fishery are found at 50 CFR part 648.

Section 648.120 outlines the process for determining annual commercial and recreational catch quotas and other restrictions for the scup fishery. Pursuant to Section 648.120, the Administrator, Northeast Region, NMFS, implements measures for the fishing year to ensure achievement of the annual exploitation rate specified in the FMP.

This document announces a minimum fish size of 7 inches (17.78 cm) for the 1997 recreational scup fishery, which is unchanged from the measure contained in the proposed rule published in the **Federal Register** on April 15, 1997 (62 FR 18309). In addition, for the 1997 recreational scup fishery, there is no possession limit and no closed season consistent with the measures implemented under Amendment 8.

Comments and Responses

One comment letter was received from a Massachusetts charter/party boat operator during the public comment period, which ended May 15, 1997.

Comment: The commenter believes that a 9–inch (22.86 cm) minimum size should be established because it has worked in Massachusetts and would provide a sustainable fishery.

Response: The 7–inch (17.78–cm) minimum fish size is sufficient to constrain the recreational fishery to the harvest limit. In 1995, with no restrictions in the EEZ, recreational

landings were 1.3 million lbs (0.6 million kg), 32 percent fewer than the 1997 harvest limit of 1.947 million lbs (0.88 million kg). In 1996, with a 7–inch (17.78–cm) minimum size, recreational landings were 2.3 million lbs (1.04 million kg) or 16 percent greater than the limit. Given the variability, NMFS believes it is reasonable to maintain the 7–inch (17.78–cm) minimum size for 1997. Additional discussion of the 7–inch (17.78–cm) minimum size limitation may be found in the proposed rule (72 FR 18309, April 15, 1997).

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted as proposed, would not have a significant economic impact on a substantial number of small entities. The reasons were given in the preamble to the proposed rule and are not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 10, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–18724 Filed 7–15–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961126334–7025–02; I.D. 071097A]

Fisheries of the Exclusive Economic Zone Off Alaska, Northern Rockfish in the Central Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for northern rockfish in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the northern rockfish total allowable catch (TAC) in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 10, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486–6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The northern rockfish TAC in the Central Regulatory Area of the Gulf of Alaska was established by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997) as 4,150 metric tons (mt), determined in accordance with § 679.20 (c)(3)(ii).

In accordance with § 679.20 (d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the northern rockfish TAC in the Central Regulatory Area of the Gulf of Alaska will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,750 mt, and is setting aside the remaining 400 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20 (d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for northern rockfish in the Central Regulatory Area of the GOA.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e) and (f).

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1997 TAC for northern rockfish in the Central Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to public interest. The fleet will soon take the directed fishing allowance for northern rockfish. Further delay would only result in overharvest and disrupt the FMP's objective of allowing incidental catch to be retained throughout the year. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

Classification

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 10, 1997.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–18588 Filed 7-10-97; 3:46 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961126334–7025–02; I.D. 071197A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment prohibiting retention of Pacific ocean perch and prohibiting directed fishing for groundfish by vessels using trawl gear except fishing for pollock by vessels using pelagic trawl gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent overfishing of Pacific ocean perch in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 11, 1997, until 2400 hrs, A.l.t., December 31, 1997. Comments must be received at the following address no later than 4:30 p.m., A.l.t., July 28, 1997.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or be delivered to the fourth floor of the Federal Building, 709 West 9th Street, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council

under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Magnuson-Stevens Act requires that conservation and management measures prevent overfishing. The 1997 overfishing level for Pacific ocean perch in the Western Regulatory Area of the GOA was established by the Final 1997 Harvest Specifications for Groundfish of the GOA (62 FR 8179, February 24, 1997) as 2,790 metric tons (mt) and the acceptable biological catch as 1,840 mt. As of July 5, 1997, 1,961 mt of Pacific ocean perch have been caught.

NMFS closed directed fishing for Pacific ocean perch on July 3, 1997 (62 FR 36740, July 9, 1997). Substantial trawl fishing effort will be directed at remaining amounts of groundfish in the GOA during 1997. These fisheries can have significant bycatch of Pacific ocean perch.

The Administrator, Alaska Region, NMFS, has determined, in accordance with § 679.25(a)(1)(i), that closing the season by prohibiting retention of Pacific ocean perch and closing the season for directed fishing for groundfish by vessels using trawl gear except fishing for pollock by vessels using pelagic trawl gear, is necessary to prevent overfishing of Pacific ocean perch and is the least restrictive measure to achieve that purpose. Without this prohibition of retention and closure to directed fishing, significant incidental catch of Pacific ocean perch would occur by trawl vessels targeting these groundfish species and seeking to maximize retainable amounts of Pacific ocean perch under the maximum retainable bycatch amounts at § 679.20(e).

Therefore, NMFS is requiring that further catches of Pacific ocean perch in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b)(2). NMFS is prohibiting directed fishing for groundfish by vessels using trawl gear except fishing for pollock by vessels using pelagic trawl gear in the Western Regulatory Area of the GOA.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment on this action is impracticable and contrary to the public interest. Likewise, good cause exists to waive the delay in the effective date. Immediate effectiveness is necessary to prevent overfishing of Pacific ocean perch in the Western Regulatory Area of the GOA. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until July 28, 1997.

Classification

This action is taken under § 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 11, 1997.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–18723 Filed 7–11–97; 3:00 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 136
Wednesday, July 16, 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 JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS No. 1838–97]

RIN 1115–AE77

International Matchmaking Organizations

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice announces the intent of the Immigration and Naturalization Service (''the Service'') to promulgate regulations implementing section 652 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (''IIRIRA''), Pub. L. 104–208, Div. C, 110 Stat 3009 (1996), which became effective on September 30, 1996. That provision requires international matchmaking organizations to provide certain immigration and naturalization information to recruits. This new provision also requires the Attorney General to conduct a study of this industry to collect data regarding the number of mail order marriages, the extent of marriage fraud and domestic abuse within such marriages, and whether additional measures are needed to reduce the incidence of abusive and fraudulent marriages initiated through this industry. By issuing this advance notice, the Service is providing an opportunity for the public to submit comments and make suggestions prior to promulgating any regulations. This will result in a proposed rule that is more comprehensive in its scope and more understandable to the public.

DATES: Written comments must be submitted on or before September 15, 1997.

ADDRESSES: Comments on this notice of intent must be submitted, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW, Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS number 1838–97 on your correspondence. Comments are available for public inspection at this location by calling (202) 514–3291 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Karen FitzGerald, Staff Officer, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536. Telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION:

Background

Congress has determined that there is a large and unregulated ''mail order bride'' industry in the United States in which the participants earn substantial profits. IIRIRA section 652(a)(2). Furthermore, Congress has indicated that there is evidence to suggest that these ''international matchmaking organizations'' may in some ways facilitate abusive and fraudulent marriages because many ''mail order brides come to the United States unaware or ignorant of United States immigration law.'' *Id.* section 652(a)(4). Specifically, Congress has determined that many ''mail order brides'' who find themselves in abusive relationships think that, if they flee an abusive marriage, they will be deported from the United States. *Id.* This belief is often the result of threats by the abusive spouse to have the victim deported if the abuse is reported to law enforcement authorities. *Id.*

In response to these concerns, Congress enacted section 652 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), to require international matchmaking organizations to disseminate certain immigration information to recruits under pain of civil penalty.

Definitions

The following terms are defined in section 652(e) of IIRIRA.

''*International matchmaking organization*'' is defined as ''a corporation, partnership, business, or other legal entity, whether or not organized under the laws of the United States or any State, that does business in the United States and for profit offers to United States citizens or aliens lawfully admitted for permanent residence, dating, matrimonial, or social referral services to nonresident noncitizens'' by: an exchange of names, telephone numbers, addresses, or statistics, selection of photographs, or a social environment provided by the organization in a country other than the United States. This term does not include a traditional matchmaking organization of a religious nature that otherwise operates in compliance with the laws of the countries of the recruits of such organization and the laws of the United States.

The term ''*recruit*'' means ''a noncitizen, nonresident person, recruited by the international matchmaking organization for the purpose of providing dating, matrimonial, or social referral services to United States citizens or aliens lawfully admitted for permanent residence.''

Information Dissemination

Section 652 of the IIRIRA requires that all international matchmaking organizations doing business in the United States provide certain immigration and naturalization information to recruits ''upon recruitment.'' The immigration information to be disseminated would explain: conditional permanent resident status and the battered spouse waiver under that status; permanent resident status; marriage fraud penalties; the unregulated nature of the matchmaking industry; and provide information relating to the study of the industry as required by this provision. In addition, the Service has the discretion to require the dissemination of additional information by these organizations. All of the information disseminated under this provision must be provided to the recruit in the recruit's native language.

Failure to comply with the information dissemination provisions of section 652 of the IIRIRA can result in the imposition of a civil monetary penalty of up to $20,000. Violators of the provision must be given notice and the opportunity for a hearing prior to imposing such a penalty.

Public Input Requested

The Service invites all interested parties, including representatives of the international matchmaking industry, private and public organizations that provide shelters and safehouses for battered individuals, state and local law

enforcement agencies, social service agencies, and immigrant and victims' rights groups to submit comments relating to the implementation of the information dissemination provision of section 652 of the IIRIRA.

Although the Service seeks comments with respect to all aspects of the information dissemination provision, the following categories are offered as a guide to some of the specific comments the Service is seeking.

1. Content of the Information

A. The statutorily required information.

B. Additional information.

C. Information currently being provided to recruits by international matchmaking organizations.

D. Information that may be beneficial to immigrants who find themselves the victims of domestic abuse perpetrated by their United States citizen or lawful permanent resident spouses.

E. Information that will serve to deter marriage fraud.

2. Form of the Information

A. Ensuring proper and effective translation of the information in the recruits' native languages.

B. Languages in which international matchmaking organizations communicate with recruits.

C. Form in which international matchmaking organizations provide information to recruits.

3. Manner of Dissemination

A. When recruits should be given the required information.

B. How international matchmaking organizations communicate and share information with recruits.

C. How recruits should be given the required information.

4. Monitoring and Enforcement

A. How the Service can identify and locate all international matchmaking organizations subject to this provision.

B. How the Service should monitor these organizations to ensure that the information is disseminated.

C. How the Service should ensure compliance with the information dissemination provisions.

D. Procedures for fining organizations not in compliance.

Dated: May 28, 1997.

Doris Meissner,

Commissioner, Immigration Service Naturalization Service.

[FR Doc. 97–18717 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–97–031]

RIN 2115–AE46

Special Local Regulations: Hurricane Offshore Classic, St. Petersburg, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent special local regulations for the Hurricane Offshore Classic. This event will be held annually during the third Saturday and Sunday of August, between 11 a.m. and 5 p.m. Eastern Daylight Time (EDT). There will be approximately 400 participants and spectator craft. The resulting congestion of navigable channels creates an extra or unusual hazard in the navigable waters. These regulations are necessary to provide for the safety of life of navigable waters during the event.

DATES: Comments must be received on or before 20 days after date of August 5, 1997.

ADDRESSES: Comments may be mailed to U.S. Coast Guard Group St. Petersburg, 600 8th Ave. S.E., St. Petersburg, Florida 33701–5099, or may be delivered to the Operations Department at the same address between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays. The telephone number is (813) 824–7533. Comments will become a part of the public docket and will be available for copying and inspection at the same address.

FOR FURTHER INFORMATION CONTACT: LTJG B. V. Howard, Coast Guard Group St. Petersburg, FL at (813) 824–7533.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names, addresses, identify this rulemaking (CGD07–97–031), and the specific section of this proposal to which their comments apply, and give reasons for each comment.

The Coast Guard will consider all comments received during the comment period. The regulations may be changed in view of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if the written requests for a hearing are received, and it is determined that the opportunity to make oral presentations will add to the rulemaking process.

Discussion of Regulations

The proposed regulations are needed to provide for the safety of life during the Hurricane Offshore Classic. These regulations are intended to promote safe navigation on the waters off St. Petersburg during the races by controlling the traffic entering, exiting, and traveling within these waters. The anticipated concentration of spectator and participant vessels associated with the Hurricane Offshore Classic poses a safety concern, which is addressed in these special local regulations. No anchoring will be permitted west of turns 1 and 4 nor west of turns 2 and 3, from 10 a.m. to 6 p.m. EDT. Approximately 300 spectator craft will be permitted near the race area, but will be required to stay clear of the race lanes. The proposed regulations would also permit anchoring for spectators north of the northern straightaway and south of the southern straightaway, but only in the designated spectator area defined in 2(b)(2) below.

All vessel traffic, not involved in the Hurricane Offshore Classic, entering or exiting the Vinoy Basin between 10 a.m. and 6 p.m. EDT must transit around the race course, taking action to avoid a close-quarters situation until finally past and clear of the racecourse. All vessel traffic, not involved with the Hurricane Offshore Classic, transiting the area off Coffeepot Bayou, The Pier, and Bayboro Harbor should exercise extra caution and take action to avoid a close-quarters situation until finally past and clear of the racecourse.

Regulatory Evaluation

This proposal is not a significant regulatory action under Section 3(f) of the Executive Order 12866 and does not require an assessment of the potential costs and benefits under Section 6(a)(3) of that Order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The proposed regulation would last for only 4 hours each day for two days.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as the regulations would only be in effect for approximately four hours each day for two days each year. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

These proposed regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2 of Commandant Instruction M16475.1B. In accordance with that section, this proposed action has been environmentally assessed (EA completed), and the Coast Guard has concluded that it will not significantly affect the quality of the human environment. An Environmental Assessment and a Finding of No Significant Impact have been prepared and are available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new section 100.728 is added to read as follows:

§ 100.728 Annual Hurricane Offshore Classic, St. Petersburg, FL.

(a) *Regulated Area.* The regulated area is formed by a line drawn from position 27°46.9′N, 082°37.45′W (onshore at North Shore Park) east southeast to position 27°46.39′N, 082°32.65′W; thence due south to position 27°44.67′N, 082°32.65′W; thence due west to position 27°44.67′N, 082°37.45′W (onshore just south of Lassing Park). All coordinates referenced use datum: NAD 83.

(b) *Special Local Regulations.* (1) The regulated area is an idle speed, ''no wake'' zone. (2) Spectator craft will be permitted near the race area, but will be required to stay clear of the race lanes. Anchoring for spectator craft is permitted north of the northern straightaway and south of the southern straightaway, but only in the designated spectator area between 27°46.62′N, 082°37.00′W to 27°46.80′N, 082°34.72′W and 27°46.52′N, 082°37.00′W to 27°46.70′N, 082°34.72′W for the northern area and 27°46.25′N, 082°37.00′W to 27°45.90′N, 082°34.72′W and 27°46.15′N, 082°37.00′W to 27°45.80′N, 082°34.72′W for the southern area. All coordinates referenced use Datum: NAD 83. No anchoring will be permitted west of turns 1 and 4 nor west of turns 2 and 3, from 10 a.m. to 6 p.m. edt.

(3) All vessel traffic not involved in the Hurricane Offshore Classic entering or exiting the Vinoy Basin between 10 a.m. and 6 p.m. edt must transit around the race course, taking action to avoid a close-quarters situation until finally past and clear of the racecourse.

(4) All vessel traffic not involved with the Hurricane Offshore Classic transiting the area off Coffeepot Bayou, The Pier, and Bayboro Harbor should exercise extra caution and take action to avoid a close-quarters situation until finally past and clear of the racecourse which encompasses the area from position 27°46.9′N, 082°37.45′W (onshore at North Shore Park) east southeast to position 27°46.39′N, 082°32.65′W; thence due south to position 27°44.67′N, 082°32.65′W; thence due west to position 27°44.67′N, 082°37.45′W (onshore just south of Lassing Park). All coordinates referenced use Datum: NAD 83.

(5) Entry into the regulated area shall be in accordance with this regulation. Spectator vessels will at all times stay in the spectator areas defined in paragraph (b)(2) of this section.

(c) *Effective Dates.* This section is effective at 10 a.m. and terminates at 6 p.m. edt annually for two days during the third Saturday and Sunday of August.

Dated: July 1, 1997.

Norman T. Saunders,

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

[FR Doc. 97–18266 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–97–003]

RIN 2115–AE47

Drawbridge Operation Regulations; New Jersey Intracoastal Waterway

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the New Jersey Department of Transportation (NJDOT), the Coast Guard is proposing to change the regulations governing several bridges that cross the New Jersey Intracoastal Waterway (NJICW). Those bridges include: The Route 35 Bridge across Manasquan River at NJICW mile 1.1, in Brielle, New Jersey; the S37 Bridge across Barnegat Bay at NJICW mile 14.1, in Seaside Heights, New Jersey; the US40–322 (Albany Avenue) Bridge across Inside Thorofare at NJICW mile 70.0, in Atlantic City, New Jersey; and the Route 52 (Ninth Street) Bridge across Beach Thorofare at NJICW mile 80.4, in Ocean City, New Jersey. Additionally, a new provision would be added that would restrict openings of the Route 30 Bridge across Beach Thorofare at NJICW mile 67.2, which currently opens on signal. The NJDOT has requested these changes in an effort to ease vehicular traffic congestion caused by bridge openings in and around seaside resort areas. The NJDOT also seeks to reduce bridge tender hours for certain bridges by eliminating the need for them to be continually staffed during off-peak periods when few openings occur.

DATES: Comments must be received on or before September 15, 1997.

ADDRESSES: Comments may be mailed to Commander (Aowb), USCG Atlantic Area, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or may be hand-delivered to the same address between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6222. Comments will become part of this docket and will be available for inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ann Deaton, Bridge Administrator, USCG Atlantic Area, (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD05–97–003), and the specific section of this rule to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the address listed under **ADDRESSES.** The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information: The principal persons involved in drafting this document are Mr. Waverly W. Gregory, Jr., Project Manager, Bridge Administration Section and Lieutenant Robert L. Wegman, Project Counsel, Maintenance and Logistics Command Atlantic Legal Division.

Background and Purpose

General

The New Jersey Intracoastal Waterway (NJICW) extends approximately 118 statute miles from Manasquan Inlet to Cape May Harbor. The NJICW is primarily used by pleasure craft, commercial, and sport fishing vessels. General regulations governing the operation of bridges are set out in §§ 117.1 through 117.49 of Title 33, Code of Federal Regulations (33 CFR). Specific drawbridge regulations, which supplement the general regulations for certain NJICW bridges, are set out in 33 CFR 117.733.

The New Jersey Department of Transportation (NJDOT) has requested to change the existing regulations for many bridges crossing the NJICW in an effort to balance the needs of mariners and vehicle drivers transiting in and around seaside resort areas. Bridge openings at peak traffic hours during the tourist season often cause considerable congestion while accommodating relatively few vessels. The NJDOT contends that its statistics show an overall decrease in vessel traffic and an increase in vehicular traffic in recent years. The NJDOT is seeking to solve the vehicular traffic problem caused by the frequency of bridge openings by reducing the number of drawbridge openings, thus allowing more vehicles to pass unimpeded. The NJDOT also seeks to restrict openings and thereby reduce bridge tender hours for certain bridges during off-peak periods when requests for openings infrequently occur. A special 24-hour telephone number would be posted on all bridges in accordance with 33 CFR 117.55 to arrange for openings during off-peak periods and emergencies. The following bridges would be affected by this proposal:

Route 35 Bridge

The current regulations require the Route 35 bridge across Manasquan River, at NJICW mile 1.1, located in Brielle, New Jersey to open on signal; except that, from Memorial Day through Labor Day on Saturdays, Sundays, and Federal holidays from 10 a.m. to 8 p.m., the draw need only open on the hour and half hour. Additionally, the draw shall open at all times as soon as possible for passage of a public vessel of the United States or for a vessel in distress.

During the summer of 1991, the Coast Guard implemented a temporary deviation to the existing regulations governing the Route 35 Bridge for 60 days from August 1 through September 29, 1991. The deviation extended the hour and half hour opening schedule on weekends and holidays to between 9 a.m. and 10 p.m., and provided for only twice an hour openings during the evening rush hours from 4 p.m. to 7 p.m. Monday through Thursday and from 12 p.m. to 7 p.m., on Fridays. Over the last five years, the Route 35 Bridge has unofficially operated under the 1991 temporary regulations. Although vehicle traffic has increased since 1991, NJDOT records indicate that maintaining the 1991 temporary regulations has helped to reduce traffic congestion.

Furthermore, although the bridge has operated unofficially under the 1991 summer regulations, the NJDOT has received no complaints regarding the opening schedule.

The NJDOT has requested changes in the regulation governing the Route 35 Bridge. The changes would require the bridge to open on signal, except that from May 15 through September 30, from 8 a.m. to 10 p.m., on Saturdays, Sundays, and Federal holidays, the draw would only open on the hour and half hour. On Mondays to Thursdays from 4 p.m. to 7 p.m. and on Fridays, except Federal holidays from 12 p.m. to 7 p.m., the draw would only open 15 minutes before the hour and 15 minutes after the hour. In addition, from 11 p.m. to 8 a.m. year-round, four hours notice would be required to open the draw.

A review of NJDOT drawbridge logs for the Route 35 Bridge reveals a decrease in requests for bridge openings from 11 p.m. to 8 a.m. The yearly bridge logs for 1993, 1994, and 1995 during these hours, show that the bridge opened for vessels 243, 177, and 111 times, respectively. In light of these statistics, the Coast Guard anticipates that a four hour advance notice from 11 p.m. to 8 a.m. would not adversely affect vessel traffic flow.

The NJDOT's request to extend the openings of the Route 35 Bridge on the hour and half hour from May 15 to September 30 on Saturdays, Sundays and Federal holidays from 9 a.m. to 10 p.m., and to schedule draw openings 15 minutes before and 15 minutes after the hour from 4 p.m. to 7 p.m., Mondays through Thursdays and on Fridays from 12 noon to 7 p.m., except for Federal holidays, is the result of a substantial increase of vehicle traffic and a decrease of vessel traffic. NJDOT records show that from 1993 to 1995, from Memorial Day through Labor Day on Saturdays, Sundays and Federal holidays from 9 a.m. to 10 p.m., the Route 35 Bridge opened 670, 566, and 738 times, respectively; an average of 90 openings per week or approximately 13 openings per day. Opening an average of only 13 times per day, the bridge schedule helped to abate the vehicular traffic problem, and bridge closures caused only minor inconveniences to marine traffic. From Memorial Day through Labor Day during the same period, on Mondays to Thursdays from 4 p.m. to 7 p.m. and on Fridays from 12 p.m. to 7

p.m., the bridge opened for vessels 212, 178, and 223 times, respectively. Although averaging only seven openings per week or approximately one opening per day, this schedule of bridge openings posed minimal inconvenience to marine traffic.

S37 Bridge

Current regulations require the S37 Bridge across Barnegat Bay, at NJICW mile 14.1, located at Seaside Heights, New Jersey to open on signal except that, from 1 December through 31 March from 11 p.m. to 7 a.m., the draw need not be opened; and from Memorial Day through Labor Day from 10 a.m. to 2 p.m., on Saturdays, Sundays, and Federal holidays, the draw need only be opened on the hour and half hour, except that it shall open at any time for the passage of vessels with tows.

The NJDOT requested changes in the regulation that would allow the S37 bridge to open on signal except from Memorial Day to Labor Day, 8 a.m. to 8 p.m., when the draw would only open on the hour and half hour. From 1 April to 30 November, from 11 p.m. to 8 a.m., year-round, four hours advance notice would be required.

NJDOT records indicate that during 1993, 1994 and 1995, from 11 p.m. to 8 a.m., the S37 Bridge opened for vessels 151, 67 and 82 times, respectively. Based on these statistics, which show a minimal demand for bridge openings year-round, the NJDOT is seeking relief from the burden of having bridge tenders continually present between the hours of 11 p.m. to 8 a.m. During 1993, 1994, and 1995 from Memorial Day to Labor Day, from 8 a.m. to 8 p.m., the S37 Bridge opened for vessels 1333, 1204 and 1207 times, respectively. With an average of only 24 openings per day or approximately two openings per hour, restricting openings to the hour and half hour from 8 a.m. to 8 p.m. is not expected to seriously disrupt marine traffic, and is expected to substantially decrease the disruption of vehicular traffic.

Route 30 Bridge

The current regulation for the Route 30 Bridge across Beach Thorofare at NJICW mile 67.2, requires it to open on signal at all times. The requirement for drawbridges to open on signal is included in the general operating regulations at 33 CFR 117.5. The NJDOT has requested changes in the regulation to require the bridge to open on signal except from 11 p.m. to 7 a.m. year-round, and November 1 through March 31 from 3 p.m. to 11 p.m. when four hours advance notice would be required. The NJDOT is also seeking relief from the burden of ensuring that bridge tenders are continuously present during the above periods when openings are infrequent.

A review of NJDOT bridge logs from 1992 to 1995 for the Route 30 bridge revealed that from 11 p.m. to 7 a.m., year-round, between 5 and 15 openings occurred, and from 3 p.m. to 11 p.m. from November 1 through March 31, between 6 and 9 openings occurred each year. The Coast Guard believes that these statistics, which show extremely minimal use of the Route 30 bridge, support the NJDOT request to require a four hour advance notice for bridge openings. In addition, NJDOT proposes to eliminate 24 hour staffing of the bridge. Based on the minimal demand for bridge openings, the four hour notice requirement requested by the NJDOT appears reasonable.

US40–322 Bridge

The current regulation for the US40–322 (Albany Avenue) Bridge across Inside Thorofare, at NJICW mile 70.0 in Atlantic City, New Jersey requires it to open on signal except that it permits the bridge to open only on the hour and half hour from June 1 through September 30 between 9 a.m. and 4 p.m. and between 6 p.m. and 9 p.m. with no openings required from 4 p.m. to 6 p.m. The NJDOT has requested additional limitations on bridge openings that would require the bridge to open on signal except from 11 p.m. to 7 a.m. year-round, and November 1 through March 31 from 3 p.m. to 11 p.m. when four hours advance notice would be required.

NJDOT bridge logs from 1992 to 1995, reveal that from 11 p.m. to 7 a.m., year-round, between 20 and 52 openings occurred each year. From 3 p.m. to 11 p.m., November 1 through March 31, between 11 and 26 openings occurred each year. The NJDOT also seeks relief from the burden of ensuring that bridge tenders are continuously present during the above periods when the bridge tenders receive minimal requests for openings.

Route 52 Bridge

The current regulations governing the Route 52 (Ninth Street) Bridge across Beach Thorofare, at NJICW mile 80.4 in Ocean City, New Jersey require it to open on signal except that from Memorial Day through Labor Day from 10 a.m. to 8 p.m. on Saturdays, Sundays, and Federal holidays, the draw must open only on the hour and half hour. Additionally, the draw shall open at all times as soon as possible for passage of public vessels of the United States, vessels towing other vessels and vessels in distress.

The NJDOT has requested a change to the regulations governing the Route 52 (Ninth Street) Bridge to require it to open on signal except that from Memorial Day to Labor Day from 8 a.m. to 8 p.m., the draw would open on the hour and half hour. The NJDOT contends that because vessel traffic through the bridge has decreased, limiting openings to the hour and half hour to include the weekdays would enhance vehicular traffic without significantly affecting vessel traffic. A review of NJDOT logs shows that from 1993 to 1995 in May through September from 8 a.m. to 8 p.m., the Route 52 Bridge opened for vessels 1894, 1738 and 1669 times, respectively. With an average of only 34 openings per day or approximately three openings per hour, the infrequency of the openings caused only minor inconveniences to marine traffic. To ease traffic congestion, the NJDOT requested that the movement of marine traffic be regulated by extending the provisions for openings on the hour and half hour to include the weekdays between 8 a.m. and 8 p.m., from Memorial Day to Labor Day.

Discussion of Proposed Amendments

Route 35 Bridge

The Coast Guard proposes to amend both the form and substance of § 117.733 paragraph (b), which governs the Route 35 Bridge, NJICW mile 1.1. Current paragraph (b) would be subdivided into subparagraphs (1), (1)(i), (1)(ii), and (2). Subparagraph (1)(i) would state that from May 15 through September 30, on Saturdays, Sundays, and Federal holidays, from 9 a.m. to 10 p.m., the draw need only open on the hour and half hour. Subparagraph (1)(ii) would state that from 4 p.m. to 7 p.m. on Mondays to Thursdays and 12 p.m. to 7 p.m. on Fridays, except Federal holidays, the draw need only open 15 minutes before and 15 minutes after the hour. Subparagraph (2) would state that, year-round, from 11 p.m. to 8 a.m., the draw shall open upon four hours notice.

S37 Bridge

The Coast Guard proposes to amend § 117.733 paragraph (d), which governs the S37 Bridge, NJICW mile 14.1 by renumbering subparagraph (2) as (3) and inserting a new subparagraph (2) to require a four hour advance notice for openings, between the hours of 11 p.m. and 8 a.m. from April 1 through November 30. The newly renumbered subparagraph (3) would also be amended. The S37 Bridge openings from Memorial Day to Labor Day, which

are currently scheduled on the hour and half hour from 10 a.m. to 2 p.m. Saturdays, Sundays, and Federal holidays, would be extended to 8 a.m. to 8 p.m. each day of the week.

Route 30 Bridge

The Coast Guard proposes to amend the regulations governing the Route 30 Bridge, NJICW mile 67.2, which currently opens on signal. The Coast Guard proposes to insert this new specific regulation at 33 CFR 117.733(f). The regulation would permit the draw to open on four hour advance notice from 11 p.m. to 7 a.m., year-round, and from 3 p.m. to 11 p.m. from November 1 through March 31. At all other times, the Route 30 bridge would continue to open on signal.

US40–322 Bridge

The Coast Guard proposes to amend the form and substance of § 117.733(f) governing the US40–322 Bridge (Albany Avenue), NJICW mile 70.0, by redesignating it as paragraph (g). Current paragraph (f) would also be subdivided into subparagraphs (1), (2)(i), and (2)(ii). Subparagraph (1) would require the draw to open year-round from 11 p.m. to 7 a.m. and November 1 through March 31 from 3 p.m. to 11 p.m., if a four hour advance notice is given. Subparagraph (2)(i) would state that from June 1 through September 30, from 9 a.m. to 4 p.m. and from 6 p.m. to 9 p.m., the draw need only open on the hour and half hour. Subparagraph (2)(ii) would state that from June 1 through September 30, from 4 p.m. to 6 p.m., the draw need not be opened.

Route 52 Bridge

The Coast Guard proposes to redesignate Part 117.733 paragraph (h) and paragraph (i), which was inadvertently omitted from the current regulation, and proposes to amend the same paragraph to require the Route 52 (Ninth Street) Bridge, NJICW mile 80.4, to open on signal except from Memorial Day to Labor Day from 8 a.m. to 8 p.m., when openings would occur on the hour and half hour.

General Proposals

The surplus language of 33 CFR 117.733(a)(1) would be removed to be consistent with the general operating regulations under 33 CFR 117.5. That provision already requires drawbridges to open promptly and fully for the passage of vessels when a request to open is given. This requirement is applied to all drawbridges across the New Jersey Intracoastal Waterway and does not need to be restated in each specific regulation. Additional text modifications would be made as appropriate, to eliminate surplus regulatory text already stated in the general operating regulations.

The Coast Guard intends to amend current paragraphs (b), (c), (d), and (h) to delete the phrase stating that public vessels, vessels in distress, or vessels in tow may pass without delay. This requirement is currently published in 33 CFR 117.31 and is no longer required to be published in each specific bridge regulation.

The Coast Guard also plans to insert 33 CFR 117.733(i), a section that was inadvertently omitted from the regulation. The current regulations contain paragraphs (a)–(h) and (j). Paragraph (i) does not exist. Paragraph (i) should have included the specific regulation governing the Stone Harbor Boulevard Bridge across Great Channel, at mile 102.0. That section, governing the Stone Harbor Boulevard Bridge would be reinserted, but would be redesignated as paragraph (j). Paragraph (i) would be added, but it would govern the Route 52 Bridge.

The Coast Guard intends to remove the current regulation in 33 CFR 117.733 paragraph (j) by codifying this paragraph as 33 CFR 117.720. This bridge, referred to in paragraph (j) as the Cape May County Bridge Commission Bridge, at mile 104.0 between Stone Harbor and Nummy Island does not span the NJICW, but rather spans Great Channel, at mile 0.7, a tributary to the NJICW. It had been incorrectly placed in 33 CFR 117.733 as a NJICW bridge. The operating schedule of this bridge would not be affected by this change.

Finally, the Coast Guard proposes to revise 33 CFR 117.733 by redesignating current paragraph (g) which governs the Dorset Avenue Bridge across Inside Thoroughfare, mile 71.2. That paragraph would be redesignated (h). No modifications to that regulation are proposed.

Regulatory Evaluation

The proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The Coast Guard reached this conclusion based on the fact that the changes and actions proposed by this rule would not prevent mariners from transiting the bridges. The rule would merely require mariners to plan to be in position to take advantage of scheduled bridge openings and to timely contact bridge tenders controlling bridges that require advance notification.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule will not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B (as amended, 59 FR 38654, 29 July 1994), this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.733 is revised to read as follows:

§ 117.733 New Jersey Intracoastal Waterway.

(a) The following requirement applies to all bridges listed in this section: The owners of these bridges shall provide, and keep in good legible condition, clearance gauges with figures not less than twelve (12) inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(b) The draw of the Route 35 Bridge, mile 1.1 across Manasquan River at Brielle, shall open on signal except as follows:

(1) From May 15 through September 30:

(i) On Saturdays, Sundays and Federal holidays, from 8 a.m. to 10 p.m., the draw need only open on the hour and half hour.

(ii) On Mondays to Thursdays from 4 p.m. to 7 p.m., and on Fridays, except Federal holidays from 12 p.m. to 7 p.m., the draw need only open 15 minutes before the hour and 15 minutes after the hour.

(2) Year-round from 11 p.m. to 8 a.m., the draw shall open on signal upon four hours notice.

(c) The draw of the County Route 528 Bridge, mile 6.3 across Barnegat Bay at Mantoloking, shall open on signal; except that from Memorial Day through Labor Day on Saturdays, Sundays and Federal holidays from 9 a.m. to 6 p.m., the draw need only open on the hour, twenty minutes after the hour, and forty minutes after the hour.

(d) The draw of the S37 Bridge across Barnegat Bay, mile 14.1 at Seaside Heights, shall open on signal except as follows:

(1) From December 1 through March 31 from 11 p.m. to 8 a.m., the draw need not be opened.

(2) From April 1 through November 30 from 11 p.m. to 8 a.m., the draw shall open on signal upon four hours notice.

(3) From Memorial Day through Labor Day from 8 a.m. to 8 p.m., the draw need only open on the hour and half hour.

(e) The draw of the AMTRAK New Jersey Transit Rail Operations (NJTRO) automated railroad swing bridge across Beach Thorofare, mile 68.9 at Atlantic City shall operate as follows:

(1) Open on signal from 11 p.m. to 6 a.m. From 6 a.m. to 11 p.m., the draw shall open on signal from 20 minutes to 30 minutes after each hour and remain open for all awaiting vessels.

(2) Opening of the draw span may be delayed for ten minutes except as provided in § 117.31(b). However, if a train is moving toward the bridge and has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, that train may continue across the bridge and must clear the bridge interlocks before stopping.

(3) When the bridge is not tended locally and/or is operated from a remote location, sufficient closed circuit TV cameras shall be operated and maintained at the bridge site to enable the remotely located bridge/train controller to have full view of both river traffic and the bridge.

(4) Radiotelephone Channel 13 (156.65 MHz) VHF–FM, shall be maintained and utilized to facilitate communication in both remote and local control locations. The bridge shall also be equipped with directional microphones and horns to receive and deliver signals to vessels within a mile that are not equipped with radiotelephones.

(5) Whenever the remote control system equipment is partially disabled or fails for any reason, the bridge shall be physically tended and operated by local control. Personnel shall be dispatched to arrive at the bridge as soon as possible, but not more than one hour after malfunction or disability of the remote system. Mechanical bypass and override capability for remote operation shall be provided and maintained.

(6) When the draw is opening and closing, or is closed, yellow flashing lights located on the ends of the center piers shall be displayed continuously until the bridge is returned to the fully open position.

(f) The draw of the Route 30 Bridge across Beach Thorofare, mile 67.2 at Atlantic City, shall open on signal except that, year-round from 11 p.m. to 7 a.m. and, from November 1 through March 31 from 3 p.m. to 11 p.m., the draw need only open if at least four hours notice is given.

(g) The draw of the US40–322 (Albany Avenue) Bridge, mile 70.0 across Inside Thorofare, at Atlantic City, shall open on signal except that:

(1) Year-round, from 11 p.m. to 7 a.m.; and from November 1 through March 31 from 3 p.m. to 11 p.m., the draw need only open if at least four hours notice is given:

(2) From June 1 through September 30:

(i) From 9 a.m. to 4 p.m. and from 6 p.m. to 9 p.m. the draw need only open on the hour and half hour; and

(ii) From 4 p.m. to 6 p.m. the draw need not open.

(h) The draw of the Dorest Avenue Bridge across Inside Thorofare, mile 71.2 at Ventnor City, shall open on signal except that from June 1 through September 30, from 9:15 a.m. to 9:15 p.m., the draw need only open at 15 and 45 minutes after the hour.

(i) The draw of the Route 52 (Ninth Street) Bridge, mile 80.4 across Beach Thorofare, at Ocean City, shall open on signal except that from Memorial Day through Labor Day from 8 a.m. to 8 p.m., the draw need only open on the hour and half hour.

(j) The draw of the Stone Harbor Boulevard Bridge, mile 102.0 across Great Channel, at Stone Harbor, shall open on signal except that:

(1) From October 1 through March 31 from 10 p.m. to 6 a.m. the draw need only open if at least eight hours notice is given.

(2) From Memorial Day through Labor Day from 6 a.m. to 6 p.m. on Saturdays, Sundays and Federal holidays, the draw need open only for waiting vessels on the hour, 20 minutes after the hour, and 20 minutes before the hour.

3. Section 117.720 is added to read as follows:

§ 117.720 Great Channel

The draw of the Cape May County Bridge Commission bridge, mile 0.7, between Stone Harbor and Nummy Island, shall open on signal except that:

(a) From May 15 through October 15 from 10 p.m. to 6 a.m. if at least four hours advance notice is given.

(b) From October 16 through May 14 if at least 24 hours advance notice is given.

Dated: June 27, 1997.

J. Carmichael,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 97–18672 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL–5859–1]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Proposed rule—consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (''OCS'') Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (''the Act''). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD), South Coast Air Quality Management District (South Coast AQMD) and Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs and a requirement submitted by the State of California. The intended effect of approving the OCS requirements for the above Districts and the State of California, contained in the Technical Support Document, is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

DATES: Comments on the proposed update must be received on or before August 15, 1997.

ADDRESSES: Comments must be mailed (in duplicate if possible) to: EPA Air Docket (Air–4), Attn: Docket No. A–93–16 Section XIV, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

Docket: Supporting information used in developing the rule and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A–93–16 Section XIV. This docket is available for public inspection and copying Monday–Friday during regular business hours at the following locations:

EPA Air Docket (Air–4), Attn: Docket No. A–93–16 Section XIV, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

EPA Air Docket (LE–131), Attn: Air Docket No. A–93–16 Section XIV, Environmental Protection Agency, 401 M Street SW., Room M–1500, Washington, DC 20460.

A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Air Division (Air–4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1197.

SUPPLEMENTARY INFORMATION:

I. Background

On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to section 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a notice of intent under section 55.4; or (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of rules by three local air pollution control agencies and one rule submitted by the State of California. Public comments received in writing within 30 days of publication of this document will be considered by EPA before publishing a final rule.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA Evaluation and Proposed Action

In updating 40 CFR part 55, EPA reviewed the rules submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12(e). In addition, EPA has excluded administrative or procedural rules,[2] and requirements that regulate toxics which are not related to the attainment and maintenance of federal and state ambient air quality standards.

A. After review of the following requirement submitted by the State of California against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make it applicable to OCS sources:

California Health and Safety Code

The following section of Division 26, Part 4, Chapter 4, Article 1:

Health and Safety Code § 42301.13 Stationary Sources: demolition or removal (chaptered 7/25/96)

B. After review of the rules submitted by Santa Barbara County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following rules applicable to OCS sources for which the Santa Barbara County APCD is designated as the COA:

1. *The following rules were submitted as revisions to existing requirements*:

Rule 102 Definitions (Adopted 4/17/97)
Rule 201 Permit Required (Adopted 4/17/97)
Rule 202 Exemptions to Rule 201 (Adopted 4/17/97)

[1] The reader may refer to the notice of proposed rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

[2] Each COA which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14(c)(4).

Rule 203 Transfer (Adopted 4/17/97)
Rule 204 Applications (Adopted 4/17/97)
Rule 205 Standards for Granting Permits (Adopted 4/17/97)
Rule 316 Storage and Transfer of Gasoline (Adopted 4/17/97)
Rule 321 Control of Degreasing Operations (Adopted 4/17/97)
Rule 333 Control of Emission from Reciprocating Internal Combustion Engines (Adopted 4/17/97)
Rule 342 Control of Oxides of Nitrogen (NO_X) from Boilers, Steam Generators and Process Heaters (Adopted 4/17/97)

2. *The following new rules were submitted:*

Rule 801 New Source Review (Adopted 4/17/97)
Rule 802 Nonattainment Review (Adopted 4/17/97)
Rule 803 Prevention of Significant Deterioration (Adopted 4/17/97)
Rule 804 Emission Offsets (Adopted 4/17/97)
Rule 805 Air Quality Impact Analysis and Modeling (Adopted 4/17/97)

3. *The following rule was submitted as part of the District's Title V Operating Permits program:*

Rule 1301 Part 70 Operating Permits—General Information (Adopted 17, 1997)

4. *The following rule was submitted but will not be included because it is an Administrative rule:*

Rule 208 Action on Permits—Time Limits (Adopted 4/17/97)
Rule 806 Emission Reduction Credits (Adopted 4/17/97)

C. After review of the rules submitted by South Coast AQMD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following rules applicable to OCS sources for which the South Coast AQMD is designated as the COA:

1. *The following rules were submitted as revisions to existing requirements:*

Rule 219 Equipment Not Requiring a Written Permit Pursuant to Regulation II (Adopted 12/13/96)
Rule 403 Fugitive Dust (Adopted 2/14/97)
Rule 1113 Architectural Coatings (Adopted 11/8/96)
Rule 1171 Solvent Cleaning Operations (Adopted 9/13/96)
Rule 1176 VOC Emissions from Wastewater Systems (Adopted 9/13/96)
Rule 1605 Credits for the Voluntary Repair of On-Road Motor Vehicles Identified Through Remote Sensing Devices (Adopted 10/11/96)
Rule 2000 General (Adopted 2/14/97)
Rule 2001 Applicability (Adopted 2/14/97)
Rule 2002 Allocations for Oxides of Nitrogen (NO_X) and Oxides of Sulfur (SO_X) (Adopted 2/14/97)
Rule 2005 New Source Review for RECLAIM (Adopted 2/14/97) except (i)
Rule 2011 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_X) Emissions (Adopted 2/14/97)
Rule 2012 Requirement for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_X) Emissions (Adopted 2/14/97)
Rule 2015 Backstop Provisions (Adopted 2/14/97) except (b)(1)(G) and (b)(3)(B)

2. On February 27, 1997 (62 FR 8878), EPA published final interim approval of the Operating Permits Program submitted by the South Coast AQMD. EPA is now proposing to update 40 CFR part 55 by incorporating the following requirements submitted as part of the District's Title V Operating Permits program:

Rule 518 Variance Procedures for Title V Facilities (Adopted 8/11/95)
Rule 518.1 Permit Appeal Procedures for Title V Facilities (Adopted 8/11/95)
Rule 518.2 Federal Alternative Operating Conditions (Adopted 1/12/96)
Rule XXX Title V Permits (Adopted 8/11/95)

3. *The following rules were submitted but will not be included because they do not apply to OCS Sources:*

Rule 1130.1 Screen Printing Operations (Adopted 12/13/96)
Rule 1145 Plastic, Rubber and Glass Coatings (Adopted 2/14/97)

D. After review of the following new rule submitted by Ventura County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make it applicable to OCS sources for which the Ventura County APCD is designated as the COA:

Rule 35 Elective Emission Limits (Adopted 11/12/96)

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

As was stated in the final regulation, the OCS rule does not apply to any small entities, and the structure of the rule averts direct impacts and mitigates indirect impacts on small entities. This consistency update merely incorporates onshore requirements into the OCS rule to maintain consistency with onshore regulations as required by section 328 of the Act and does not alter the structure of the rule.

The EPA certifies that this proposed action will not have a significant impact on a substantial number of small entities.

C. 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 government that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal OCS 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 7, 1997.

Felicia Marcus,

Regional Administrator.

Title 40 of the Code of Federal Regulations, part 55, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. § 7401 *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is proposed to be amended by revising paragraphs (e)(3)(i)(A), (e)(3)(ii)(F), (e)(3)(ii)(G), and (e)(3)(ii)(H) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of states seaward boundaries, by state.

* * * * *

(e) * * *

(3) * * *

(i) * * *

(A) *State of California Requirements Applicable to OCS Sources.*

(ii) * * *

(F) *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources.*

(G) *South Coast Air Quality Management District Requirements Applicable to OCS Sources* (Part I and Part II).

(H) *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources.*

* * * * *

Appendix to Part 55—[Amended]

3. Appendix A to CFR Part 55 is proposed to be amended by revising paragraph (a)(1) and (b)(6), (7), and (8) under the heading ''California'' to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

California

(a) State Requirements.

(1) The following requirements are contained in *State of California Requirements applicable to OCS Sources*:

Barclays California Code of Regulations

The following section of Title 17 Subchapter 6:

17 § 92000 Definitions (Adopted 5/31/91)
17 § 92100 Scope and Policy (Adopted 10/18/82)
17 § 92200 Visible Emission Standards (Adopted 5/31/91)
17 § 92210 Nuisance Prohibition (Adopted 10/18/82)
17 § 92220 Compliance with Performance Standards (Adopted 5/31/91)
17 § 92400 Visible Evaluation Techniques (Adopted 5/31/91)
17 § 92500 General Provisions (Adopted 5/31/91)
17 § 92510 Pavement Marking (Adopted 5/31/91)
17 § 92520 Stucco and Concrete (Adopted 5/31/91)
17 § 92530 Certified Abrasives (Adopted 5/31/91)
17 § 92540 Stucco and Concrete (Adopted 5/31/91)

Health and Safety Code

The following section of Division 26, Part 4, Chapter 4, Article 1:

Health and Safety Code § 42301.13 *et seq.* Stationary sources: demolition or removal (chaptered 7/25/96)

(b) Local requirements.

* * * * *

(6) The following requirements are contained in *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources*:

Rule 102 Definitions (Adopted 4/17/97)
Rule 103 Severability (Adopted 10/23/78)
Rule 201 Permits Required (Adopted 4/17/97)
Rule 202 Exemptions to Rule 201 (Adopted 4/17/97)
Rule 203 Transfer (Adopted 4/17/97)
Rule 204 Applications (Adopted 4/17/97)
Rule 205 Standards for Granting Applications (Adopted 4/17/97)
Rule 206 Conditional Approval of Authority to Construct or Permit to Operate (Adopted 10/15/91)
Rule 207 Denial of Application (Adopted 10/23/78)
Rule 210 Fees (Adopted 4/17/97)
Rule 212 Emission Statements (Adopted 10/20/92)
Rule 301 Circumvention (Adopted 10/23/78)
Rule 302 Visible Emissions (Adopted 10/23/78)
Rule 304 Particulate Matter—Northern Zone (Adopted 10/23/78)
Rule 305 Particulate Matter Concentration—Southern Zone (Adopted 10/23/78)
Rule 306 Dust and Fumes—Northern Zone (Adopted 10/23/78)
Rule 307 Particulate Matter Emission Weight Rate—Southern Zone (Adopted 10/23/78)
Rule 308 Incinerator Burning (Adopted 10/23/78)
Rule 309 Specific Contaminants (Adopted 10/23/78)
Rule 310 Odorous Organic Sulfides (Adopted 10/23/78)
Rule 311 Sulfur Content of Fuels (Adopted 10/23/78)
Rule 312 Open Fires (Adopted 10/2/90)
Rule 316 Storage and Transfer of Gasoline (Adopted 4/17/97)
Rule 317 Organic Solvents (Adopted 10/23/78)
Rule 318 Vacuum Producing Devices or Systems—Southern Zone (Adopted 10/23/78)
Rule 321 Control of Degreasing Operations (Adopted 4/17/97)
Rule 322 Metal Surface Coating Thinner and Reducer (Adopted 10/23/78)
Rule 323 Architectural Coatings (Adopted 7/18/96)
Rule 324 Disposal and Evaporation of Solvents (Adopted 10/23/78)
Rule 325 Crude Oil Production and Separation (Adopted 1/25/94)
Rule 326 Storage of Reactive Organic Liquid Compounds (Adopted 12/14/93)
Rule 327 Organic Liquid Cargo Tank Vessel Loading (Adopted 12/16/85)
Rule 328 Continuous Emission Monitoring (Adopted 10/23/78)
Rule 330 Surface Coating of Miscellaneous Metal Parts and Products (Adopted 4/21/95)
Rule 331 Fugitive Emissions Inspection and Maintenance (Adopted 12/10/91)
Rule 332 Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds (Adopted 6/11/79)
Rule 333 Control of Emissions from Reciprocating Internal Combustion Engines (Adopted 4/17/97)
Rule 342 Control of Oxides of Nitrogen (NO_X) from Boilers, Steam Generators and Process Heaters) (Adopted 4/17/97)
Rule 343 Petroleum Storage Tank Degassing (Adopted 12/14/93)
Rule 344 Petroleum Sumps, Pits, and Well Cellars (Adopted 11/10/94)
Rule 359 Flares and Thermal Oxidizers (6/28/94)
Rule 370 Potential to Emit—Limitations for Part 70 Sources (Adopted 6/15/95)
Rule 505 Breakdown Conditions Sections A.,B.1,. and D. only (Adopted 10/23/78)
Rule 603 Emergency Episode Plans (Adopted 6/15/81)
Rule 702 General Conformity (Adopted 10/20/94)
Rule 801 New Source Review (Adopted 4/17/97)
Rule 802 Nonattainment Review (Adopted 4/17/97)
Rule 803 Prevention of Significant Deterioration (Adopted 4/17/97)
Rule 804 Emission Offsets (Adopted 4/17/97)
Rule 805 Air Quality Impact Analysis and Modeling (Adopted 4/17/97)
Rule 1301 Part 70 Operating Permits—General Information (Adopted 4/17/97)
Rule 1302 Part 70 Operating Permits—Permit Application (Adopted 11/09/93)
Rule 1303 Part 70 Operating Permits—Permits (Adopted 11/09/93)
Rule 1304 Part 70 Operating Permits—Issuance, Renewal, Modification and Reopening (Adopted 11/09/93)
Rule 1305 Part 70 Operating Permits—Enforcement (Adopted 11/09/93)

(7) The following requirements are contained in *South Coast Air Quality Management District Requirements Applicable to OCS Sources*:

Rule 102 Definition of Terms (Adopted 11/4/88)
Rule 103 Definition of Geographical Areas (Adopted 1/9/76)
Rule 104 Reporting of Source Test Data and Analyses (Adopted 1/9/76)
Rule 108 Alternative Emission Control Plans (Adopted 4/6/90)
Rule 109 Recordkeeping for Volatile Organic Compound Emissions (Adopted 3/6/92)

Rule 201 Permit to Construct (Adopted 1/5/90)
Rule 201.1 Permit Conditions in Federally Issued Permits to Construct (Adopted 1/5/90)
Rule 202 Temporary Permit to Operate (Adopted 5/7/76)
Rule 203 Permit to Operate (Adopted 1/5/90)
Rule 204 Permit Conditions (Adopted 3/6/92)
Rule 205 Expiration of Permits to Construct (Adopted 1/5/90)
Rule 206 Posting of Permit to Operate (Adopted 1/5/90)
Rule 207 Altering or Falsifying of Permit (Adopted 1/9/76)
Rule 208 Permit for Open Burning (Adopted 1/5/90)
Rule 209 Transfer and Voiding of Permits (Adopted 1/5/90)
Rule 210 Applications (Adopted 1/5/90)
Rule 212 Standards for Approving Permits (Adopted 8/12/94) except (c)(3) and (e)
Rule 214 Denial of Permits (Adopted 1/5/90)
Rule 217 Provisions for Sampling and Testing Facilities (Adopted 1/5/90)
Rule 218 Stack Monitoring (Adopted 8/7/81)
Rule 219 Equipment Not Requiring a Written Permit Pursuant to Regulation II (Adopted 12/13/96)
Rule 220 Exemption—Net Increase in Emissions (Adopted 8/7/81)
Rule 221 Plans (Adopted 1/4/85)
Rule 301 Permit Fees (Adopted 5/10/96) except (e)(3) and Table IV
Rule 304 Equipment, Materials, and Ambient Air Analyses (Adopted 5/10/96)
Rule 304.1 Analyses Fees (Adopted 5/10/96)
Rule 305 Fees for Acid Deposition (Adopted 10/4/91)
Rule 306 Plan Fees (Adopted 5/10/96)
Rule 309 Fees for Regulation XVI (Adopted 5/10/96)
Rule 401 Visible Emissions (Adopted 4/7/89)
Rule 403 Fugitive Dust (Adopted 2/14/97)
Rule 404 Particulate Matter—Concentration (Adopted 2/7/86)
Rule 405 Solid Particulate Matter—Weight (Adopted 2/7/86)
Rule 407 Liquid and Gaseous Air Contaminants (Adopted 4/2/82)
Rule 408 Circumvention (Adopted 5/7/76)
Rule 409 Combustion Contaminants (Adopted 8/7/81)
Rule 429 Start-Up and Shutdown Provisions for Oxides of Nitrogen (Adopted 12/21/90)
Rule 430 Breakdown Provisions, (a) and (e) only (Adopted 7/12/96)
Rule 431.1 Sulfur Content of Gaseous Fuels (Adopted 10/2/92)
Rule 431.2 Sulfur Content of Liquid Fuels (Adopted 5/4/90)
Rule 431.3 Sulfur Content of Fossil Fuels (Adopted 5/7/76)
Rule 441 Research Operations (Adopted 5/7/76)
Rule 442 Usage of Solvents (Adopted 3/5/82)
Rule 444 Open Fires (Adopted 10/2/87)
Rule 463 Organic Liquid Storage (Adopted 3/11/94)
Rule 465 Vacuum Producing Devices or Systems (Adopted 11/1/91)
Rule 468 Sulfur Recovery Units (Adopted 10/8/76)
Rule 473 Disposal of Solid and Liquid Wastes (Adopted 5/7/76)
Rule 474 Fuel Burning Equipment—Oxides of Nitrogen (Adopted 12/4/81)
Rule 475 Electric Power Generating Equipment (Adopted 8/7/78)
Rule 476 Steam Generating Equipment (Adopted 10/8/76)
Rule 480 Natural Gas Fired Control Devices (Adopted 10/7/77)
Addendum to Regulation IV (Effective 1977)
Rule 518 Variance Procedures for Title V Facilities (Adopted 8/11/95)
Rule 518.1 Permit Appeal Procedures for Title V Facilities (Adopted 8/11/95)
Rule 518.2 Federal Alternative Operating Conditions (Adopted 1/12/96)
Rule 701 General (Adopted 7/9/82)
Rule 702 Definitions (Adopted 7/11/80)
Rule 704 Episode Declaration (Adopted 7/9/82)
Rule 707 Radio—Communication System (Adopted 7/11/80)
Rule 708 Plans (Adopted 7/9/82)
Rule 708.1 Stationary Sources Required to File Plans (Adopted 4/4/80)
Rule 708.2 Content of Stationary Source Curtailment Plans (Adopted 4/4/80)
Rule 708.4 Procedural Requirements for Plans (Adopted 7/11/80)
Rule 709 First Stage Episode Actions (Adopted 7/11/80)
Rule 710 Second Stage Episode Actions (Adopted 7/11/80)
Rule 711 Third Stage Episode Actions (Adopted 7/11/80)
Rule 712 Sulfate Episode Actions (Adopted 7/11/80)
Rule 715 Burning of Fossil Fuel on Episode Days (Adopted 8/24/77)
Regulation IX—New Source Performance Standards (Adopted 4/8/94)
Rule 1106 Marine Coatings Operations (Adopted 1/13/95)
Rule 1107 Coating of Metal Parts and Products (Adopted 3/8/96)
Rule 1109 Emissions of Oxides of Nitrogen for Boilers and Process Heaters in Petroleum Refineries (Adopted 8/5/88)
Rule 1110 Emissions from Stationary Internal Combustion Engines (Demonstration) (Adopted 11/6/81)
Rule 1110.1 Emissions from Stationary Internal Combustion Engines (Adopted 10/4/85)
Rule 1110.2 Emissions from Gaseous and Liquid-Fueled Internal Combustion Engines (Adopted 12/9/94)
Rule 1113 Architectural Coatings (Adopted 11/8/96)
Rule 1116.1 Lightering Vessel Operations-Sulfur Content of Bunker Fuel (Adopted 10/20/78)
Rule 1121 Control of Nitrogen Oxides from Residential-Type Natural Gas-Fired Water Heaters (Adopted 3/10/95)
Rule 1122 Solvent Cleaners (Degreasers) (Adopted 4/5/91)
Rule 1123 Refinery Process Turnarounds (Adopted 12/7/90)
Rule 1129 Aerosol Coatings (Adopted 3/8/96)
Rule 1134 Emissions of Oxides of Nitrogen from Stationary Gas Turbines (Adopted 8/4/89)
Rule 1136 Wood Products Coatings (Adopted 6/14/96)
Rule 1140 Abrasive Blasting (Adopted 8/2/85)
Rule 1142 Marine Tank Vessel Operations (Adopted 7/19/91)
Rule 1146 Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 5/13/94)
Rule 1146.1 Emission of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 5/13/94)
Rule 1148 Thermally Enhanced Oil Recovery Wells (Adopted 11/5/82)
Rule 1149 Storage Tank Degassing (Adopted 4/1/88)
Rule 1168 Control of Volatile Organic Compound Emissions from Adhesive Application (Adopted 12/10/93)
Rule 1171 Solvent Cleaning Operations (Adopted 9/13/96)
Rule 1173 Fugitive Emissions of Volatile Organic Compounds (Adopted 5/13/94)
Rule 1176 VOC Emissions from Wastewater Systems (Adopted 9/13/96)
Rule 1301 General (Adopted 6/28/90)
Rule 1302 Definitions (Adopted 5/3/91)
Rule 1303 Requirements (Adopted 5/10/96)
Rule 1304 Exemptions (Adopted 6/14/96)
Rule 1306 Emission Calculations (Adopted 6/14/96)
Rule 1313 Permits to Operate (Adopted 6/28/90)
Rule 1403 Asbestos Emissions from Demolition/Renovation Activities (Adopted 4/8/94)
Rule 1605 Credits for the Voluntary Repair of On-Road Vehicles Identified Through Remote Sensing Devices (Adopted 10/11/96)
Rule 1610 Old-Vehicle Scrapping (Adopted 3/8/96)
Rule 1701 General (Adopted 1/6/89)
Rule 1702 Definitions (Adopted 1/6/89)
Rule 1703 PSD Analysis (Adopted 10/7/88)
Rule 1704 Exemptions (Adopted 1/6/89)
Rule 1706 Emission Calculations (Adopted 1/6/89)
Rule 1713 Source Obligation (Adopted 10/7/88)
Regulation XVII Appendix (effective 1977)
Rule 1901 General Conformity (Adopted 9/9/94)
Rule 2000 General (Adopted 2/14/97)
Rule 2001 Applicability (Adopted 2/14/97)
Rule 2002 Allocations for Oxides of Nitrogen (NO_X) and Oxides of Sulfur (SO_X) Emissions (Adopted 2/14/97)
Rule 2004 Requirements (Adopted 7/12/96) except (l) (2 and 3)
Rule 2005 New Source Review for RECLAIM (Adopted 2/14/97) except (i)
Rule 2006 Permits (Adopted 10/15/93)
Rule 2007 Trading Requirements (Adopted 10/15/93)
Rule 2008 Mobile Source Credits (Adopted 10/15/93)
Rule 2010 Administrative Remedies and Sanctions (Adopted 10/15/93)

Rule 2011 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_X) Emissions (Adopted 2/14/97)
Appendix A Volume IV—(Protocol for oxides of sulfur) (Adopted 3/10/95)
Rule 2012 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_X) Emissions (Adopted 2/14/97)
Appendix A Volume V—(Protocol for oxides of nitrogen) (Adopted 3/10/95)
Rule 2015 Backstop Provisions (Adopted 2/14/97) except (b)(1)(G) and (b)(3)(B)
XXX Title V Permits (Adopted 8/11/95)
XXXI Acid Rain Permit Program (Adopted 2/10/95)

(8) The following requirements are contained in *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources:*

Rule 2 Definitions (Adopted 4/9/96)
Rule 5 Effective Date (Adopted 5/23/72)
Rule 6 Severability (Adopted 11/21/78)
Rule 7 Zone Boundaries (Adopted 6/14/77)
Rule 10 Permits Required (Adopted 6/13/95)
Rule 11 Definition for Regulation II (Adopted 6/13/95)
Rule 12 Application for Permits (Adopted 6/13/95)
Rule 13 Action on Applications for an Authority to Construct (Adopted 6/13/95)
Rule 14 Action on Applications for a Permit to Operate (Adopted 6/13/95)
Rule 15.1 Sampling and Testing Facilities (Adopted 10/12/93)
Rule 16 BACT Certification (Adopted 6/13/95)
Rule 19 Posting of Permits (Adopted 5/23/72)
Rule 20 Transfer of Permit (Adopted 5/23/72)
Rule 23 Exemptions from Permits (Adopted 7/9/96)
Rule 24 Source Recordkeeping, Reporting, and Emission Statements (Adopted 9/15/92)
Rule 26 New Source Review (Adopted 10/22/91)
Rule 26.1 New Source Review—Definitions (Adopted 10/22/91)
Rule 26.2 New Source Review—Requirements (Adopted 10/22/91)
Rule 26.3 New Source Review—Exemptions (Adopted 10/22/91)
Rule 26.6 New Source Review—Calculations (Adopted 10/22/91)
Rule 26.8 New Source Review—Permit To Operate (Adopted 10/22/91)
Rule 26.10 New Source Review—PSD (Adopted 10/22/91)
Rule 28 Revocation of Permits (Adopted 7/18/72)
Rule 29 Conditions on Permits (Adopted 10/22/91)
Rule 30 Permit Renewal (Adopted 5/30/89)
Rule 32 Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Adopted 2/20/79)
Rule 33 Part 70 Permits—General (Adopted 10/12/93)
Rule 33.1 Part 70 Permits—Definitions (Adopted 10/12/93)
Rule 33.2 Part 70 Permits—Application Contents (Adopted 10/12/93)
Rule 33.3 Part 70 Permits—Permit Content (Adopted 10/12/93)
Rule 33.4 Part 70 Permits—Operational Flexibility (Adopted 10/12/93)
Rule 33.5 Part 70 Permits—Timeframes for Applications, Review and Issuance (Adopted 10/12/93)
Rule 33.6 Part 70 Permits—Permit Term and Permit Reissuance (Adopted 10/12/93)
Rule 33.7 Part 70 Permits—Notification (Adopted 10/12/93)
Rule 33.8 Part 70 Permits—Reopening of Permits (Adopted 10/12/93)
Rule 33.9 Part 70 Permits—Compliance Provisions (Adopted 10/12/93)
Rule 33.10 Part 70 Permits—General Part 70 Permits (Adopted 10/12/93)
Rule 34 Acid Deposition Control (Adopted 3/14/95)
Rule 35 Elective Emission Limits (Adopted 11/12/96)
Appendix II–B Best Available Control Technology (BACT) Tables (Adopted 12/86)
Rule 42 Permit Fees (Adopted 7/11/95)
Rule 44 Exemption Evaluation Fee (Adopted 9/10/96)
Rule 45 Plan Fees (Adopted 6/19/90)
Rule 45.2 Asbestos Removal Fees (Adopted 8/4/92)
Rule 50 Opacity (Adopted 2/20/79)
Rule 52 Particulate Matter-Concentration (Adopted 5/23/72)
Rule 53 Particulate Matter-Process Weight (Adopted 7/18/72)
Rule 54 Sulfur Compounds (Adopted 6/14/94)
Rule 56 Open Fires (Adopted 3/29/94)
Rule 57 Combustion Contaminants-Specific (Adopted 6/14/77)
Rule 60 New Non-Mobile Equipment-Sulfur Dioxide, Nitrogen Oxides, and Particulate Matter (Adopted 7/8/72)
Rule 62.7 Asbestos—Demolition and Renovation (Adopted 6/16/92)
Rule 63 Separation and Combination of Emissions (Adopted 11/21/78)
Rule 64 Sulfur Content of Fuels (Adopted 6/14/94)
Rule 67 Vacuum Producing Devices (Adopted 7/5/83)
Rule 68 Carbon Monoxide (Adopted 6/14/77)
Rule 71 Crude Oil and Reactive Organic Compound Liquids (Adopted 12/13/94)
Rule 71.1 Crude Oil Production and Separation (Adopted 6/16/92)
Rule 71.2 Storage of Reactive Organic Compound Liquids (Adopted 9/26/89)
Rule 71.3 Transfer of Reactive Organic Compound Liquids (Adopted 6/16/92)
Rule 71.4 Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 6/8/93)
Rule 71.5 Glycol Dehydrators (Adopted 12/13/94)
Rule 72 New Source Performance Standards (NSPS) (Adopted 9/10/96)
Rule 74 Specific Source Standards (Adopted 7/6/76)
Rule 74.1 Abrasive Blasting (Adopted 11/12/91)
Rule 74.2 Architectural Coatings (Adopted 08/11/92)
Rule 74.6 Surface Cleaning and Degreasing (Adopted 7/9/96)
Rule 74.6.1 Cold Cleaning Operations (Adopted 7/9/96)
Rule 74.6.2 Batch Loaded Vapor Degreasing Operations (Adopted 7/9/96)
Rule 74.7 Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 1/10/89)
Rule 74.8 Refinery Vacuum Producing Systems, Waste-water Separators and Process Turnarounds (Adopted 7/5/83)
Rule 74.9 Stationary Internal Combustion Engines (Adopted 12/21/93)
Rule 74.10 Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 6/16/92)
Rule 74.11 Natural Gas-Fired Residential Water Heaters-Control of NO_X (Adopted 4/9/85)
Rule 74.12 Surface Coating of Metal Parts and Products (Adopted 9/10/96)
Rule 74.15 Boilers, Steam Generators and Process Heaters (5MM BTUs and greater) (Adopted 11/8/94)
Rule 74.15.1 Boilers, Steam Generators and Process Heaters (1–5MM BTUs) (Adopted 6/13/95)
Rule 74.16 Oil Field Drilling Operations (Adopted 1/8/91)
Rule 74.20 Adhesives and Sealants (Adopted 9/10/96)
Rule 74.23 Stationary Gas Turbines (Adopted 3/14/95)
Rule 74.24 Marine Coating Operations (Adopted 9/10/96)
Rule 74.26 Crude Oil Storage Tank Degassing Operations (Adopted 11/8/94)
Rule 74.27 Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/8/94)
Rule 74.28 Asphalt Roofing Operations (Adopted 5/10/94)
Rule 74.30 Wood Products Coatings (Adopted 9/10/96)
Rule 75 Circumvention (Adopted 11/27/78)
Appendix IV–A Soap Bubble Tests (Adopted 12/86)
Rule 100 Analytical Methods (Adopted 7/18/72)
Rule 101 Sampling and Testing Facilities (Adopted 5/23/72)
Rule 102 Source Tests (Adopted 11/21/78)
Rule 103 Stack Monitoring (Adopted 6/4/91)
Rule 154 Stage 1 Episode Actions (Adopted 9/17/91)
Rule 155 Stage 2 Episode Actions (Adopted 9/17/91)
Rule 156 Stage 3 Episode Actions (Adopted 9/17/91)
Rule 158 Source Abatement Plans (Adopted 9/17/91)
Rule 159 Traffic Abatement Procedures (Adopted 9/17/91)
Rule 220 General Conformity (Adopted 5/9/95)

* * * * *

[FR Doc. 97–18711 Filed 7–15–97; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5858–5]

National Emission Standards for Hazardous Air Pollutants: Source Category List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: The EPA is announcing the extension of the public comment period on the Advanced Notice of Proposed Rulemaking for listing research and development facilities on the source category list (62 FR 25877), which was published on May 12, 1997.

DATES: Written comments must be received on or before August 11, 1997.

ADDRESSES: Submit comments in duplicate if possible to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–97–11, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. The EPA requests that separate copies be sent to the appropriate contact person listed below. The docket may be inspected at the above address between 8:00 a.m. and 5:30 p.m. on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information concerning the ANPR, contact Mr. Mark Morris at (919) 541–5416, Organic Chemicals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: In response to a request from several companies involved in research and development activities, the EPA is extending the public comment period from July 11, 1997, to August 11, 1997, on the Advanced Notice of Proposed Rulemaking for listing research and development facilities on the source category list. The EPA agrees that an extension of the comment period will provide for more meaningful, constructive comments on the ANPR. Due to the unique nature of R&D activities and the EPA's request in the ANPR for specific information and recommendations on how to list R&D facilities, the extension to the comment period will provide the EPA with more detailed comments that will result in future time savings on the project.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous air pollutants, Research and development.

Mary D. Nichols,

Assistant Administrator.

[FR Doc. 97–18714 Filed 7–15–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL–5858–6]

Control of Air Pollution From Motor Vehicles and New Motor Vehicle Engines; Modification of Federal On-Board Diagnostic Regulations for Light-Duty Vehicles and Light-Duty Trucks; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is extending the comment period on the Notice of Proposed Rulemaking (NPRM) for modifications to the federal on-board diagnostics program, which appeared in the **Federal Register** on May 28, 1997 (see 62 FR 28932). The public comment period was to end on July 28, 1997. The purpose of this notice is to extend the comment period an additional 12 days beyond that, to end on August 8, 1997. This extension of the comment period is provided to allow commenters a full 30 days to respond to this notice following the public hearing, which will be held on July 9, 1997.

DATES: EPA will accept public comments on the Notice of Proposed Rulemaking until August 8, 1997.

ADDRESSES: Written comments should be submitted (in duplicate if possible) to: the EPA, Air Docket, Room M–1500 (Mail Code 6102), Waterside Mall, Attn: Docket A–96–32, 401 M Street, SW., Washington, DC 20460.

Materials relevant to this rulemaking are contained in Docket No. A–96–32. The docket is located at The Air Docket, 401 M Street, SW., Washington, DC 20460, and may be viewed in room M1500 between 8:00 a.m. and 5:30 p.m., Monday through Friday. The telephone number is (202) 260–7548 and the facsimile number is (202) 260–4400. A reasonable fee may be charged by EPA for copying docket material. The hearing will be held at the Holiday Inn, North Campus, 3600 Plymouth Road, Ann Arbor, MI.

FOR FURTHER INFORMATION CONTACT: Holly Pugliese, Vehicle Programs and Compliance Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone 313–668–4288, or Internet e-mail at ''pugliese.holly@epamail.epa.gov.''

Dated: July 9, 1997.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 97–18713 Filed 7–15–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–152, RM–9102]

Radio Broadcasting Services; Naylor, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by B.B.C., Inc., proposing the allotment of Channel 260A to Naylor, Missouri, as that community's first local broadcast service. Channel 260A can be allotted to Naylor without a site restriction at coordinates 36–34–12 and 90–35–30.

DATES: Comments must be filed on or before September 2, 1997, and reply comments on or before September 17, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John M. Pelkey, Haley Bader & Potts P.L.C., 4350 North Fairfax Drive, Suite 900, Arlington, VA 22203–1633.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–152, adopted June 25, 1997, and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18747 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–156; RM–9110]

Radio Broadcasting Services; Greenwood and Abbeville, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Greenwood Broadcasting Company, Inc., proposing the substitution of Channel 244C3 for Channel 244A at Greenwood, South Carolina, the reallotment of Channel 244C3 from Greenwood to Abbeville, and the modification of Station WCRS–FM's license accordingly. Channel 244C3 can be allotted to Abbeville, South Carolina, in compliance with the Commission's minimum distance separation requirements with a site restriction of 18.5 kilometers (11.5 miles) west to avoid a short-spacing to the licensed site of Station WHKZ–FM, Channel 244A, Cayce, South Carolina, at petitioner's requested site. The coordinates for Channel 244C3 at Abbeville are North Latitude 34–07–09 and West Longitude 82–33–51. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 244C3 at Abbeville, or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before September 2, 1997, and reply comments on or before September 17, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert Lewis Thompson, Esq., Taylor, Thiemann & Aitken, L.C., 908 King Street, Suite 300, Alexandria, Virginia 22314 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–156, adopted July 3, 1997, and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18749 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICAITIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–155; RM–9109]

Radio Broadcasting Services; Winthrop, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Rick Mills and Don Ashford proposing the allotment of Channel 248A at Winthrop, Washington, as the community's first local aural transmission service. Channel 248A can be allotted to Winthrop in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.0 kilometers (1.2 miles) south. The coordinates for Channel 248A at Winthrop are North Latitude 48–27–40 and West Longitude 120–10–36. Since Winthrop is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been requested.

DATES: Comments must be filed on or before September 2, 1997, and reply comments on or before September 17, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners as follows: Mr. Rick Mills, 18526 B Hwy 20, Winthrop, Washington 98862; and Mr. Don Ashford, 18733 Hwy 20, Winthrop, Washington 98862 (Petitioners).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–155, adopted July 3, 1997, and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–18748 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 62, No. 136
Wednesday, July 16, 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.

EXECUTIVE OFFICE OF THE PRESIDENT

Office of National Drug Control

Drug Control Research, Data, and Evaluation Committee; Meeting

AGENCY: Executive Office of the President, Office of National Drug Control Policy.

ACTION: The Drug Control Research, Data, and Evaluation Committee (DCRDEC); Notice of Forthcoming Meeting.

SUMMARY: This notice announces a forthcoming meeting of the Drug Control Research, Data, and Evaluation Committee of the Office of National Drug Control Policy.

Date, time and place. July 30, 1997, 9:00 a.m., Office of National Drug Control Policy (ONDCP), Executive Office of the President, 750 17th Street, N.W., Washington, D.C.

Type of meeting and contact person. Open public meeting, 10:00 a.m. to 2:00 p.m., unless public participation does not last that long; open committee discussion, 10:00 a.m. to 1:30 p.m.; Janie Dargan, ONDCP, (202) 395–6714. Persons intending to attend the meeting should arrive in advance and come to 7th Floor Security with identification; the meeting will take place on a secure floor of the building.

General function of the committee. The Committee provides an avenue of communication by which a distinguished group of experts representing scientific, engineering, law enforcement, treatment, and associated international scientific communities advise the Director of the Office of National Drug Control Policy (ONDCP) on questions related to national drug control research. The Committee assists ONDCP in identifying gaps in current data collection to improve the generation of accurate and useful information on which to base national drug control policy.

Agenda—Open public meeting. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Specifically, the Committee will provide input into recommendations made to ONDCP by an independent group of drug research experts on how to better integrate information and drug control policy. Additionally, the Committee will advise ONDCP on major policy initiatives and data priorities. Those desiring to make a formal presentation should notify the contact person before July 23, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss and advise ONDCP regarding the following:

—Federal Drug-Related Data Needs
—the Integration of Information and Drug Control Policy
—Future Needs for Prevention and Treatment Research
—Harnessing Technology to Support the National Drug Control Strategy

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting. Transcripts of the open portion of the meeting may be requested in writing from the Executive Office of the President, Office of National Drug Control Policy, FOIA Requests, Office of Legal Counsel, 750 17th Street, N.W., Washington, D.C. 20503, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Office of National Drug Control Policy, Office of Legal Counsel at the above indicated address. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and 41 CFR 101–6, *et seq.*, the Federal regulations on advisory committee meetings.

Edward H. Jurith,
General Counsel.

[FR Doc. 97–18652 Filed 7–15–97; 8:45 am]
BILLING CODE 3180–02–P

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

Public Notice of Findings in Yield Research for Revision of ''Food Buying Guide for Child Nutrition Programs''

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that beginning in July, 1997 the Food and Consumer Service (FCS) will post monthly notices concerning preliminary yield research findings on the Healthy School Meals Resource System at http://schoolmeals.nal.usda.gov:8001. The yield research information will be both for new foods to be included in the next revision of the ''Food Buying Guide for Child Nutrition Programs'' and for currently listed foods reexamined using the latest in food testing technology. FCS is posting this yield information so that interested members of the public, including industry representatives, can review and comment on the findings and the related methodology prior to finalizing the yield data for the next revision of the Food Buying Guide.

DATES: This notice is effective July 16, 1997.

ADDRESSES: Address comments on research findings or requests for yield research on specific items to Linda Ebert, Nutritionist, Nutrition and Technical Services Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Room 607, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Linda Ebert at (703) 305–2632.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

Paperwork Reduction Act

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12372

The National School Lunch Program, the School Breakfast Program, the Child and Adult Care Food Program, and the Summer Food Service Program are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555, 10.553, 10.558, and 10.559, respectively, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, Subpart V, and the final rule-related notice published at 48 FR 29112, June 24, 1983).

Background

The Food and Consumer Service (FCS), USDA, administers various child nutrition programs including the National School Lunch Program, the School Breakfast Program, the Child and Adult Care Food Program, and the Summer Food Service Program. Program guidance and training materials prepared must be provided to food service personnel and constantly updated in order to improve the quality of the food served and to promote the efficient management of food assistance programs. An integral component of this guidance is laboratory-based yield research on institutional packed foods that are used to prepare meals in conformance with program regulations.

One of the basic program aids prepared by FCS is the ''Food Buying Guide for Child Nutrition Programs,'' Program Aid No. 1331 (Food Buying Guide). It is used extensively in several areas related to child nutrition programs:

Food Service Personnel—The Food Buying Guide provides information for planning and calculating the required quantities of food to be purchased and used by school food authorities and other institutions participating in child nutrition programs. It is the cornerstone upon which meals are planned, prepared, and analyzed for meeting food-based meal pattern requirements for each component of a federally reimbursable meal. The Food Buying Guide defines the number of servings (i.e., yield), per purchase unit for most foods used in these programs. These yields are used in recipes to ensure that meal requirements for child nutrition programs are being met. Precise data is essential. In addition, it is an important tool to enable school food authorities using a food-based menu planning system to comply with the Dietary Guidelines for Americans as required by section 9(f)(1) of the National School Lunch Act, 42 U.S.C. 1758(f)(1).

Child Nutrition (CN) Labeling—The Food Buying Guide is also used in establishing a commercial product's contribution toward meal pattern requirements in the CN label review process. Section 4(d) of the CN labeling regulations found in Appendix C to 7 CFR parts 210, 220, 225, and 226 state, ''Yields for determining the product's contribution toward meal pattern requirements must be calculated using the Food Buying Guide for Child Nutrition Programs (Program Aid Number 1331).''

Therefore, the Food Buying Guide is a valuable tool for members of the food industry serving child nutrition programs. Another use of the Food Buying Guide in the CN labeling program is in determining component yields for new products containing foods not listed in the Food Buying Guide. If ingredients are not contained in the Food Buying Guide, they can be compared to similar ingredients in the Food Buying Guide. If a close match can be found, a yield can be assigned to the new product without having to do extensive studies on the product to determine a yield.

Child Nutrition Database—Finally, the Food Buying Guide provides an essential data set in the Child Nutrition Database. This database is required by 7 CFR 210.10(i)(4) and 220.8(e)(4) to be used in USDA-approved software programs for school food authorities using nutrient standard menu planning systems. The database has incorporated the Food Buying Guide so that there is on-line access to yield data, i.e., information for ready-to-serve, ready-to-cook, cooked, or otherwise prepared food that would be obtained from a specific market unit of food as purchased. This food yield data provides the user with information necessary for the ''Yield Factor Method'' of nutrient analysis of school recipes and menu plans. This is critical for accurate analysis and to enable schools to plan meals that comply with the established nutrient standards for school meals.

The last laboratory research incorporated into the Food Buying Guide was completed in May, 1980. The Food Buying Guide has since received minor revision in 1984, and again in 1990 and 1995. Because food technology and processing have changed so dramatically in the last fifteen years, it is now imperative to update the current edition. USDA has contracted with the U.S. Army's Research, Development, and Engineering Center's Armed Forces Recipe Team in Natick, Massachusetts to conduct new research on the yield of approximately 400 new foods for inclusion in the Food Buying Guide and to review the yield information of 200 foods currently found in the publication. Yield information which will be gathered will be for basic ingredients only, not commercially processed products such as chicken and beef patties or combination items such as lasagna, chili, or macaroni and cheese, etc.

Methodology

The yield information will be gathered by using various types of cooking and processing equipment. The equipment and cooking procedures commonly used in school food service preparation were determined in a study conducted by the National Food Service Management Institute in March 1996: Issues Related to Equipment and the Dietary Guidelines for Americans. Use of this study will ensure that the resultant yields will be consistent with school food service preparation methods. Careful documentation records will be kept by the contractor concerning the equipment used and the preparation/processing methods employed in using this equipment.

This laboratory-based yield research of institutional packed food will be conducted by the contractor using specified quantities of product. For example, one case of at least two brand name products will be used for the canned fruits and vegetables tested. The remaining items tested, including fresh and frozen fruits and vegetables, meat, poultry, meat alternates, and grain/breads will have between 50 and 100 portions used for the yield study.

Final data will include net weight and volume, drained solids weight and volume, drained liquids weight and volume, and weight/volume ratios for canned fruits and vegetables. Data for meat/poultry will be percent yields based on the state of the materials (frozen, thawed, trimmed, cooked, sliced), with skin, gristle, and bone removed. Factors for fresh fruits and vegetables will address the end-stage of the food (peeled, pared, husked, hulled, cored), as well as weight/volume ratios for diced, cubed, sliced, and chopped; the size of the cut will be specified.

Interested parties may obtain the complete, detailed methodology for any of the food categories (meat/meat alternates, vegetables and fruits, grains/breads, milk/dairy products and other foods) upon written request to FCS at the address in the **ADDRESSES** section of this notice.

Review of Yield Research Data

The Food and Consumer Service welcomes input from industry and other interested members of the public in the revision of the Food Buying Guide. Modifications to the Food Buying Guide could determine how a company markets their product, develops new products, or it could even cause processing procedures or formulations to change. Because the resultant yield

data will have implications for industry in future marketing and new product development FCS believes it is imperative that interested persons from appropriate industries review the findings as yield research progresses. Rather than waiting until all the yield research is complete and the revised Food Buying Guide developed, FCS will be posting the new yield information on the Healthy School Meals Resource System's web site at http://schoolmeals.nal.usda.gov:8001 as it becomes available. Therefore, interested parties should periodically review the web site to check for new information. A hard copy of these findings may be obtained by writing to the address contained in the **ADDRESSES** section of this notice.

FCS encourages all interested parties, especially affected industry representatives, to submit written comments indicating concerns about the preliminary yield data. Any comments disagreeing with the yield findings should include supporting data. Written comments should be sent to FCS at the address in the **ADDRESSES** section of this notice. FCS will consider all timely comments prior to publishing the final yield data findings.

Yield Research on Specific Items

Interested parties may also submit requests for yield research on specific food items by sending such requests, in writing, to the address listed in the **ADDRESSES** section of this notice.

Food Buying Guide Revision

Note that the yield information to be published on the web site will be preliminary and will not be incorporated into the Child Nutrition Database nor may it be relied upon for CN Labeling or meal planning purposes until finally announced at the time the Food Buying Guide revisions are made. The Food and Consumer Service does not expect to finalize the final yield data until late 1998. The final Food Buying Guide is expected to be printed and distributed by the Spring of 1999. It will be distributed in printed copy to all school food authorities and other institutions participating in the child nutrition programs. Printed copies will be made available for sale. It will also be made available on the Internet.

Authority: 42 U.S.C. 1751–1760, 1779.

Dated: July 9, 1997.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 97–18662 Filed 7–15–97; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[MT–962–1430–00-CCAM]

Notice of Availability for the Proposed Cooke City Area Mineral Withdrawal Final Environmental Impact Statement; Montana

AGENCY: Bureau of Land Management, Interior; Forest Service, Agriculture.

ACTION: Notice.

SUMMARY: This Notice of Availability is issued by the Bureau of Land Management, Interior, and the Forest Service, Agriculture, as the joint lead agency. The final Environmental Impact Statement (EIS) documents the effects of withdrawing from federal mineral location and entry up to 22,000 acres of federal mineral estate near Cooke City, Montana. The proposed mineral withdrawal would also apply to hardrock minerals acquired by the United States and managed as leasable minerals. The proposed mineral withdrawal would be subject to review after 20 years. Forest plans for the Custer and Gallatin National Forests would be amended to reflect the intent of the mineral withdrawal.

FOR FURTHER INFORMATION CONTACT: John Thompson, BLM Co-Lead, or Larry Timchak, FS Co-Lead, CCAM, P.O. Box 36800, Billings, Montana, 59107-6800, (406) 255–0322.

SUPPLEMENTARY INFORMATION: This EIS analyzes the environmental consequences of implementing two alternatives. The proposed withdrawal of federal locatable minerals would not allow new mining claims to be filed on federal lands in the area. Unpatented mining claims with valid existing rights and private lands would not be affected. The no action alternative (No Mineral Withdrawal) provides a baseline for comparison. This alternative would continue the management that existed prior to September 1, 1995. The Secretary of the Interior is the responsible official for the decision on a mineral withdrawal. Concurrence on a withdrawal decision by the Secretary of Agriculture is required because the lands under consideration for withdrawal are administered by the Forest Service, USDA. If a mineral withdrawal is approved, the Secretary of Agriculture is the responsible official for the Custer and Gallatin National Forest Plan amendment decisions.

DATES: A decision on the mineral withdrawal is anticipated in mid- to late August 1997.

Dated: June 23, 1997.

Thomas P. Lonnie,

Deputy State Director, Division of Resources, Bureau of Land Management.

Kathleen A. McAllister,

Deputy Regional Forester, USFS Northern Region.

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BILLING CODE 4310–DN–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–805]

Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands; Final Results of Antidumping Administrative Review

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

ACTION: Notice of final results of the antidumping duty administrative review; Aramid Fiber formed of poly para-phenylene terephthalamide from the Netherlands.

SUMMARY: On March 7, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on aramid fiber formed of poly para-phenylene terephthalamide (PPD-T aramid) from the Netherlands. The review covers one manufacturer/exporter and the period June 1, 1995 through May 31, 1996. We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have revised the results from those presented in the preliminary results of review.

EFFECTIVE DATE: July 16, 1997.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan at (202) 482–0193, Eugenia Chu at (202) 482–3964, or Ellen Knebel at (202) 482–0409, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the

Department's regulations are to 19 CFR part 353 (1997).

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** the antidumping duty order on PPD–T aramid from the Netherlands on June 24, 1994 (59 FR 32678). On June 6, 1996, we published in the **Federal Register** (61 FR 28840) a notice of opportunity to request an administrative review of the order on covering the period June 1, 1995, through May 31, 1996 (''POR'').

In accordance with 19 CFR 353.22(a)(1), Aramid Products V.o.F. (Aramid) and Akzo Nobel Fibers Inc. (collectively ''Akzo'' or respondent) and petitioner, E.I. du Pont de Nemours and Company (petitioner), requested that we conduct an administrative review for the POR. We published a notice of initiation of this antidumping duty administrative review on August 8, 1996 (60 FR 41373). The Department is conducting this administrative review in accordance with section 751 of the Act.

On March 7, 1997, the Department published the preliminary results of the review. (*See* 62 FR 10524). The Department has now completed the review in accordance with section 751 of the Act.

Scope of the Review

The products covered by this review are all forms of PPD–T aramid from the Netherlands. These consist of PPD–T aramid in the form of filament yarn (including single and corded), staple fiber, pulp (wet or dry), spun-laced and spun-bonded nonwovens, chopped fiber and floc. Tire cord is excluded from the class or kind of merchandise under review. This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 5402.10.3020, 5402.10.3040, 5402.10.6000, 5503.10.1000, 5503.10.9000, 5601.30.0000, and 5603.00.9000. The HTS item numbers are provided for convenience and Customs purposes. The Department's written description of the scope remains dispositive.

Analysis of the Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review. We received comments from respondent and petitioner.

Comment 1: Petitioner argues that in the preliminary results, the Department accepted Akzo's reported U.S. indirect selling expenses (ISE), which are based upon two factors: (1) Operating expenses per financial accounts (excluding financial expenses); and (2) interest expenses for Akzo Nobel Inc., a wholly-owned subsidiary of Akzo Nobel N.V. of the Netherlands.

Petitioner claims that both of these components of Akzo's reported U.S. ISE are in error, or were not properly verified, and should be revised in the final results. First, in petitioner's analysis of Akzo's operating expenses, petitioner takes issue with the appearance of a line item in Akzo's summary trial balance that relates to an Akzo facility in Scottsboro, Alabama. *See* U.S. Sales Verification Report, Exhibit 4, on file in the Central Records Unit (room B–099 of the Main Commerce Building). Petitioner asserts that if the subsidiary in Scottsboro performed function(s) relating to the production and sale of PPD-T aramid fiber in the United States during the period of review, then Akzo has failed to provide a full accounting of its U.S. activities and their costs.

Second, petitioner raises concerns over the inclusion of a credit on Akzo's trial balance relating to manufacturing cost. Petitioner argues that the activities included in this credit have not been properly explained by the respondent.

Third, petitioner alleges that certain amounts have not been accounted for in Akzo's reported net U.S. ISE operating expenses during the period of review. Petitioner cites U.S. Sales Verification Exhibit 24 to support its claim.

Respondent argues that the Scottsboro facility is not involved in the manufacture or sale of aramid fiber, and, therefore, the three credits appearing on Akzo's summary trial balance relating to Scottsboro are legitimately deducted from Akzo Nobel Aramid Product Inc.'s operating expenses for antidumping purposes.

Respondent explains that petitioner's concerns regarding the credit relating to manufacturing cost is misplaced. Respondent states that the credit in question relates to beaming operations, that the costs associated with beaming the subject merchandise were verified by the Department and were therefore, properly included in manufacturing costs.

Respondent disagrees with petitioner's allegation referring to U.S. Sales Verification Exhibit 24. Respondent explains that a portion of the amount petitioner claims was not accounted for was actually related to expenses outside the POR. Moreover, respondent claims this expense did not relate to the company's indirect selling expense and therefore, pursuant to established Department practice, such expenses are not properly included in net U.S. ISE as operating expenses. Respondent further argues that the POR amount identified by petitioner results from the fact that the income/expense booked in the January-May period overvalued the anticipated expense of the full year.

The Department's Position: The Department agrees with respondent that the credits on Akzo's trial balance relating to Scottsboro, Alabama were properly deducted from Akzo's operating expenses. The Department found no evidence to support petitioner's speculation that Scottsboro is involved in the production or sale of subject merchandise. The facility in Scottsboro, Alabama, Akzo Nobel Industrial Fibers Inc., is described in Akzo's responses as a manufacturer of polyester and nylon fiber and is part of the Industrial Fibers Business Unit. Specifically, Akzo's September 19, 1996 Questionnaire Response (Exhibits A–13 and A–14) references Scottsboro two times under the Industrial Fibers heading in Akzo's Annual Report. The annual report expressly defines the Industrial Fibers Business Unit as being responsible for polyester, polyamide and viscose fibers for industrial uses. Scottsboro does not appear under any subheading in Akzo's Annual Reports that would indicate that Scottsboro produces the subject merchandise. None of the information submitted by Akzo regarding Akzo Nobel Industrial Fibers Inc. supports the claim that Akzo Nobel Industrial Fibers Inc. is involved in the manufacture and sale of aramid fiber. *See, e.g.*, Exhibits A–2, A–3 and A–4 of Akzo's September 19, 1997, Questionnaire Response.

As explained by Akzo in its questionnaire response and discussed with the Department at verification, Akzo Nobel Aramid Products Inc.'s Conyers, Georgia facility is responsible for the sale of aramid fiber in the United States, Canada and Mexico. During the POR, however, the Conyers, Georgia facility was also used to warehouse certain industrial fibers for the Industrial Fibers Business Unit of the Fibers Group and to accommodate Industrial Fibers' salesmen and technical personnel. Because the Industrial Fibers Business Unit (under which the Scottsboro facility is categorized) is not involved in the manufacture or sale of aramid fiber, any credits that relate to it should be deducted from Akzo Nobel Aramid Products Inc.'s operating expenses.

The Department also verified Akzo's beaming operations. *See* U.S. Sales Verification Report at 15 and Exhibit 28. The Department verified that all costs associated with beaming the subject

merchandise during the POR were captured in Akzo's reported beaming charges (REPACKU). *See* U.S. Sales Verification Exhibit 28. The Department found no discrepancies and, therefore, agrees with Akzo that the credit appearing in U.S. Sales Verification Report, Exhibit 4, was accurately reported.

In addition, the Department verified that the credit amount associated with the over booking of the anticipated expense that petitioner claims was not accounted for was actually related to expenses outside the POR. In addition, the Department verified that Akzo has properly accounted for its ISE expense items appearing in U.S. Sales Verification Exhibit 24.

For all of the reasons listed above, the Department has not made any adjustment to Akzo's total U.S. ISE operating expenses or to its U.S. ISE operating expense ratio.

Comment 2: Petitioner urges the Department to make an adjustment to Akzo's U.S. ISE for financial interest expenses. Petitioner notes that, in the past, the Department has taken the position that a respondent's net interest expenses should be based upon the financing expenses incurred on behalf of the consolidated group of companies to which the respondent belongs because (1) the invested capital resources (debt and equity) within a consolidated group are fungible, and (2) the controlling entity within the consolidated group has the power to determine the specific capital structures of each member unit within the group. See Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands: Final Results of Antidumping Administrative Review, 61 FR 51,406 (October 2, 1996) at 51,407. Petitioner argues that Akzo has not explained how the financing expenses are allocated to Akzo Nobel Aramid Products Inc. or to any of the other operating units. Petitioner urges the Department to depart from the way it generally calculates financing expenses, arguing that the Department's established method does not adequately capture the true financing costs of the respondent. Petitioner alleges that the amount of interest expenses that appears on Akzo Nobel Aramid Product Inc.'s books ''better accounts'' for Akzo's financing costs and business requirements than the consolidated data taken from Akzo Nobel Inc.'s financial statement. In addition, petitioner contends that the Department should revise Akzo Nobel Aramid Product Inc.'s U.S. ISE financial interest expense factor in the final results to take full account of its actual short-term borrowing costs in selling PPD–T aramid fiber in the United States.

Respondent states that Akzo has justified its use of Akzo Nobel Inc.'s consolidated figures on the ground that the U.S. parent borrows on behalf of its related companies in the United States and then charges the various operating units a share of this cost. Akzo's October 25, 1996, submission at 111. Akzo claims that the only loans and corresponding interest expense on the books of Akzo Nobel Aramid Products Inc. and Aramid Products V.o.F. are intercompany loans from the parent companies Akzo Nobel Inc. and Akzo Nobel N.V. respectively. Respondent further argues that the only actual interest expense is on the books of the parent companies because it is only these companies that actually borrow money. Akzo further explains that during the consolidation process, the interest expense recorded on the books of the subsidiaries is rolled into the interest expense of the parent. Akzo also states that it is the parent that determines the source from which funds to operate the company are obtained, and it is the parent alone that borrows money and incurs the actual interest expense when such funds are needed. Respondent claims that petitioner's speculations on how and why companies borrow money, as well as how a parent determines the amount of the loans and interest allocated to the subsidiary, are misplaced and irrelevant. These are internal decisions that take into account a variety of factors and the parent incurs the only actual interest expenses.

Respondent states that the Department's current method of calculating interest is a well founded practice that should continue to be followed in determining the final results for this review.

The Department's Position: The Department's preliminary treatment of Akzo's U.S. interest expense is in accordance with the Department's long standing practice and its final determinations in the original less-than-fair-value (''LTFV'') investigation and the first review of the order, Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, 61 FR 51,406 (Dep't Comm. 1996) (final admin. rev.).

It is the Department's practice to calculate the respondent's net interest expense based on the financing expenses incurred on behalf of the consolidated group of companies to which the respondent belongs. In general, this practice recognizes the fungible nature of invested capital resources (i.e., debt and equity) within a consolidated group of companies. In *Cambargo Correa Metais, S.A.* v. *United States*, Slip Op. 93–163 (CIT August 13, 1993), the Court of International Trade ruled that the Department's practice of allocating interest expense on a consolidated basis due to the fungible nature of debt and equity was reasonable. The Court specifically quoted the following from Final Determination of Sales at Less than Fair Value: Certain Small Business Telephone Systems and Subassemblies Thereof from Korea, 54 FR 53,141, 53149 (1989).

> The Department recognizes the fungible nature of a corporation's invested capital resources, including both debt and equity, and does not allocate corporate finances to individual divisions of a corporation * * *. Instead, [Commerce] allocates the interest expense related to the debt portion of the capitalization of the corporation, as appropriate to the total operations of the consolidated corporation.

See also, Final Determination of Sales at Less than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand, 60 FR 10552, 10557 (February 27, 1995). The controlling entity within a consolidated group has the ''power'' to determine the capital structure of each member company within the group. In this case, Akzo Nobel maintains a controlling interest in Aramid and includes the company in its consolidated financial statements. See Final Determination of Sales at Less Than Fair Value: New Minivans from Japan, 57 FR at 21946 (comment 18) (May 26, 1992).

Therefore, for the final results of review, we have relied on Akzo's submitted interest expense, which is based on Akzo Nobel's consolidated financial statements, and have not imputed interest expense on affiliated party loans as suggested by the petitioner.

Comment 3: The petitioner alleges that either Akzo Nobel Inc. or Akzo Nobel N.V. has reimbursed Akzo Nobel Aramid Products Inc. for antidumping duty payments. *See* Petitioner's Case Brief at 14–16. To support its claim, petitioner refers the Department to an account item on the summary trial balance of Akzo Nobel Aramid Products Inc. Petitioner further supports its position by speculating that certain amounts may be reimbursed by either Akzo Nobel Inc. or Akzo Nobel N.V. Petitioner requests the Department, pursuant to 19 CFR 353.26 (a), deduct from Akzo's U.S. price (USP) an amount equal to 66.92% of Akzo's total reported entries during the POR.

Akzo claims that it is not being reimbursed for antidumping duties and

the petitioner's speculation to the contrary does not warrant a deduction of antidumping duty deposits from Akzo's U.S. price. Akzo cites the Department's regulations requiring the Department to deduct from U.S. price the amount of any antidumping duty which the producer or reseller: (i) Paid directly on behalf of the importer; or (ii) reimbursed to the importer. 19 CFR § 353.26 (a). Akzo notes that this regulation also requires the importer to file a certificate, prior to liquidation, with the U.S. Customs Service attesting to the absence of any agreement for the payment or reimbursement of any part of the antidumping duties by the manufacturer, producer, seller or exporter. 19 CFR § 353.26 (c). The regulation provides that the Department may presume from an importer's failure to file this certificate that the producer or reseller paid or reimbursed the antidumping duties. 19 CFR § 353.26 (c). Akzo argues that it is in full compliance with the Department's regulations. It states that as required by § 353.26 (c), Akzo Nobel Aramid Products Inc. has filed, prior to liquidation, certifications with Customs attesting to the absence of any agreement with the manufacturer, producer, seller or exporter (i.e., Aramid Products V.o.F.) for the payment or reimbursement of antidumping duties. Further, the respondent claims that Akzo Nobel Aramid Products Inc. has not entered into such an agreement with Akzo Nobel Inc. or Akzo Nobel N.V. In support of its arguments, Akzo cites the ruling in *The Torrington Corp.* v. *United States,* 881 F. Supp. 622, 632 (1995) (hereafter ''Torrington'') that ''once an importer . . . has indicated on this certificate that it has not been reimbursed for antidumping duties, it is unnecessary for the Department to conduct an additional inquiry absent a sufficient allegation of customs fraud.'' Akzo claims that because it has filed the requisite certification, and because petitioner has failed to show any customs fraud, the record establishes that neither Akzo Nobel Inc. nor Akzo Nobel N.V. has reimbursed Akzo Nobel Aramid Products Inc. for antidumping duty payments.

Akzo further contends that the CIT has affirmed the Department's longstanding precedent that absent evidence of reimbursement, the Department has no authority to make the adjustment to U.S. price requested by the petitioner. Torrington, at 632. Akzo states that, according to the CIT, the party who requests the reimbursement investigation must produce some link between the transfer of funds and reimbursement of antidumping duties. Akzo argues that the petitioner has failed to meet this burden because petitioner only pointed to an account title in a financial statement and speculated as to the nature of that account. Akzo argues that petitioner has failed to establish any agreement for reimbursement of antidumping duties between either Akzo Nobel Inc. or Akzo Nobel N.V. and Akzo Nobel Aramid Products Inc. Respondent argues that § 353.26 (a) applies only if petitioner shows that the foreign manufacturer either paid the antidumping duty on behalf of the U.S. importer or reimbursed the U.S. importer for its payment of the antidumping duty. According to Akzo, the regulation does not impose upon the Department an obligation to investigate based on unsupported allegations. Torrington, at 631; *see* also Tapered Roller Bearings from Japan, 62 FR at 11,831, comm.2.

In response to petitioner's argument concerning whether GAAP permits a company to recognize anticipated refunds from the U.S. government, Akzo states that it had a reasonable expectation of obtaining significant refunds of the dumping deposits from the U.S. Customs Service through the administrative review process. Akzo argues that the LTFV margin established that the deposit rate was not tied entirely to pricing analyses, but was largely attributable to imputed costs based on a corporate structure that no longer exists. Moreover, upon issuance of the antidumping order, Akzo claims that it ceased making the lower-priced sales that contributed to the LTFV margin and cash deposit rate.

Akzo states that, in support of its reimbursement allegation, petitioner focuses on the April 1996, publication of the preliminary results of the first administrative review as providing the first possible indication of antidumping duty liability. The sales subject to that review, Akzo claims, were concluded in May 1995, which Akzo claims allowed it sufficient time to fairly estimate the antidumping duty liability associated with such sales for its 1995, financial statement and December 31, 1995, trial balance. Accordingly, Akzo claims that petitioner's speculation of reimbursement of antidumping duties must be rejected and no punitive inferences taken with regard to the calculation of Akzo's U.S. prices.

The Department's Position: The Department agrees with Akzo. The Department's regulations require the Department to deduct from U.S. price the amount of any antidumping duty which the producer or reseller (i) paid directly on behalf of the importer or (ii) reimbursed to the importer. 19 C.F.R.§ 353.26 (a)(1996). Absent evidence of reimbursement, the Department has no authority to make the adjustment to U.S. price. Torrington, 881 F. Supp. at 632, citing Brass Sheet and Strip From Sweden, 57 F.R. 2706, 2708 (Dep't Comm. 1992) (final admin. rev.) and Brass Sheet and Strip From the Republic of Korea, 54 Fed. Reg. 33,257, 33,258 (Dep't Comm. 1989) (final admin.rev.). In the instant review, we found no evidence of inappropriate financial intermingling between Akzo Nobel Aramid Products, Inc. And Akzo Nobel Inc. or Akzo Nobel N.V. The Department verified that Akzo Nobel Aramid Products, Inc. is responsible for all cash deposits and duties assessed. The evidence cited by petitioner, (much of which is proprietary) does not constitute evidence of reimbursement. At verification, we found no evidence that the account referenced by petitioner was in any way related to reimbursement. Further, Akzo Nobel Aramid Products Inc. has filed the required certifications with Customs attesting to the absence of any agreement with the manufacturer, producer, seller, or exporter (i.e., Aramid Products V.o.F.) for the payment or reimbursement of antidumping duties. The Department found no evidence that Akzo Nobel Aramid Products Inc., has entered into such an agreement with Akzo Nobel Inc. or Akzo Nobel N.V. (For a more detailed discussion of this issue, see the memorandum to the file dated July 7, 1997). Based upon the above, we find that 19 C.F.R. § 353.26 is not applicable in this case.

Comment 4: The petitioner argues that the Department should include Akzo's third party payments as part of Akzo's home market indirect selling expenses because such payments cannot be tied to specific sales transactions. The petitioner also argues that, if the Department continues to treat the payments as direct selling expenses, it should not apply the adjustment to sales made in the POR because the third party did not make any claims for such payments and because the calculated rate for direct selling expenses was based upon the previous year's sales.

Akzo argues that the Department properly treated home market third party payments as direct selling expenses, just as it treated U.S. third party payments. Akzo states that it made third party payments as an incentive for companies to specify the use of its products in their goods. The respondent claims that Akzo only made third party payments after purchases of the subject

merchandise in a converted form were made. Akzo claims that petitioner advances no theory regarding why Akzo would make such payments other than to further the sale of the subject merchandise to Akzo's direct customers. Akzo argues that the petitioner is mistaken that the Department requires third-party payments to be transaction specific and tied to particular sales to qualify as direct selling expenses. Akzo claims that the Department normally accepts claims for home market direct selling expenses as direct adjustments to price if it determines that a respondent reported the expense:

> on an allocated basis, provided that it was not feasible for the respondent to report the expense on a more specific basis and the allocation does not cause unreasonable distortions (*i.e.,* was likely to have been granted proportionately on sales of scope and non-scope merchandise).

Tapered Roller Bearings from Japan, 62 FR at 11, 839, comm.9.

Akzo states that it has reported its third party payment expense on a non-distortive, allocated basis by dividing the total payment over the total quantity of all eligible sales, i.e., sales of a specific product, to a specific customer. For this reason, Akzo believes that there is no basis for the Department to deny Akzo's claim for a direct selling expense.

Akzo claims it has reported in its questionnaire response that its third party payments are identical to the programs verified by the Department during the course of the original LTFV investigation. Akzo notes that the Department accepted its allocation methodology without verification during the first administrative review. Akzo states that, in the second review, it has reported third party payments on home market sales in the same manner as in the original LTFV investigation and first review. Akzo states that payments were made to the very same company in the first review as in the current review. The respondent notes that the Department accepted this approach in the previous administrative review and in the instant review verified the underlying data. According to Akzo, the Department made reference to this issue in its Home Market Sales Verification Report at 9. Akzo argues that it adopted the identical allocation methodology for its third party payments made in the U.S. market as in the home market. According to Akzo, the petitioner has not raised any objection to Akzo's identical third party payment methodology in the U.S. market because these payments are included in the margin calculation to reduce U.S. price. Akzo argues that, if the Department agrees with petitioner's objection to the home market methodology, it must adopt the same position for the identical U.S. market methodology. However, Akzo argues that the Department properly used Akzo's legitimate third party payments in the home market to reduce home market prices, and that the Department should maintain this decision in the calculation of the final results.

The Department's Position: We agree that Akzo has properly included home market third party payments in its direct selling expenses. The Department requires third party payments to be transaction-specific and tied to particular sales to qualify as direct selling expenses. The Department normally accepts claims for home market direct selling expenses as direct adjustments to price on an allocated basis, provided that it was not feasible for the respondent to report the expense on a more specific basis and the allocation does not cause unreasonable distortions (i.e., the allocation of direct selling expenses was likely to have been granted proportionately on sales of scope and non-scope merchandise). See Tapered Roller Bearings from Japan, 62 FR at 1,839, comm.9. The Department verified that Akzo was not able to report the expense on a more specific basis. See Home Market Sales Verification Report at 9. Therefore, the Department accepted the allocation methodology that is consistent with the Department's position in the LTFV investigation and the first administrative review. Akzo has reported its third party payment expense on a non-distortive, allocated basis by dividing the total payment over the total quantity of all eligible sales, *i.e.,* sales of a specific product, to a specific customer. For this reason, the Department will continue to treat home market third party payments as direct selling expenses.

We verified that Akzo's third party payments are based upon total purchases of converted Aramid product from Aramid's direct customers (the converters who provide additional finishing or further manufacturing to Aramid's products). During verification, the Department verified the third party payment programs and reviewed letter agreements between the parties, credit notes issued to the third party payment recipient and purchases by the direct customer and found no discrepancies. See Home Market Sales Verification Report, Exhibit 16. The Department also verified that Akzo made third party payments as an incentive for companies to specify the use of its products in their goods, and that Akzo only made third party payments after purchases of the subject merchandise in a converted form were made. For the above reasons, the Department has determined that it is appropriate to include home market third party payments in its direct selling expenses.

Comment 5: The petitioner argues that the Department did not carry out its intention to remove from the pool of potential home market matches the sales that failed the arm's-length test and suggests the Department correct its mistake in the final results. In addition, the petitioner makes two arguments—one methodological, and one computational—regarding the model matching methodology applied for the preliminary results of the review. First, the petitioner claims that the Department mistakenly applied a model-match program in which the earliest home market sale found within the Department's 90/60 day window is used for comparison, rather than the home market sale that ''most closely'' corresponds to the U.S. sale. Second, petitioner claims that the Department improperly resorts to constructed value if the first home market sale selected for comparison is below-cost, even though other suitable above-cost home market sales are available for comparison.

Akzo contends that both of these arguments should be rejected. Akzo asserts that the first argument petitioner makes is incorrect on the grounds that the Department applied a long-standing practice rooted in the statutory definition of such or similar merchandise. Respondent argues that petitioner's second argument regarding the use of CV is similarly flawed because the Department has issued policy papers which set forth a model matching methodology that contradicts petitioner's claim that the Department improperly resorted to constructed value if the first home market sale selected for comparison is below-cost, even though other suitable above-cost home market sales are available for comparison. Import Administration Policy Bulletin No. 92/4 (Dep't Comm. 12/15/92) entitled ''The Use of Constructed Value in COP Cases.''

The Department's Position: The Department did carry out its intention to remove the sales that failed the arm's length test from its preliminary model match program. The petitioner's contrary conclusion was due to the Department's shortened print command. In the ''print setup'' of the preliminary ''arm's length'' computer program, the Department specified (when printing out customer numbers), that only six digits of the eight digit reference numbers were to be printed, even though the respondent's eight digit code

was properly being read by the computer and used in the calculations. Petitioner may have been confused by a six digit customer reference number printed in the program output when in actuality the customer numbers had eight digits. For clarity, the Department has changed the print command in the final arm's length computer program so that eight digit customer codes are printed out, rather than being cut off at six digits. The result of this print command change is that in the final model match and final margin programs (which read in the output of the arm's length program), all eight digits of the customer code will be printed in the program outputs.

The Department has continued to use its model match program which finds the most similar home market model (CONNUMH), based on physical characteristics, that is within the 90/60 day window and passes the difference in merchandise (DIFMER) test. The Department relies on its margin calculation program to find the most contemporaneous match of a given home market model. The model match program generates home market month (MONTHH) data. However, the (MONTHH) data that appears in the model match output is not read into the Department's margin program, and does not influence the final margin calculations.

Consistent with the Department's practice, we resorted to constructed value if the first best home-market sale selected for comparison was below-cost, even though other suitable above-cost home market sales were available for comparison. See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al. (57 FR 28360, 28373); (''although section 773(b) expresses a preference for using sales rather than CV as the basis of FMV, it does not instruct the Department to use the next most similar merchandise as the basis for FMV, but rather it requires the use of CV''); see also Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand (61 FR 1328, 1331). (The Department rejects the position that, prior to using CV, the Department should have exhausted all three alternative matches provided in the company concordance.)

Comment 6: The petitioner states that the Department should amortize goodwill expenses over a period that covers the POR. The petitioner contends that, unless the Department includes this amount, it will improperly understate the actual cost of producing PPD–T aramid fiber during the POR. The petitioner argues that in the prior review the Department adjusted Akzo's costs to account for revalued assets and excluded the entire amount of Akzo's goodwill amortization from general expenses to avoid double counting the expense and to recognize that any goodwill remaining after adjustment to the revalued assets was not part of Aramid's production costs. The petitioner believes that the Department's treatment of Akzo's goodwill expenses in the first review is not supported by substantial evidence on the record and is contrary to law.

The petitioner states that proper treatment of Akzo's goodwill expenses requires that these costs be amortized over a period that includes the current review. The petitioner contends that the preliminary results fail to take such expenses into account. Petitioner argues that unless Akzo's cost of production is revised in the final results to include an amount for amortized goodwill expenses, the Department once again will improperly understate Akzo's cost of producing PPD–T aramid fiber during the period of review.

Akzo states that the proper treatment of the goodwill that arose from the purchase of Aramid Products was the focus of the first administrative review, and that the Department spent a significant amount of time gathering and analyzing all aspects of the purchase. At the end of the analysis, the Department determined that, for cost calculation purposes, it was more appropriate to isolate those components of goodwill that pertained to assets used in the production of subject merchandise. See Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, (61 FR 51,406). Akzo states that it complied with the decision presented in the first administrative review in preparing the response for this review, and that the Department complied with the petitioner's request to verify. Akzo cites Cost Verification Exhibits 36 and 37, which were used to verify the submitted depreciation expense for Emmen and Delfzijl. Akzo suggests that no circumstances warrant deviation from the well-reasoned decision in the first administrative review.

The Department's Position: The Department agrees with Akzo. As explained at length in the final results of the first administrative review, the Department determined to accept Akzo's accounting method for the amortization of goodwill expense as reasonable. The Department spent a significant amount of time gathering and analyzing all aspects of the facts surrounding the goodwill issue during the first administrative review. At the end of its analysis, the Department determined that, for cost calculation purposes, it was more appropriate to isolate those components of goodwill that pertained to assets used in the production of subject merchandise. See Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide from the Netherlands, 61 FR 51,406. The Department verified that Akzo complied with the Department's determination on goodwill in the first administrative review in preparing its response for the instant review. Cost Verification Exhibits 36 and 37 were used to verify the submitted depreciation expense for Emmen and Delfzijl. *See* Cost Verification Report to the File, dated February 21, 1997.

Comment 7: The petitioner suggests the following corrections be made to the preliminary margin program: (1) Correct the customer code or other aspects of the programming so that sales to the affiliated customer that failed the arm's-length test are properly excluded; (2) correctly apply the warranty-rate factor reported by Akzo; (3) use the highest value for the specific U.S. expense reported by Akzo in its data base to fill in missing U.S. expense data rather than use zeros; (4) at lines 3581 to 3584 of the preliminary program, petitioner recommends that the Department not divide guilder (NLG)-denominated home market variables by the conversion factor (2.2046 lbs/kg) before adding them to corresponding NLG-denominated U.S. variables; (5) petitioner recommends not duplicating conversions at lines 3727 to 3730 of the preliminary margin program, because these weight conversions already had occurred at lines 3488, 3716, 3489, and 3490; (6) at line 3757 petitioner recommends that the Department convert credit reported in Akzo's constructed value data base (CREDCV) from a per-kilogram to a per pound amount before making subtractions; and (7) at line 3734 of the preliminary margin program, petitioner recommends the correction of a currency conversion error in adding a dollar denominated U.S. packing variable (PACKU) to a NGL-denominated components of constructed value (CV).

Akzo recommends that, in calculating foreign movement expenses (line 3500), the Department convert the international freight costs from guilders to dollars before adding these costs to dollar denominated insurance costs to arrive at the value for foreign movement expenses. Akzo did not make any further recommendations regarding the Department's preliminary margin program. In addition, Akzo did not object to any of petitioner's

aforementioned suggested corrections in its rebuttal briefs.

The Department's Position: The Department agrees with both petitioner and respondent and has addressed all of the suggestions in its final margin program. For further explanation see Calculation Memorandum, July 7, 1997.

Final Results of Review

As a result of our review, we determine that the following weighted-average margin exists:

Manufacturer/exporter	Period of review	Margin (percent)
Akzo	6/1/95–5/31/96	26.25
All Other	6/1/95–5/31/96	66.92

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and normal value may vary from the percentage stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of PPD–T aramid fiber from the Netherlands entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) 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) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 66.92 percent, the ''all others'' rate established in the LTFV investigation (59 FR 32678, June 24, 1994). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final 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 subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: July 7, 1997.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–18730 Filed 7–15–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On March 7, 1997, the Department of Commerce (the Department) published the preliminary results of administrative review of the antidumping duty order on polyethylene terephthalate film sheet, and strip (PET film) from the Republic of Korea. The review covers two manufacturers/exporters of the subject merchandise to the United States and the period June 1, 1995 through May 31, 1996.

As a result of comments we received, the dumping margin for one respondent, SKC Limited (SKC) has changed from the one presented in our preliminary results. The margin for STC Corporation (STC) remains the same as the one published in our preliminary results.

EFFECTIVE DATE: July 16, 1997.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, Maureen McPhillips, or Linda Ludwig, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4475, 3019, or 3833, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 1997 (62 FR 10527), the Department published the preliminary results of administrative review and termination in part of the antidumping duty order on PET film from the Republic of Korea, 56 FR 25669 (June 5, 1991).

This review covers two manufacturers/exporters of the subject merchandise to the United States: SKC and STC, and the period June 1, 1995 through May 31, 1996.

The Department has concluded this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by this review are shipments of all gauges of raw pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this review are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order.

PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00. The HTS subheading is provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The review covers the period June 1, 1995 through May 31, 1996.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 353, as amended by the regulations published in the **Federal Register** on May 19, 1997 (62 FR 27296).

Analysis of Comments Received

We invited interested parties to comment on the preliminary results of this administrative review. We received timely comments from the respondent, SKC on April 7, 1997. On April 14, 1997, we received a reply to SKC's brief from the petitioners, E.I. DuPont de Nemours & Company, Hoechst Celanese Corporation, and ICI Americas Inc.

Comment 1: SKC objects to the Department's allocation of the cost of scrap equally to A-grade and B-grade films, stating that SKC's cost allocation methodology is reasonable and consistent with widely recognized cost accounting concepts. SKC references its March 8, 1996 case brief filed in the second and third reviews, wherein its arguments in support of its allocation methodology are set forth more fully (see, Attachment I of SKC's April 7, 1997 case brief).

SKC states that allocating the cost of scrap film equally to A-grade and B-grade films improperly overstates the cost of B-grade films while understating the cost of A-grade films. SKC contends that its methodology of initially allocating costs equally among A-grade film, B-grade film, and scrap, and then reallocating the cost of scrap to the cost of A-grade film is consistent with accepted cost accounting methodologies.

SKC also asserts that its methodology is consistent with the Department's treatment of jointly produced in numerous other antidumping proceedings, wherein the Department recognized that a pure quantitative, or physical measures approach to cost allocation is unreasonable where there is a significant difference in the value of the jointly produced products. SKC cites Elemental Sulphur from Canada, 61 FR 8239, 8241–8243 (March 4, 1996) (Sulphur from Canada); Oil Country Tubular Goods from Argentina, 60 FR 33539, 33547 (June 28, 1995) (OCTG from Argentina); Canned Pineapple Fruit from Thailand, 60 FR 29553, 29560 (June 5, 1995) (Pineapple from Thailand) in support of its position.

SKC maintains that it is the Department's well-established practice to calculate costs in accordance with a respondent's normal cost accounting system unless the system results in an unreasonable allocation of costs. SKC states that its reported cost of manufacturing (COM) data were calculated in accordance with its normal and long-established management cost accounting system. Therefore, SKC concludes that the Department should use its COM data as originally reported.

The petitioners argue that there is no change in fact or circumstance in this review with would warrant the Department to reverse its position established in the investigation and earlier reviews of this case, requiring SKC to assign the same costs to A-grade and B-grade PET film. The petitioners note that in the second and third administrative reviews of this order, the Department thoroughly discussed the basis for its conclusion that yield losses should be allocated to A- and B-grade films on the basis of weight, instead of assigning all yield loss to A-grade films (see, Attachment A, Comment 10 of the petitioners April 14, 1997 reply to SKC's case brief). Moreover, the petitioners state that SKC admits that A- and B-grade films ''are produced simultaneously in a single process'' (SKC Case Brief at 3). The fact that SKC sells B-grade products at low prices in the United States does not, in the petitioners' view, justify the assignment of a lower cost of production to B-grade films.

In conclusion, the petitioners challenge SKC's characterization of its proposed allocation methodology as ''normal and long-established.'' The petitioners state that in determining the reasonableness and accuracy of an allocation methodology, the Department must consider ''whether the producer historically used its submitted cost allocation methods to compute the cost of the subject merchandise prior to the investigation or review and in the normal course of its business operation,'' citing the Statement of Administrative Action Accompanying the URAA, at 835). According to the petitioners, at the time of the original investigation, SKC's ''normal'' accounting system assigned an equal cost per-unit weight to all film types, and SKC created its proposed accounting system specifically for the Department's investigation.

Department's Position: As we explained in the final results of previous reviews of this order, we determined that A-grade and B-grade PET film have identical production costs, and accordingly, we continue to rely on an equal cost methodology for both grades of PET film in these final results; (see, Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Review and Tentative Revocation in Part, 61 FR 35177, 35182–83, (July 5, 1996) (Second and Third Reviews); and Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Review and Notice of Revocation in Part, 61 FR 58375–76, (November 14, 1996) (Fourth Review).

Moreover, as noted in the final results of the second through the fourth reviews, the Court of International Trade (CIT) has ruled that our allocation of SKC's production costs between A-grade and B-grade film is reasonable (See, *E.I. DuPont de Nemours & Co., Inc. et al.* v. *United States,* 932 F. Supp. 296 (CIT 1996)).

As explained in previous reviews of PET film, A-grade and B-grade film undergo an identical production process that involves an equal amount of material and fabrication expenses. The only difference in the resulting A- and B-grade film is that at the end of the manufacturing process a quality inspection is performed during which some of the film is classified as high quality A-grade product, while other film is classified as lower quality B-grade film (see Fourth Review, 61 FR 58375).

We continue to maintain that SKC's reliance on Sulphur from Canada, Pineapple from Thailand, and OCTG from Argentina is misplaced. Those cases concerned the appropriate cost methodology for products manufactured from a joint production process. SKC has mischaracterized the continuous production process of PET film as joint processing. A joint production process occurs when two or more products result simultaneously from the use of one raw material as production takes place.'' (see, Management Accountants' Handbook, Keller, et al., Fourth Edition at 11:1.) A joint production process produces two distinct products and the essential point of a joint production process is that ''the raw material, labor, and overhead costs prior to the initial split-off can be allocated to the final product only in some arbitrary, although necessary, manner.'' Id. The identification of different grades of merchandise does not transform the manufacturing process into a joint production process which would require the allocation of costs. In this case, since production records clearly identify the amount of yield losses for each specific type of PET film, our allocation of yield losses to the films bearing those losses is reasonable, not arbitrary (Fourth Review at 58575–76).

SKC is correct in its statement that it is the Department's practice to calculate costs in accordance with a respondent's management accounting system, unless that system results in an unreasonable allocation of costs. Management accounting deals with providing information that managers inside an organization will use. Managerial accounting reports typically provide more detailed information about product costs, revenue and profits. They

are used to identify problems, objectives or goals, and possible alternatives. In order to respond to the Department's questionnaires, SKC officials devised a management accounting methodology for allocating costs incurred in the film and chip production costs centers to individual products produced during the period of investigation. SKC adopted this cost accounting system to reflect a management goal (i.e., to respond to the Department). Under this system, SKC assigns the yield loss from the production of A- and B-grade films exclusively to the A-grade films. This methodology helps management to focus on the film types with low yields. However, notwithstanding SKC management's concern that it accurately portray the cost of their A-grade products, this managerial accounting methodology is not appropriate for reporting the actual costs of A- and B-grade products. As previously noted, A-grade and B-grade films undergo an identical production process, B-grade film is made using the same materials, on the same equipment, at the same time as the A-grade film. As such, both A- and B-grade films must be allocated the same costs. It is within the Department's mandate to accept or reject the allocation methodologies devised by respondents. In this instance, we have continued to rely on an equal cost allocation methodology which reflects the actual costs incurred for both A-grade and B-grade film.

Comment 2: SKC maintains that the Department erroneously deducted indirect selling expenses and inventory carrying costs incurred on its export sales in Korea from the U.S. price (USP). SKC points out that according to the Department's regulations, in calculating constructed export price (CEP), the Department must deduct from the starting price only those expenses incurred by the U.S. reseller in selling to its unaffiliated U.S. customer, not those incurred by the foreign producer in selling to the affiliated U.S. reseller.

SKC notes that the Department's proposed methodology is consistent with the logic of the treatment of CEP profit and level of trade in the URAA, because the Department's goal is to construct an export price at the level of the sale from the foreign producer to its affiliated reseller. SKC cites Dynamic Random Access Memory Semiconductors of One Megabit or Above from the Republic of Korea, 62 FR 965,968, (January 7, 1997); Certain Pasta from Italy, 61 FR 1344, 1348 (January 19, 1996), and Bicycles from the People's Republic of China, 61 FR 19062, 19031 (April 30, 1996) as examples of cases wherein the Department has properly implemented this new methodology and has not subtracted foreign indirect selling expenses and inventory carrying costs from the United States price in calculating CEP.

The petitioners counter that SKC's citation of prior cases in which the Department apparently did not deduct indirect selling expenses and inventory carrying costs incurred in the home market is not necessarily relevant in the instant case. The petitioners maintain that the Statement of Administrative Action (SAA) directs the Department to deduct ''any expenses which result from, and bear a direct relationship to, selling activities in the United States.'' (SAA at 823)

The petitioners conclude that (1) this language clearly mandates that the Department's treatment of such expenses must be case-specific, and (2) SKC is wrong in stating that the deductions are limited to ''only those expenses incurred by the U.S. reseller.'' The petitioners cite the Preliminary Results of Antidumping Administrative Review; Aramid Fiber Formed of Poly Para-Phylene Terephthalamide (PPD–T) from the Netherlands, 62 FR 10524 (March 7, 1997) in support of their position.

Department's Position: We agree with SKC that, in this instance, it is not appropriate to deduct SKC's indirect selling expenses and inventory carrying costs incurred in Korea from CEP. It is clear from the SAA that under the new statute we should deduct from CEP only those expenses associated with economic activities in the United States. The SAA also indicates that CEP ''is now calculated to be, as closely as possible, a price corresponding to an export price between non-affiliated exporters and importers.'' See SAA at 823. In establishing CEP under section 772(d) of the Tariff Act, the Department's new regulations codify this principle, stating that ''the Secretary will make adjustments for expenses associated with commercial activities in the United States that relate to the sale to an unaffiliated purchaser, no matter where or when paid.'' Section 351.402(b), Antidumpting Duties, ''Countervailing Duties,'' final rule, 62 FR 27295, 27411 (May 19, 1997). Therefore, consistent with section 772(d) and the SAA, we deduct only those expenses representing activities undertaken by the affiliated importer to make the sale to the unaffiliated customers. We ordinarily do not deduct indirect expenses incurred in selling to the affiliated U.S. importer. See Gray Portland Cement and Clinker from Mexico; Final Results of Antidumping Duty Administrative Review, 62 FR 17148, 17168 (April 9, 1997).

SKC's reported home market indirect selling expenses represent an allocation of selling expenses over sales and cannot be tied with specificity to SKC's U.S. sales. Likewise, the cost of carrying inventory in the home market for sales to the affiliated importer are not incurred ''on behalf of the buyer'' (i.e., the affiliated importer), but for the benefit of the exporter in order to complete the sale to the affiliated importer. See 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, 62 FR 2124 (January 15, 1997).

Evidence on the record in this case indicates that SKC's indirect selling expenses and inventory carrying costs, incurred in the home market on behalf of sales to the U.S., cannot be directly associated to commercial activity in the United States. Moreover, SKC incurs such expenses on its own behalf, and for its own benefit in order to complete the sale to its affiliated importer. Therefore, we have not deducted these expenses from CEP for these final results.

Comment 3: SKC contends that the Department's computer program (1) Fails to accurately read in product matches from SKC's concordance, resulting in numerous sales being erroneously compared to constructed value, (2) incorrectly calculates cost of production (COP) and net price compared with COP, so that many above-cost sales erroneously failed the cost test, (3) does not reflect the calculation of a CEP offset, as stated in the Department's March 3, 1997 analysis memorandum, and (4) contains several clerical errors in the calculation of CEP profit that overstate the amount of the CEP profit adjustment.

Department's Position: For these final results, we have corrected the clerical errors SKC noted for the first three items listed above. Concerning the fourth item, the allegation of clerical errors in the calculation of CEP profit, we agree with SKC that international movement expenses and the cost of manufacturing were inadvertently omitted from the calculations of CEP profit. See, Memorandum from Analyst to File, June 30, 1997, for a more detailed explanation of the specific changes that we made in the computer program.

Comment 4: In its comments on the CEP total profit calculation, SKC also contends that the Department failed to include credit expenses and inventory carrying costs in the total expenses for U.S. sales. SKC notes that these items

were used in the numerator of the fraction used to allocate total profit in determining CEP profit. SKC maintains that the Department must account for these imputed expense in the calculation of total costs.

Department's Position: To derive the total costs of U.S. merchandise, we compute the unit cost of each observation in the U.S. data base by adding the cost of manufacturing, general and administrative expense, and net interest expense from the constructed value (CV) data base. We then multiply the unit cost by the quantity sold to derive the total cost of sales for each U.S. market transaction. To calculate total U.S. selling expenses we add all direct and indirect selling expenses and any further manufacturing costs incurred in the United States. We exclude from this calculation imputed amounts for credit expense and inventory carrying costs because in calculating the total cost of the U.S. merchandise, we included net interest expense from the CV data base. Thus, there is no need to include imputed interest amounts in the profit calculation since we have already accounted for actual interest in computing ''actual profit'' under section 772(f). When allocating a portion of the actual profit to each U.S. CEP sale, we will include imputed credit and inventory carrying costs as part of the total U.S. expenses allocation factor. This is consistent with section 772(f)(10) which defines the term ''total U.S. expenses'' as those described under section 772(d) (1) and (2).

Final Results of Review

As a result of our review, we determine that the following weighted-average margins exist:

Manufacturer/exporter	Period of review	Margin
SKC Limited	6/1/95–5/31/96	0.45
STC Corporation	6/1/95–5/31/96	0.37

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and normal value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of PET film from the Republic of Korea within the scope of the order entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed companies will be the rates listed above; (2) for previously reviewed or investigated companies not listed above, the 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 less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate will be 21.50 percent, the ''all others'' rate established in the remand redetermination of the LTFV investigation, as explained below. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

On May 20, 1996, pursuant to court remand, the Department recalculated the weighted-average dumping margins for the LTFV investigation. As a result of the recalculation, the Department established an ''all others'' rate of 21.50 percent. Final Determination on Remand Pursuant to Court Order, *E.I. Dupont de Nemours & Co., Inc.* v.*United States*, Court No. 91–07–00487, Slip Op. 96–56 (March 20, 1996). On February 5, 1997, the CIT affirmed the Department's remand redetermination of the LTFV investigation. *E.I. Dupont de Nemours & Co., Inc.*, v.*United States*, Court No. 91–07–00487, Slip Op. 97–17 (Gebrary 5, 1997). Accordingly, 21.50 percent is the ''all others'' rate established in the LTFV investigation. Pursuant to the CIT decisions in *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (CIT 1993) and *Federal Mogul Corporation* v. *United States*, 822 F. Supp. 782 (CIT 19930, this ''all others'' rate can only be changed through an administrative review.

This notice serves as a final 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 subsequent assessment of double antidumping duties.

Notification of Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

This administrative review 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.

Dated: July 7, 1997.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–18731 Filed 7–15–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

University of Illinois at Urbana-Champaign; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 97–036. *Applicant:* University of Illinois at Urbana-Champaign, Urbana, IL 61801. *Instrument:* Thermal Analysis Mass Spectrometer, Model STA 409. *Manufacturer:* Netzsch, Germany. *Intended Use:* See notice at 62 FR 27722, May 21, 1997. *Reasons:* The foreign instrument provides a mass spectrometer which allows simultaneous thermal characterizations of materials from room temperature to 2000°C by thermogravimetry, differential thermal analysis, differential

scanning calorimetry and evolved gas analysis. *Advice received from:* U.S. Navy, David Taylor Model Basin, July 2, 1997.

Docket Number: 97–037. *Applicant:* University of Illinois at Urbana-Champaign, Urbana, IL 61801. *Instrument:* UHV Evaporators, Models EFM3 and EFM4. *Manufacturer:* Focus GmbH, Germany. *Intended Use:* See notice at 62 FR 27237, May 19, 1997. *Reasons:* The foreign instrument provides: (1) Operation as either an electron beam evaporator or as an effusion cell evaporator, (2) high temperature operation (to 2000°C) for elements such as tantalum, (3) a beam monitor to provide stable emission and (4) water cooling of the source inside the vacuum. *Advice received from:* National Science Foundation, Center for Interfacial Engineering, July 2, 1997.

The U.S. Navy and the National Science Foundation advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–18732 Filed 7–15–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070997F]

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's Coastal Pelagic Species (CPS) Plan Development Team (Team) and CPS Advisory Subpanel (Subpanel) will hold a series of public meetings.

DATES: The meetings will be held July 30, 1997; July 31, 1997; August 15, 1997; September 4, 1997; September 25, 1997; October 14, 1997; and October 21, 1997. All sessions will begin at 10 a.m. and may go into the evening until business for the day is completed.

ADDRESSES: Meetings in La Jolla will be in the small conference room at the NMFS Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA. The meetings in Long Beach will be at the California Department of Fish and Game office, 330 Golden Shore, Suite 50, Long Beach, CA.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Larry Jacobson, telephone: (619) 546–7117; or Doyle Hanan, telephone: (619) 546–7170.

SUPPLEMENTARY INFORMATION: The primary purpose of the meetings is to revise and update the proposed fishery management plan for resubmission. Current work is focused on adding market squid to the management unit and extending the plan to areas north of 39° north latitude. The exact schedule is as follows:

Group	Location	Time	Date
Team	La Jolla	10:00 AM	July 30
Team/Subpanel	Long Beach	10:00 AM	July 31
Team	La Jolla	10:00 AM	August 15
Team/Subpanel	Long Beach	10:00 AM	September 4
Team	La Jolla	10:00 AM	September 25
Team	La Jolla	10:00 AM	October 14
Team/Subpanel	Long Beach	10:00 AM	October 21.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Eric Greene at (503) 326–6352 at least 5 days prior to the meeting dates.

Dated: July 10, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–18726 Filed 7–15–97; 8:45 am]

BILLING CODE 3510–22–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062497E]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of modification 8 to permit 825 (P513), modification 2 to permit 994 (P497D), and modification 2 to permit 956 (P45S).

SUMMARY: Notice is hereby given that NMFS has issued modifications to permits to the Columbia River Inter-Tribal Fish Commission at Portland, OR (CRITFC); the Idaho Cooperative Fish and Wildlife Research Unit at Moscow, ID (ICFWRU); and the U.S. Geological Survey at Cook, WA (USGS) that authorize takes of Endangered Species Act-listed species for the purpose of scientific research, subject to certain conditions set forth therein.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

SUPPLEMENTARY INFORMATION: The modifications to permits were issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

Notice was published on March 12, 1997 (62 FR 11416) that an application

had been filed by CRITFC for modification 8 to scientific research permit 825 (P513). Modification 8 to permit 825 was issued to CRITFC on May 2, 1997. Permit 825 authorizes CRITFC annual takes of adult and juvenile, threatened, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*); juvenile, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*); and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) associated with six studies. For modification 8, CRITFC is authorized increases in the takes of adult and juvenile, threatened, Snake River spring/summer chinook salmon and juvenile, threatened, Snake River fall chinook salmon associated with additional sampling locations and a new study. Also for modification 8, CRITFC is authorized a take of adult, threatened, Snake River fall chinook salmon associated with Studies 3 (spawning ground surveys) and 4 (acquisition of scale samples). Modification 8 is valid for the duration of the permit. Permit 825 expires on December 31, 1997.

Notice was published on April 9, 1997 (62 FR 17178) that an application had been filed by ICFWRU for modification 2 to scientific research permit 994 (P497D). Modification 2 to permit 994 was issued to ICFWRU on May 19, 1997. Permit 994 authorizes ICFWRU annual takes of adult, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) and adult, threatened, Snake River spring/summer and fall chinook salmon (*Oncorhynchus tshawytscha*) associated with a study designed to assess the passage success of migrating adult salmonids at the four dams and reservoirs in the lower Columbia River in the Pacific Northwest, evaluate fish responses to specific flow and spill conditions, and evaluate measures to improve passage. For modification 2, ICFWRU is authorized an increase in the take of adult, threatened, Snake River spring/summer chinook salmon associated with a new study designed to determine if adult salmon successfully return to natal streams or hatcheries and if homing is affected by mode of seaward migration (in-river versus transport). Modification 2 is valid in 1997 only. Permit 994 expires on December 31, 2000.

Notice was published on March 11, 1997 (62 FR 11158) that an application had been filed by USGS for modification 2 to scientific research permit 956 (P45S). Modification 2 to permit 956 was issued to USGS on May 21, 1997. Permit 956 authorizes

USGS an annual take of juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with a study designed to obtain data on the distribution, abundance, movement, and habitat preferences of the anadromous fish that migrate through Lower Granite Reservoir; to evaluate the operation of a surface bypass collector in the forebay of Lower Granite Dam; and to verify species of hydroacoustic surveys. For modification 2, USGS is authorized an annual take of juvenile, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) associated with research designed to evaluate juvenile fall chinook salmon use of the surface bypass collector at Lower Granite Dam. Modification 2 is valid for the duration of the permit. Permit 956 expires on September 30, 1999.

Issuance of the modifications to permits, as required by the ESA, was based on a finding that such actions: (1) Were requested/proposed in good faith, (2) will not operate to the disadvantage of the ESA-listed species that are the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: July 9, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–18727 Filed 7–15–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061297B]

Marine Mammals; Scientific Research Permit No. 779–1339

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the Southeast Fisheries Science Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, FL 33149, as been issued a permit to take a variety of marine mammals during level B harassment and biopsy sampling for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2532 (813/570–5301).

SUPPLEMENTARY INFORMATION: On April 7, 1997, notice was published in the **Federal Register** (62 FR 165620) that a request for a scientific research permit to take cetaceans had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

Issuance of this permit as required by the ESA was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 8, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–18590 Filed 7–15–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070297C]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of public display permit no. 116–1380

SUMMARY: Notice is hereby given that Sea World Inc., has been issued a permit to import for public display purposes.

ADDRESSES: The permit is available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, F/PR1, Office of Protected Resources,

NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southeast Region, NMFS, NOAA, 9731 Executive Center Drive North, St. Petersburg, FL 33702 (813/570–5301); and

Regional Administrator, Southwest Region, NMFS, NOAA, 501 West Ocean Blvd., Ste 4200, Long Beach, CA 90802 (310/980–4001).

FOR FURTHER INFORMATION CONTACT: Ann Hochman, 301/713–2289.

SUPPLEMENTARY INFORMATION: On Wednesday, May 14, 1997, notice was published in the **Federal Register** (62 FR 26476) that an application had been filed by Sea World, Inc., Orlando, FL. A public display permit was requested to import one adult male beluga whale (*Delphinapterus leucas*) from the Vancouver Aquarium, Stanley Park, British Columbia, Canada, into the United States for public display purposes.

The requested permit has been issued subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the conditions set forth therein.

Dated: July 9, 1997.

Ann D. Terbush,

Chief, Permits and Documentation, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–18591 Filed 7-15-97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071197B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Scripps Institution of Oceanography, Institute of Geophysics and Planetary Physics (0225), 9500 Gilman Drive, La Jolla, California 92093–0225, has requested an adjustment to the expiration date of Permit No. 970.

DATES: Written comments must be received on or before August 15, 1997.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289).

Written data or views, or requests for a public hearing on this request should be submitted to the Chief, Permits Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject amendment is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U..S.C. 1531 et seq.), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Permit No. 970 authorizes the harassment of individuals of several species of cetaceans during the course of acoustic studies off the north shore of Kauai, HI through September 30, 1997. Research has not yet begun, and the Holder is requesting that the expiration date of the permit be adjusted to compensate for the approximately two year delay in the start of the research program. Comments are requested only on the issue of adjusting the expiration date of the permit to compensate for the approximately 2-year delay in the start of the research program.

Dated: July 10, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–18725 Filed 7–15–97; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Wednesday, July 23, 1997; 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

FY 1999 Budget Request

The Commission will consider issues related to the Commission's budget for fiscal year 1999.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Date: July 14, 1997.

Signed:

Sadye E. Dunn,

Secretary.

[FR Doc. 97–18880 Filed 7–14–97; 2:37 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Thursday, July 24, 1997, 2:00 p.m.

LOCATION: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the public

MATTER TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Date: July 14, 1997.

Signed:

Sadye E. Dunn,

Secretary.

[FR Doc. 97–18881 Filed 7–14–97; 2:37 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board (AFEB)

AGENCY: Office of the Surgeon General.

ACTION: Notice of Meeting.

SUMMARY: In accordance with section 10(a)(2) of Public Law 92–463, The Federal Advisory Committee Act, this announces the forthcoming AFEB Meeting. The meeting will be held from 0800–1630, Thursday and Friday, August 21–22. The purpose of the meeting is to address pending Board issues, provide briefings for Board members on topics related to ongoing and new Board issues, and to conduct an executive working session. The meeting location will be at the Walter Reed Army Institute Research (WRAIR), Washington, D.C. The meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before or file statements with the committee at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Col. Vicky Fogelman, AFEB Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 693, Falls Church, Virginia 22041–3258, (703) 681–8012/4.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–18679 Filed 7–15–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Intent To Prepare a Joint Environmental Impact Statement/ Environmental Impact Report/ Feasibility Study (EIS/EIR/FS) for the Oakland Harbor Navigation Improvement (−50′) Project, Alameda County, California

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The Port of Oakland proposes to deepen the federal channels of Oakland Harbor and Port-maintained berths to a depth of 50′ below mean lower low water (MLLW) to accommodate the newest generation of deep-draft container ships. In constructing this Project, the Port expects to dredge up to 20 million cubic yards (MCY) of sediment. A variety of disposal options are under consideration.

FOR FURTHER INFORMATION CONTACT: Questions regarding the scoping process or preparation of the EIS/EIR/FS may be directed to Gail Staba, Port of Oakland, 530 Water Street, Oakland, CA 94607, (510) 272–1479, or Eric Jolliffe, U.S. Army Corps of Engineers, 333 Market Street, Seventh Floor, San Francisco, CA 94105–2102, (415) 977–8543.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the California Environmental Quality Act (CEQA), and Public Law 102–484 Section 2834, as amended by Public Law 104–106 Section 2867, the Department of the Army and the Port of Oakland hereby give notice of intent to prepare a joint Environmental Impact Statement/ Environmental Impact Report/ Feasibility Study (EIS/EIR/FS) for the proposed Oakland Harbor Navigation Improvement (−50′) Project (Project), Alameda County, California.

The U.S. Army Corps of Engineers will be the lead agency in preparing the combined EIS/EIR/FS. The EIS/EIR/FS will provide an analysis supporting both the requirements of NEPA and CEQA in addressing impacts to the environment which may result from dredging the Port's Inner and Outer Harbor Channels to 50′ below MLLW and disposing of dredged sediments.

The FS is normally prepared by the U.S. Army Corps of Engineers (USACE) to identify a Federal interest in a proposed navigation improvement project. The FS is necessary to obtain congressional authorization and funding for the project pursuant to the Water Resources Development Act (WRDA) of 1986. Under the provisions of Section 203 of the WRDA, the Port will prepare this feasibility analysis directly, as part of the necessary EIS/EIR documentation, and will submit the studies directly to the Secretary of the Army with the intent of obtaining authorization for the project to be included in the WRDA of 1998.

1. Proposed Action

The specific improvements under consideration include:

a. Deepening and widening the Oakland Bar Channel and Approach.

b. Deepening and widening the Oakland Outer Harbor Channel.

c. Modifying the Bay Area Rapid Transit (BART) submarine rail tube structure and/or anode cables.

d. Deepening and widening the Oakland Outer Harbor turning basin.

e. Deepening and widening the Oakland Inner Harbor turning basin.

f. Deepening and widening the Oakland Inner Harbor Channel.

Up to approximately 20 MCY of material will require dredging and disposal as part of this proposed project. The sediment to be dredged will be classified as Suitable for Unconfined Aquatic Disposal (SUAD) or Not Acceptable for Unconfined Aquatic Disposal (NUAD) as designated by Environmental Protection Agency (EPA) protocol for sediment chemistry and bioassay testing.

2. Project Alternatives

a. No Project: Area would remain at current 42′ depth and footprint.

b. Provision of *Unrestricted Access* for ''K'' Class Shipping Requirements: The project would include a −50′ depth, 750′ wide, one-way traffic Inner Harbor channel, a 1500′ diameter Inner Harbor turning basin, a −50′ depth, widened to 1000′ two-way traffic Outer Harbor channel, and a 1600′ diameter Outer Harbor turning basin. This alternative assumes five berths would be constructed at the entrance of Inner Harbor as a result of the Vision 2000 project, and one replacement marine terminal would be constructed as part of the Berth 22 extension.

c. Provisions of *Inner Harbor One-way Access* for ''K'' Class Shipping Requirements: The project would include the existing −42′ depth and footprint in the Outer Harbor, a −50′ depth, 750′ wide one-way traffic Inner Harbor channel, and a 1500′ diameter Inner Harbor turning basin. This alternative assumes five berths would be constructed at the entrance to the Inner Harbor as a result of the Vision 2000 project.

d. Provisions of *Outer Harbor Two-way Access* for ''K'' Class Shipping Requirements: The project would include the existing −42′ depth and footprint in the Inner Harbor, a −50′ depth, 1000′ wide two-way traffic Outer Harbor channel, and a 1600′ diameter Outer Harbor turning basin. This alternative assumes that one replacement marine terminal would be constructed as part of the Berth 22 extension.

e. Provisions of *Outer Harbor One-way Access* for ''K'' Class Shipping Requirements: The project would include the existing −42′ depth and footprint in Inner Harbor, a −50′ depth, 750′ wide one-way traffic Outer Harbor channel, and a 1600′ diameter Outer Harbor turning basin. This alternative assumes that one replacement marine terminal would be constructed as part of the Berth 22 extension.

3. Dredged Material Disposal Alternatives

a. Aquatic disposal at San Francisco Deep Ocean Disposal Site (SF–DODS) or

Alcatraz Disposal Site (SF–11) for SUAD sediment.

b. Upland and aquatic construction fill for Port of Oakland Vision 2000 program, to be used for public access, berths, and to raise existing grades. SUAD and NUAD sediment would be used.

c. Aquatic construction fill for Port of Oakland Berth 22 extension SUAD and NUAD sediment would be used.

d. SUAD sediment would be used for upland construction fill at the former Alameda Naval Air Station (NAS) for a Port priority use area, or to develop a golf course.

e. Use of SUAD and NUAD sediment to create aquatic habitat at Fleet and Industrial Supply Center, Oakland (FISCO/Port of Oakland), or at Bay Farm Borrow Pit.

f. Aquatic and upland beach nourishment at Ocean Beach, San Francisco, using SUAD sediment.

g. Upland habitat enhancement at the U.S. Fish and Wildlife Service refuge at former Alameda NAS using SUAD sediment.

h. Upland habitat at Crissy Field using SUAD sediment.

i. Wetland restoration at former Hamilton Airfield or Montezuma Wetlands using SUAD sediment.

j. Use of SUAD sediment as a cap on contaminated aquatic sites, and possible confined aquatic disposal at Alameda Seaplane Basin.

k. Upland disposal of SUAD and NUAD sediment at various landfills (Vasco Rd., Altamont, Redwood).

l. Upland disposal of SUAD and NUAD sediment at former Mare Island NAS and or Delta Islands.

4. Scoping Process

Federal, state and local agencies, and interested individuals are invited to participate in the scoping process to determine the range of issues and alternatives to be addressed. The Port of Oakland and the U.S. Army Corps of Engineers will hold a public scoping meeting to receive oral and written comments on August 5, 1997 at 7:00 p.m. at the following location: Oakland Federal Building, 1301 Clay Street, Oakland, CA 94612, Conference Room H.

In addition, written comments will also be accepted until August 18, 1997 at the addresses listed above.

5. Availability of EIS/EIR/FS

The Draft EIS/EIR/FS should be available for public review in February 1998.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–18678 Filed 7–15–97; 8:45 am]

BILLING CODE 3710–19–M

DEPARTMENT OF EDUCATION

Safe and Drug-Free Schools Program

ACTION: Notice of request for public comment.

SUMMARY: The Department requests public comment on draft Principles of Effectiveness that would govern recipients' use of fiscal year 1998 and future years' funds received under Title IV-State and local programs of the Elementary and Secondary Education Act—the Safe and Drug-Free Schools and Communities Act (SDFSCA) State Grants program.

DATES: Comments must be received on or before September 15, 1997.

ADDRESSES: All comments concerning this notice should be addressed to William Modzeleski, Director, Safe and Drug-Free Schools Program, U.S. Department of Education, 600 Independence Ave., SW, Room 604 Portals, Washington, D.C. 20202–6123. Internet: William__Modzeleski@ed.gov.

FOR FURTHER INFORMATION: Contact William Modzeleski, Director, Safe and Drug-Free Schools Program, U.S. Department of Education, 600 Independence Ave., SW, Room 604 Portals, Washington, D.C. 20202–6123. Telephone: (202) 260–3954. 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: The SDFSCA, as reauthorized in 1994 by the Improving America's Schools Act (Pub. L. 103–382), offers States, school districts, schools, and other recipients of SDFSCA State grant funds wide latitude in using these funds to implement the kinds of drug and violence prevention programs that they believe best serve their needs. While the Administration favors local discretion over Federal prescription in the use of SDFSCA State and local grant funds, the Administration also has a responsibility to promote the most effective possible use of these limited resources, which in many instances are the only funds available to local schools to address their youth drug and violence problems. With information about promising and successful drug and violence prevention programs and strategies becoming more available (for example, see National Institute on Drug Abuse publication number NIH 974212, *Preventing Drug Abuse Among Children and Adolescents: A Research-Based Guide* (March 1997), State and local decisions about which prevention approaches to implement should be guided by research on best practices. Furthermore, schools and community organizations that initiate activities designed to prevent youth drug use or violence without conducting a high-quality needs assessment or establishing clear and objective measurable expectations about program outcomes have difficulty determining whether their programs are successful.

Therefore, as one of a series of activities designed to improve the quality of drug and violence prevention programming implemented with SDFSCA funds, the Secretary is proposing that all SDFSCA State Grants program funds be used to support only activities that implement research-based drug and violence prevention strategies and programs in a manner consistent with the Principles of Effectiveness set forth in this Notice. These Principles, in conjunction with existing statutory and regulatory provisions, would help ensure that State and local educational agencies, Governors' offices, and community-based organizations plan and implement effective drug and violence prevention programs.

Proposed Principles of Effectiveness

To address the concerns discussed above, the Department's fiscal year 1998 budget proposal includes appropriations language that would require all recipients of SDFSCA State Grant funds to use their Title IV funds in a manner consistent with the Department's final statement of these Principles of Effectiveness. In developing these Principles, the Department has reviewed research findings and the best available practices related to making schools drug- and violence-free, and has initiated a number of informal discussions with members of the public and the research community on how these Principles might improve the outcome of programs supported with SDFSCA funds.

The proposed Principles are set forth in Appendix A to this notice. If Congress enacts the Department's proposed appropriations language for fiscal year 1998 and for subsequent fiscal years, these Principles (once they are published in final in a future

Federal Register notice) would apply, by law, for each of those years to all recipients of SDFSCA State Grant program funds in designing, implementing, and assessing their SDFSCA drug and violence prevention programs in conjunction with existing statutory and regulatory requirements of the SDFSCA. Within the context of these Principles, program recipients would still be free to determine for themselves the activities that best meet their needs.

The Department is considering various strategies—such as issuance of further guidance and technical assistance—to ensure that recipients understand the final Principles and know how to implement them to promote the effective use of SDFSCA funds. Between now and July 1, 1998 (when fiscal year 1998 Title IV funds become available for obligation), the Department will work with recipients of SDFSCA funds to help them understand and implement these Principles of Effectiveness. The Department also will monitor States' implementation of the Principles.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed Principles of Effectiveness. The Department also is interested in receiving comments and recommendations on activities that it should undertake to ensure that all recipients understand what they must do to design and implement their program activities in ways that are consistent with the Principles once these Principles are final and become supplemental requirements of the SDFSCA program.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 603 Portals Building, 1250 Maryland Ave., SW, Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Program Authority: 20 U.S.C. 7111–7118.

Dated: July 11, 1997.

Gerald M. Tirozzi,

Assistant Secretary, Office of Elementary and Secondary Education.

Appendix A—Statement of Proposed Principles of Effectiveness for the Safe and Drug-Free Schools and Communities Act State Grants Program (Title IV—State and Local Programs, ESEA)

Having safe and drug-free schools is one of our Nation's highest priorities. To ensure that recipients of Title IV funds use those funds in ways that preserve State and local flexibility but are most likely to reduce drug use and violence among youth, such recipients shall coordinate their SDFSCA-funded programs with other available prevention efforts to maximize the impact of all the drug and violence prevention programs and resources available to their State, school district, or community, and shall—

- Base their programs on a thorough assessment of objective data about the drug and violence problems in the schools and communities served.

Each SDFSCA grant recipient shall conduct a thorough assessment of the nature and extent of youth drug use and violence problems. Grantees are encouraged to build upon existing data collection efforts and examine available objective data from a variety of sources, including law enforcement and public health officials. Grantees are encouraged to assess the needs of all segments of the youth population. While information about the availability of relevant services in the community and schools is an important part of any needs assessment, and while grantees may wish to include data on adult drug use and violence problems, grantees shall at minimum include in the needs assessment data on youth drug use and violence.

- Design their activities to meet their measurable goals and objectives for drug and violence prevention.

Sections 4112 and 4115 of the SDFSCA require that grant recipients develop measurable goals and objectives for their program activities. Grantees shall develop goals and objectives that focus on program outcomes, as well as program implementation (sometimes called ''process'' data). While measures of implementation (such as the hours of instruction provided or number of teachers trained) are important, they are not sufficient to measure program outcomes. Grantees shall develop goals and objectives that will permit them to determine the extent to which program activities are effective in reducing or preventing drug use, violence, or disruptive behavior among youth.

- Design and implement their activities based on research or evaluation that provides evidence that the strategies used prevent or reduce drug use, violence, or disruptive behavior among youth.

In designing and improving their programs, grant recipients shall, taking into consideration their needs assessment and measurable goals and objectives, select and implement programs that have demonstrated that they can be effective in preventing or reducing drug use, violence, or disruptive behavior. While the U.S. Department of Education recognizes the importance of flexibility in addressing State and local needs, the Department believes that the implementation of research-based approaches will significantly enhance the effectiveness of programs supported with SDFSCA funds. Grantees are encouraged to review the breadth of available research and evaluation literature in selecting effective strategies most responsive to their needs, and to replicate these strategies in a manner consistent with their original design.

- Evaluate their programs periodically to assess their progress toward achieving their goals and objectives, and use their evaluation results to refine, improve, and strengthen their program, and to refine their goals and objectives as appropriate.

Grant recipients shall assess their programs and use the information about program outcomes to re-evaluate existing program efforts. While the Department recognizes that prevention programs may have a long implementation phase, may have long-term goals, and may include some objectives that are broadly focused, grantees shall not continue to implement strategies or programs that cannot demonstrate positive outcomes in terms of reducing or preventing drug use, violence, or disruptive behavior among youth. Grantees shall use their assessment results to determine whether programs need to be strengthened or improved, and whether program goals and objectives are reasonable or have already been met and should be revised. Consistent with sections 4112 and 4115 of the SDFSCA, grant recipients shall report to the public on progress toward attaining measurable goals and objectives for drug and violence prevention.

[FR Doc. 97–18707 Filed 7–15–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Technology Center

Notice of Intent To Grant Exclusive Patent License

AGENCY: Department of Energy (DOE), Federal Energy Technology Center (FETC).

ACTION: Notice.

SUMMARY: Notice is hereby given of an intent to grant to CQ Inc. of Homer City, Pennsylvania, an exclusive license to practice the inventions described in U.S. Patent Nos. 4,969,928 titled ''Combined Method for Simultaneously Dewatering and Reconstituting Finely Divided Carbonaceous Material'' and 5,379,902, titled ''Method for Simultaneous Use of a Single Additive for Coal Flotation, Dewatering, and Reconstitution.'' The inventions are

owned by the United States of America, as represented by the Department of Energy (DOE). The proposed license will be exclusive, subject to a license and other rights retained by the U.S. Government, and other terms and conditions to be negotiated.

DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of publication of this Notice the Assistant Counsel for Intellectual Property, Department of Energy, Federal Energy Technology Center, Morgantown, WV 26505, receives in writing any of the following, together with the supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention, in which applicant states that it already has brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

DATES: Written comments or nonexclusive license applications are to be received at the address listed below no later than September 15, 1997.

ADDRESSES: Assistant Counsel for Intellectual Property, U.S. Department of Energy, Federal Energy Technology Center, P.O. Box 880, Morgantown, WV 26505.

FOR FURTHER INFORMATION CONTACT: Lisa A. Jarr, Assistant Counsel for Intellectual Property, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, WV 26505; Telephone (304) 285–4555.

SUPPLEMENTARY INFORMATION: 35 U.S.C. 209(c) provides the Department with authority to grant exclusive or partially exclusive licenses in Department-owned inventions, where a determination can be made, among other things, that the desired practical application of the invention has not been achieved, or is not likely expeditiously to be achieved, under a nonexclusive license. The statute and implementing regulations (37 CFR 404) require that the necessary determinations be made after public notice and opportunity for filing written objections.

CQ Inc. of Homer City, Pennsylvania, has applied for an exclusive license to practice the inventions embodied in U.S. Patent Nos. 4,969,928 and 5,379,902, and has a plan for commercialization of the inventions.

The proposed license will be exclusive, subject to a license and other rights retained by the U.S. Government, and subject to a negotiated royalty. The Department will review all timely written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Dated: July 7, 1997.

Ralph A. Carabetta,

Deputy Director, FETC.

[FR Doc. 97–18667 Filed 7–15–97; 8:45 am]

BILLING CODE 6450–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–172–005]

ANR Storage Company; Notice of Compliance Filing

July 10, 1997.

Take notice that on July 3, 1997, ANR Storage Company (ANR) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Revised Sheet No. 153, to be effective August 1, 1997.

ANR states that the attached tariff sheet is being filed in compliance with the Commission's Order issued on June 27, 1997 in the above captioned docket. The filing incorporates GISB standard No. 4.3.6, which establishes a home page accessible on the Internet's World Wide Web. ANR has requested a waiver of the thirty (30) day notice period to allow the tariff sheet to become effective on August 1, 1997.

ANR states that copies of the filing were served upon the company's Jurisdictional customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18650 Filed 7–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–170–005]

Blue Lake Gas Storage Company; Notice of Compliance Filing

July 10, 1997.

Take notice that on July 3, 1997, Blue Lake Gas Storage Company (Blue Lake) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 153, to be effective August 1, 1997.

Blue Lake states that the attached tariff sheet is being filed in compliance with the Commission's Order issued on June 27, 1997 in the above captioned docket. The filing incorporates GISB standard No. 4.3.6, which establishes a home page accessible on the Internet's World Wide Web. Blue Lake has requested a waiver of the thirty (30) day notice period to allow the tariff sheet to become effective on August 1, 1997.

Blue Lake states that copies of the filing were served upon the company's Jurisdictional customer.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18649 Filed 7–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–173–005]

Carnegie Interstate Pipeline Company; Notice of Compliance Filing

July 10, 1997.

Take notice that on July 3, 1997, Carnegie Interstate Pipeline Company (CIPCO), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to be effective August 1, 1997.

Second Revised Sheet No. 102
Third Revised Sheet No. 146

CIPCO states that this filing is being made in compliance with Commission Order No. 587–C and the June 25, 1997 Letter Order issued by the Office of Pipeline Regulation in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such 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. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18651 Filed 7–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TQ97–6–23–001]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 10, 1997.

Take notice that on July 7, 1997 Eastern Shore Natural Gas Company (ESNG) tendered for filing certain revised tariff sheets in the above captioned docket as part of its FERC Gas Tariff, First Revised Volume No. 1, with a proposed effective date of August 1, 1997.

ESNG is making this instant filing to correct a clerical error made in the original filing of Docket No. TQ97–6–23–000 on June 27, 1997. In the process of copying for distribution pages inadvertently failed to be copied from the original and are missing from the copies mailed.

ESNG states that this instant filing corrects the error by distributing ''hard copy'' format of the following pages: Tariff Sheet—Fifty-Second Revised Sheet No. 11A, and Redline copies of Sheet No. 10, Sheet No. 10A and Sheet No. 11.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR Section 385.211). All such protests must be filed as provided in Section 154.210 of the 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18655 Filed 7–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–3–24–000]

Equitrans, L.P.; Notice of Annual Transportation Fuel and Loss Retention Adjustment

July 10, 1997.

Take notice that on July 3, 1997, Equitrans, L.P. (Equitrans) submits herewith its annual Transportation Fuel and Loss Retention Adjustment filing pursuant to Section 31.3 contained in the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1.

Equitrans proposes no change in its transportation retainage factor designed to retain in-kind the projected quantities of gas required for the operation of Equitrans' system in providing service to its customers.

Equitrans states that a copy of its filing has been served upon its customers and interested state commissions.

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 Section 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 17, 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 in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18654 Filed 7–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–600–000]

Maine Public Service Company; Notice of Filing

July 10, 1997.

Take notice that on May 22, 1997, Maine Public Service Company (MPS) tendered for filing pursuant to Order No. 888–A MPS's Open Access Transmission Tariff compliance filing. This filing contains the changes reflected in the *pro forma* tariff attached to Order No. 888–A and certain minor changes that add back in MPS's tariff *pro forma* language.

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, 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 July 21, 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 petition to intervene. Copies of this filing are on file with the Commission and available for inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18646 Filed 7–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–598–000]

MidAmerican Energy Company; Notice of Filing

July 10, 1997.

Take notice that on May 19, 1997, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Monies, Iowa 50303 submitted for filing with the Commission revisions to its Open Access Transmission Tariff (OATT) as required by Order No. 888–A. The filing consists of First Revised Sheet Nos. 11, 14, 15, 16, 22, 23, 24, 25, 26, 30, 31, 34, 35, 36, 37, 39, 42, 55, 56, 61, 73, 86, 88, 89, 94, 108, 112, 113, 119, 120, 121, 122, 124 and 126.

MidAmerican states that the only revisions to the OATT submitted in this filing are those required by Order No. 888–A. Consistent with Order No. 888–A, MidAmerican proposes that the revisions submitted become effective on July 14, 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 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 July 21, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18645 Filed 7–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2000–010]

Power Authority of the State of New York; Notice of Revised Schedule of Meetings to Discuss Settlement for Relicensing the St. Lawrence–FDR Power Project

July 10, 1997.

The Cooperative Consultation Process (CCP) Team will not meet in July and August 1997, as identified in the **Federal Register** dated April 23, 1997, Volume 62, No. 78, on page 19746. Instead, the CCP Team will meet on October 30 and 31, 1997, at 10:00 a.m., to discuss settlement issues. The meeting will be conducted at the New York Power Authority's (NYPA) Robert Moses Powerhouse located in Massena, New York.

Various subcommittees of the CCP Team will also meet to discuss settlement issues. Negotiations regarding settlement agreements will be discussed at the subcommittee meetings. The subcommittees will forward any tentative settlement agreements to the CCP Team for discussion.

A tentative schedule of the subcommittee meetings follows. The Land Use & Recreation, and Socioeconomic Subcommittees will meet the second week of each month. The Ecological Subcommittee will meet the fourth week of each month. These meetings are planned to be conducted at the NYPA's Robert Moses Powerhouse located in Massena, New York.

If you would like more information about the CCP Team and the relicensing process, as well as the subcommittees, please contact any one of the following individuals:

Mr. Thomas R. Tatham, New York Power Authority, (212) 468–6747, (212) 468–6272 (fax), EMAIL:Ytathat@IP3GATE.USA.COM
Mr. Keith Silliman, New York State Dept. of Environmental Conservation, (518) 457–0986, (518) 457–3978 (fax), EMAIL:Silliman@ALBANY.NET
Mr. Thomas Russo
Ms. Patti Leppert-Slack, Federal Energy Regulatory Commission, (202) 219–2700 (Tom), (202) 219–2767 (Patti), (202) 219–0205 (fax).
EMAIL:Thomas.Russo@FERC.FED.US
EMAIL:Patricia.Leppert-Slack@FERC.FED.US

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18647 Filed 7–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–137–007]

Southern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

July 10, 1997.

Take notice that on July 3, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following revised Tariff sheets in compliance with the Commission's letter orders issued on June 19, 1997 and June 24, 1997, in this docket, to become effective on the dates shown:

Sheet:
First Substitute Third Revised Sheet No. 139
First Revised Sheet No. 212h
Effective Date:
June 1, 1997
August 1, 1997

On July 17, 1996, the Commission issued Order No. 587 in Docket No. RM96–1–000 which revised the Commission's regulations governing interstate natural gas pipelines to require such pipelines to follow certain standardized business practices issued by the Gas Industry Standards Board (GISB) and adopted by the Commission in said Order. 18 CFR 284.10(b).

Southern has submitted various filings in this proceeding to comply with Order Nos. 587, et seq. In the Commission's letter orders dated June 19, 1997, and June 24, 1997, the Commission required Southern to (1) clarify whether the GISB Standards' timelines apply to the predetermined allocation methodologies set forth in its Tariff, and (2) implement GISB Standard 4.3.6 effective August 1, 1997, respectively. Accordingly, Southern submits the above-listed Tariff sheets to comply with these orders.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures (18 CFR Section 385.211). All such 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. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18648 Filed 7–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–237–005]

TransColorado Gas Transmission Company; Notice of Tariff Filing

July 10, 1997.

Take notice that on July 3, 1997, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet to become effective August 1, 1997:

Second Revised Sheet No. 203

TransColorado states that the above tariff sheet is being filed to implement the Order No. 587–C Gas Industry Standards Board Internet Web site standard pursuant to the Commission's letter order issued June 13, 1997 at Docket No. RP97–237–003.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18653 Filed 7–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC97–43–000, et al.]

Public Service Company of New Mexico, et al.; Electric Rate and Corporate Regulation Filings

July 9, 1997.

Take notice that the following filings have been made with the Commission:

1. Public Service Company of New Mexico

[Docket No. EC97–43–000]

Take notice that pursuant to Section 203 of the Federal Power Act, on July 2, 1997, Public Service Company of New Mexico (PNM) filed an application seeking an order or other appropriate determination approving the sale by PNM to Plains Electric Generation and Transmission Cooperative, Inc. (Plains) of a portion of the OJO 345kV/115kV Switching Station site and certain associated improvements and personal property.

Comment date: July 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. GS Electric Generating Cooperative, Inc.

[Docket No. EG97–79–000]

On July 2, 1997, GS Electric Generating Cooperative, Inc. (GSE), with its office located at First National Place II, 905 S. Fillmore, Suite 220, Amarillo, TX 79105, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

GSE will be engaged in directly or indirectly through one or more affiliates as defined in Section 2(a)(11)(B) of PUHCA, and exclusively in the business of owning and operating all or part of the Mustang Station Facility and selling electric energy at wholesale. The Mustang Station is an approximately 489 MW combined-cycle power plant which will produce electric energy at wholesale. The Facility consists of two combustion turbines, two heat recovery steam generators, and one single shaft condensing steam turbine and associated equipment. GSE has received, through its affiliate Golden Spread, a specific determination from the Public Utility Commission of Texas that the Facility: (1) will benefit consumers; (2) is in the public interest; and (3) does not violate State law. See Request of Golden Spread Electric Cooperative, Inc., for Determinations Required by Section 32(k) of the Public Utility Holding Company Act and for Certification of Contract, Docket No. 15100, Order Approving Application, (February 11, 1997).

Comment date: July 30, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Consumers Power Company

[Docket No. EL97–42–000]

Take notice that on January 21, 1997, Consumers Power Company d/b/a Consumers Energy Company (Consumers) submitted for filing a request for waiver of the Commission's Fuel Adjustment Clause Regulations (18 CFR 35.14) and Refund Interest Rate Regulations (18 CFR 35.19a) as to the manner in which Consumers refunded to its firm wholesale requirements customers overcharges for spent nuclear fuel disposal costs refunded to Consumers by the Department of Energy during the period from 1992 through 1995. This filing is made by consumers to achieve compliance with recommendations made by the Commission's Division of Audits based on its examination of Consumers' books and records.

A copy of this filing was served upon the Michigan Public Service Commission and Consumers' firm wholesale requirements customers.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. West Texas Utilities Company

[Docket No. EL97–46–000]

Take notice that on June 30, 1997, West Texas Utilities Company on behalf of Central Power and Light Company and Public Service Company of Oklahoma tendered for filing a petition for waiver of fuel clause regulations.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Western Resources, Inc.

[Docket Nos. ER97–1127–000, ER97–1143–000 and ER97–2377–000]

Take notice that on June 27, 1997, Western Resources, Inc. tendered for filing an amendment in the above-referenced dockets.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Otter Tail Power Company

[Docket No. ER97–2813–000]

Take notice that on June 26, 1997, Otter Tail Power Company tendered for

filing an amendment in the above-referenced docket.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Central Illinois Public Service Company

[Docket No. ER97–3179–000]

Take notice that Central Illinois Public Service Company on June 18, 1997, tendered for filing an amendment in the above-referenced docket.

Comment date: July 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. South Carolina Electric and Gas Company

[Docket No. ER97–3281–000]

Take notice that South Carolina Electric and Gas Company on June 17, 1997, tendered for filing an amendment in the above-referenced docket.

Comment date: July 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Madison Gas and Electric Company

[Docket No. ER97–3387–000]

Take notice that on June 18, 1997, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with:

- CNG Power Services Corporation
- Delhi Energy Services, Inc.
- Federal Energy Sales Inc.
- NESI Power Marketing, Inc.
- Sonat Power Marketing L.P.
- Upper Peninsula Power Company
- Western Power Services, Inc.
- WPS Energy Services, Inc.

MGE requests an effective date of January 1, 1997.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Entergy Services, Inc.

[Docket No. ER97–3388–000]

Take notice that on June 24, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Short-Term Market Rate Sales Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Cajun Electric Power Cooperative, Inc. for the sale of power under Entergy Services' Rate Schedule SP.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Sierra Pacific Power Company

[Docket No. ER97–3389–000]

Take notice that on June 20, 1997, Sierra Pacific Power Company (Sierra), tendered for filing Service Agreements (Service Agreements) with the following entities for Point-to-Point Transmission Service under Sierra's Open Access Transmission Tariff (Tariff):

For Non Firm Point-to-Point Transmission Service

1. CMS Marketing, Services and Trading
2. Electric Clearinghouse, Inc.
3. e prime, Inc.
4. Illinova Energy Partners
5. Williams Energy Services Company

For Short-Term Firm Point-to-Point Transmission Service

6. Williams Energy Services Company

Sierra filed the executed Service Agreements with the Commission in compliance with Sections 13.4 and 14.4 of the Tariff and applicable Commission regulations. Sierra also submitted revised Sheet No. 148 (Attachment E) to the Tariff, which is an updated list of all current subscribers. Sierra requests waiver of the Commission's notice requirements to permit and effective date of June 23, 1997 for Attachment E, and to allow the Service Agreements to become effective according to their terms.

Copies of this filing were served upon the Public Service Commission of Nevada, the Public Utilities Commission of California and all interested parties.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Virginia Electric and Power Company

[Docket No. ER97–3391–000]

Take notice that on June 20, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing executed Service Agreements between Virginia Electric and Power Company and North American Energy Conservation, Inc., WPS Energy Services, Inc., and North Carolina Electric Membership Corporation under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994, as revised on December 31, 1996. Under the tendered Service Agreements Virginia Power agrees to provide services to North American Energy Conservation, Inc., WPS Energy Services, Inc., and North Carolina Electric Membership Corporation under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Delmarva Power & Light Company

[Docket No. ER97–3392–000]

Take notice that on June 20, 1997, Delmarva Power & Light Company, tendered for filing a rate reduction for transmission service and ancillary services for the period July 9, 1996 through March 31, 1997, the dates during which its tariff was in effect.

Comment date: May 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Central Illinois Public Service Company

[Docket No. ER97–3393–000]

Take notice that on June 20, 1997, Central Illinois Public Service Company (CIPS), submitted for filing a Third Amendment, dated June 6, 1997, to the Power Supply Agreement, dated June 11, 1987, as amended, between CIPS and the Illinois Municipal Electric Agency (IMEA), and a Third Amendment, dated June 6, 1997, to the Transmission Services Agreement, dated June 11, 1987, as amended between CIPS and IMEA.

CIPS requests an effective date of April 1, 1997 for both Amendments. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon the Illinois Municipal Electric Agency and the Illinois Commerce Commission.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Virginia Electric and Power Company

[Docket No. ER97–3394–000]

Take notice that on June 20, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing an executed Service Agreement with PECO Energy Company which it had filed in unexecuted form on May 2, 1997.

Copies of the filing were served upon the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Central Louisiana Electric Co., Inc.

[Docket No. ER97–3395–000]

Take notice that on June 20, 1997, Central Louisiana Electric Company, Inc., (CLECO), tendered for filing a service agreement under which CLECO will provide non-firm point-to-point transmission service to CMS Marketing, Services and Trading Company under its point-to-point transmission tariff.

CLECO states that a copy of the filing has been served on CMS Marketing, Services and Trading Company.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Southern Indiana Gas and Electric Company

[Docket No. ER97–3396–000]

Take notice that on June 23, 1997, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing a Consent to Assignment under which certain service agreements involving Coastal Electric Services Company would be assigned to Engage Energy US, L.P. SIGECO has requested waiver of notice to allow the assignment of the service agreements to become effective as of June 1, 1997.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Montana Power Company

[Docket No. ER97–3397–000]

Take notice that on June 20, 1997, Montana Power Company (MPC), tendered for filing an unexecuted Service Agreement under MPC's FERC Electric Tariff, Original Volume No. 4 (Control Area Services Tariff) pursuant to which MPC will provide load following services to the Bonneville Power Administration. MPC has proposed to make the service agreement effective on August 20, 1997.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Engage Energy US, L.P.

[Docket No. ER97–3398–000]

Take notice that on June 23, 1997, Engage Energy US, L.P. (Engage), tendered for filing its request that the Commission amend the Western Systems Power Pool (WSPP) Agreement to reflect Engage's name change from Coastal Electric Services Company, and, pursuant to 18 CFR 35.3 and 35.11, waive notice requirements for good cause shown. CESC requests an effective date of June 1, 1997.

Copies of the filing were served upon the WSPP Executive Committee.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. PECO Energy Company

[Docket No. ER97–3399–000]

Take notice that on June 23, 1997, PECO Energy Company (PECO) filed a Service Agreement dated June 17, 1997, with Tampa Electric Company (TECO) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds TECO as a customer under the Tariff.

PECO requests an effective date of June 17, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to TECO and to the Pennsylvania Public Utility Commission.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Sierra Pacific Power Company

[Docket No. ER97–3593–000]

Take notice that on July 2, 1997, Sierra Pacific Power Company (Sierra Pacific) filed, pursuant to Section 29.1 and 29.5 of Sierra Pacific's open-access transmission tariff (FERC Original Vol. No. 3), a proposed unexecuted Service Agreement for Network Integration Transmission Service to Truckee Donner Public Utility District (Truckee Donner). Sierra Pacific and Truckee Donner have been unable to agree on the terms of service to be provided. Sierra Pacific proposes an effective date of July 5, 1997 for this proposed unexecuted Service Agreement.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Tampa Electric Company

[Docket No. ER97–3400–000]

Take notice that on June 23, 1997, Tampa Electric Company (Tampa Electric), tendered for filing a revised Exhibit A to the Contract for Interchange Service between Tampa Electric and Florida Power Corporation (FPC). The revised Exhibit A contains updated descriptions of the direct interconnections between Tampa Electric and FPC. Tampa Electric included with the filing a Certificate of Concurrence executed by FPC in lieu of an independent filing.

Tampa Electric requests that the revised Exhibit A be made effective on July 1, 1997 and, therefore, requests waiver of the Commission's notice requirement.

Copies of the filing have been served on FPC and the Florida Public Service Commission.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

[Docket No. ER97–3401–000]

Take notice that on June 23, 1997, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively referred to as NSP), hereby submit an Electric Services Tariff.

NSP requests this Tariff be made effective July 1, 1997.

Comment date: July 23, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Harold S. Hook

[Docket No. ID–3054–000]

Take notice that on June 18, 1997, Harold S. Hook (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director—Duke Energy Corporation
Director—Sprint Corporation
Director—Cooper Industries, Inc.
Director—The Chase Manhattan Corporation
Director—The Chase Manhattan Bank
Director—Texas Commerce Bank, N.A.

Comment date: July 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 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 the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18721 Filed 7–15–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM95–9–003]

Open Access Same-time Information System and Standards of Conduct; Notice of Extension of Time for Filing of Revised Oasis Standards and Protocols Document and for Submittal of a Report on Oasis Phase II Requirements

July 11, 1997.

On June 27, 1997, the OASIS How Working Group (How Group) filed a letter requesting that the Commission extend the due date for submittal of a revised OASIS Standards and Protocols document.[1]

Specifically, the How Group requests that we extend the due date for the revised OASIS Standards and Protocols document from June 30, 1997 to July 9, 1997 for submittal of a discussion draft, with submittal of the final document on or before August 15, 1997. The How Group's letter states that this extension is necessary because, despite diligent efforts, it has been unable to meet the June 30, 1997 due date. The How Group's letter argues that submittal of the draft report on July 9, 1997 will allow a presentation by the How Group at the Commission's July 18, 1997 Technical Conference [2] on major changes being proposed to the Standards and Protocols document, with completion of the final document to follow.[3]

The How Group also requests that we extend the due date for submittal of a report on OASIS Phase II requirements from August 4, 1997 until September 19, 1997. The How Group reports that the industry has focused substantial resources on preparing a revised OASIS Phase I Standards and Protocols document and has not made substantial progress in defining the scope of OASIS Phase II requirements. The proposed extended due date would allow the How Group, the North American Electric Reliability Council, and others to make presentations on this subject at the July 18, 1997 Technical Conference outlining proposals for OASIS Phase II and would allow the How Group to complete a report (including a proposed scope, implementation plan, and schedule for OASIS Phase II) by September 19, 1997.

After consideration of the How Group's letter, the requested extensions of time for filing are hereby granted.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18722 Filed 7–15–97; 8:45 am]

BILLING CODE 6717–01–M

[1] The same letter also contains a request for clarification of the Commission's requirements on masking the identities of parties to transactions and proposes interim steps to implement on-line price negotiation and disclosure of discounts during OASIS Phase I. These requests will be addressed in a separate notice.

[2] *See* Open Access Same-time Information System and Standards of Conduct, Notice of Technical Conference and Clarification of Procedures for Developing Scheduling Requirements, 79 FERC ¶ 61,377 (June 25, 1997).

[3] We note that, consistent with its proposal, the How Group submitted a draft revised Standards and Protocols document on July 9, 1997.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5858–7]

New York State Prohibition on Marine Discharges of Vessel Sewage; Receipt of Petition and Tentative Determination

Notice is hereby given that a petition was received from the State of New York on June 12, 1996, requesting a determination by the Regional Administrator, Environmental Protection Agency (EPA), pursuant to section 312(f) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4, (the Clean Water Act), that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the coastal waters of Mamaroneck Harbor, Village of Mamaroneck, County of Westchester, State of New York.

This petition was made by the New York State Department of Environmental Conservation (NYSDEC) in cooperation with the Village of Mamaroneck. Upon receipt of an affirmative determination in response to this petition, NYSDEC would completely prohibit the discharge of sewage, whether treated or not, from any vessel in Mamaroneck Harbor in accordance with section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a).

The Village of Mamaroneck is located in Long Island Sound. Mamaroneck Harbor encompasses numerous wetlands, marshes and mud flats including Guion Creek, Otter Creek, Salt Creek and Van Amringe Mill Pond. The proposed No-Discharge Zone would include waters not indexed lying northerly of a line drawn in a northeasterly direction from the southern tip of the sea wall at Orienta Point near the Orienta Yacht Club at the foot of Rushmore Avenue in Mamaroneck, to a point on the mainland immediately north of Spike Island at the intersection of the shoreline and the extension of the line to the center gable of large stone and stucco residence at No. 6 Shore Road in the Greenhaven section within the City of Rye.

Information submitted by the State of New York and the Village of Mamaroneck states that there are three existing pump-out facilities available to service vessels which use Mamaroneck Harbor, and one additional facility proposed for construction. One facility is owned and operated by the Mamaroneck Municipal Marina. This facility is open continuously and charges no fee for pump-out services. It can service vessels up to 80 feet in length with up to a 8 foot draft based on the mean low water depth. A second unit is planned at this facility with the same operating schedule.

The other facilities are privately owned and charge no fee for pump-out services to patrons. They are located at Nichols Boat Yard and Boston Post Road Boat Yard. Operating hours for Nichols Boat Yard pump-out are 9 a.m. to 5 p.m. hours, Monday through Friday and by appointment on the weekend. It can service vessels up to 40 feet in length with up to a 6 foot draft based on the mean low water depth. The other facility is located at the Boston Post Road Boat Yard and operates from 8:30 a.m. to 4:30 p.m. Monday through Friday. Length and draft restrictions are 50 feet and 5.1 feet based on mean low water depth. Within seven nautical miles of Mamaroneck Harbor are five other locations that provide pump-out facilities.

Vessel waste generated from the pump-out facilities in Mamaroneck Harbor is disposed of in the Village of Mamaroneck Waste Water Treatment Plant. This plant operates under a State Pollutant Discharge Elimination System (SPDES) permit issued by the New York State Department of Environmental Conservation.

According to the State's petition, the maximum daily vessel population for the waters of Mamaroneck Harbor is approximately 1160 vessels. This estimate is based on summer weekend/holiday levels of usage and includes 1040 vessels berthed in marinas of Mamaroneck Harbor and less than 120 transient vessels in Mamaroneck Harbor.

The EPA hereby makes a tentative affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for Mamaroneck Harbor in the Village of Mamaroneck, New York. A final determination on this matter will be made following the 30 day period for

public comment and will result in a New York State prohibition of any sewage discharges from vessels in Mamaroneck Harbor.

Comments and views regarding this petition and EPA's tentative determination may be filed on or before August 15, 1997. Comments or requests for information or copies of the applicant's petition should be addressed to Walter E. Andrews, U.S. Environmental Protection Agency, Region II, Water Programs Branch, 290 Broadway, 24th Floor, New York, New York, 10007–1866. Telephone: (212) 637–3880.

Dated: March 19, 1997.

Jeanne Fox,

Regional Administrator.

[FR Doc. 97–18712 Filed 7–15–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–340113; FRL 5728–2]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on January 12, 1998.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Rm 216, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the six pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before January 12, 1998 to discuss withdrawal of the applications for amendment. This 180-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion. *Note: Registration number preceded by ** indicate a 30–day comment period.*

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
004787–00027**	Chlorpyrifos Technical	Chlorpyrifos	Pest Control Indoors (Indoor): Indoor broadcast use; total release foggers for indoor residential and nonresidential (except greenhouse) use; coating products intended for large indoor surface areas such as floors, walls, and ceilings inside residential dwellings, offices, schools, or health institutions including, but not limited to, houses, apartments nursing homes and patient rooms in hospitals. Pets and Domestic Animals (Indoor): Animal dips, sprays, shampoos, dusts. Aquatic Uses (Aquatic Food Crop) (Aquatic Non- Food): Any aquatic use, including mosquito larvicide. Pest Control Indoors or Outdoors (Domestic Indoor or Outdoor): Paint additives; application in sewer manholes in California
008764–00016	Freshgard 5	Sodium *o*-phenylphenate	Apples
009404–00002	50% Malathion Emulsifiable Concentrate	Malathion	Inside dwellings, homes, dairies & food processing plants, dogs & cats, livestock (beef cattle, goats, dairy animals, swine), stored grain, field & garden seeds & peanuts, peanut storage bins, plums, prunes, mushroom houses
011685–00021	Ronox MCPA Low Volatile Herbicide	MCPA, 2-ethylhexyl ester	Rice
011685–00015	Technical MCPA IOE	MCPA, 2-ethylhexyl ester	Rice and peas

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
019713–00217	Drexel Malathion 5EC	Malathion	Greenhouse use (cucumbers, endive, lettuce, radish, tomatoes & watercress), almonds, plums, prunes, filberts, peanuts, safflower, sorghum, soybeans, sugarbeets, tobacco, stored almonds, stored peanuts, non- medicated cattle feed concentrate blocks, bagged citrus pulp, warehouses, stored grains and field or garden seeds, fly & mosquito (in and around buildings which house domestic animals, around yards, homes & meat and food processing plants), mosquito larvae control, livestock (hogs, sheep, goats, horses, cattle, poultry), domestic pets, in and around the home, lawns, fruit and vegetable dumps, food handling establishments

Note: Registration number preceded by ** indicate a 30–day comment period.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
004787	Cheminova, Inc., Oak Hill Park, 1700 Route 23, Suite 210, Wayne, NJ 07470.
008464	FMC Corporation, Citrus Systems Division, 1540 Linden St., Riverside, CA 92507
009404	Sunniland Corporation, P.O. Box 8100, Sanford, FL 32771.
011685	Nufarm Americas, Inc., 1009-D West St., Martens Dr., St. Joseph, MO 64506.
019713	Drexel Chemical Co., P.O. Box 13327, 1700 Channel Ave., Memphis, TN 38113.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: June 23, 1997.

Linda A. Travers,

Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 97–18255 Filed 7-15-97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–64035; FRL 5730–5]

Notice of Receipt of Requests for Amendments to Revise Ethylene Oxide Labels

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is issuing a notice of receipt of requests for amendment to terminate uses by registrants of products containing the active ingredient ethylene oxide under section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. The requests seek amendment of affected ethylene oxide (EtO) registration and product labels to terminate the uses covered by the term ''other inanimate objects'' on product labels. The registrants' submissions also request extension of worker protection requirements to all workplaces where EtO is used and improvement of precautionary statements to assure accuracy and consistency. These label modifications relate to resolution of the special review of EtO.

DATES: Public comment on this notice, in order to be considered, must be received by August 15, 1997. Unless EPA publishes a notice in the **Federal Register** modifying this notice, EPA will approve these use terminations and make them effective on July 31, 1997. The other label modifications have been accepted and will be implemented by July 31, 1997.

ADDRESSES: By mail, submit comments to the Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, deliver comments to Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under Unit IV of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: Lisa Nisenson, Special Review Branch, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail: Special Review Branch, 3rd floor, 2800 Crystal Drive, Arlington, VA, (703) 308–8031; e-mail: nisenson.lisa@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be cancelled or amended to terminate one or more uses. The Act further provides that, before acting on the request, EPA must publish

a notice of receipt of any such request in the **Federal Register** and provide for a 30–day public comment period. Thereafter, the Administrator of EPA may approve such a request, unless the Administrator determines, in the case of a pesticide that is registered for a minor agricultural use, that the cancellation or termination of uses would adversely affect the availability of the pesticide for use. If such a determination is made, unless certain exceptions apply, the Administrator may not approve or reject a request until 180 days have passed from the date of publication in the **Federal Register** of the notice of receipt. The Administrator may waive the 180–day period upon request of the registrant.

II. Background

EtO was registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) in 1957 as a sterilizing gas for medical, surgical and dental supplies and equipment. EPA initiated a Special Review of EtO in 1978 based on worker risk from the reproductive toxicity and mutagenic effects of EtO. The carcinogenic effects of EtO became known in the early 1980's. Since initiation of the Special Review, product labels have been revised on several occasions in order to reduce worker exposures to EtO. The most important changes came in eliminating the uses that posed the greatest exposure, such as the fumigation of railcars or the disinfection of warehouses. In addition, labels were amended to specify that EtO could be used only in non-portable gas-tight chambers designed for use with EtO, and to add hazard warnings and other precautionary labeling consistent with signs and other warnings that OSHA required in the workplace.

On March 26, 1996, the two main registrants of EtO, AlliedSignal Inc. and ARC Chemical Division (hereafter referred to as ARC), agreed to amend their labels to restrict further the types of items that can be treated with EtO by revising the directions for use on non-medical items to delete the general term ''other inanimate objects'' and to specify instead that EtO may be used on irreplaceable materials such as library items. The March, 1996 label amendment agreement also standardizes the hazard warnings that appear on EtO product labels and ensure that all EtO product labels specify that EtO is to be used only in non-portable gas-tight chambers designed for use with EtO. In addition, EPA required labels to extend the OSHA occupational standard for EtO to all workplaces which use EtO. EPA has worked with the pesticide lead agencies to develop a compliance monitoring plan to assure that the risk mitigation measures are in place. On December 23, 1996, EPA sent a letter to formulators who use AlliedSignal and ARC's products informing them of the required label changes. These formulators have submitted draft labels for review. All EtO labels are scheduled to bear the revised labeling by July 31, 1997. As part of the March 26, 1996 meeting, EPA specified these label modifications work towards resolving the EtO Special Review.

EPA is aware of several letters commenting on the elimination of the use of EtO to fumigate beehives to control American foulbrood disease. Only 2 states have FIFRA 24(c) registrations which specifically allow fumigation of beehives. Other states were fumigating beekeeping equipment under the ''other inanimate objects'' provision on EtO labels. EPA intends to examine the information concerning the use of EtO to control American foulbrood disease, including the information submitted in the recent letters, as well as the effect of these requests by the registrants to delete uses in determining what further steps may be warranted in the EtO Special Review. EPA's position is that any use of EtO to fumigation beehives should be under a label specifically allowing such use, and not under ''other inanimate objects.''

III. Intent to Modify Labels and Terminate Use(s)

This notice announces receipt of the EtO registrants' requests to terminate EtO uses and provides notice of EPA's intent to accept those requests. The registrations for which the registrants have requested use terminations are listed in the following table. Note that registrants have requested, and EPA has accepted, that the 180–day comment period be waived. The other label modifications have been accepted and will be implemented by July 31, 1997.

TABLE 1.—ETHYLENE OXIDE REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO TERMINATE USES

Company Number	Company Name	Products Affected
036736	ARC Chemical Corporation	36736–1, 36736–2, 36736–3, 36736–4, 36736–5, 36736–6, 36736–7
067470	AlliedSignal Inc.	67470–1, 67470–2, 67470–3, 67470–4, 67470–5, 67470–6, 67470–7, 67470–8, 67470–9
10330	Praxair Inc.	10330–16, 10330–21 10330–17, 10330–18, 10330–22, 10330–19

Note: Steris Corp., 3M, Pennsylvania Engineering Co., and Andersen Sterilizers Inc. also have EtO registered products, however, their labels do not provide for use on ''other inanimate objects.''

IV. Public Comment Procedures

EPA invites interested persons to submit written comments in response to this notice of receipt of requests to terminate use(s). Comments, to be considered, must be received by August 15, 1997. Comments must bear a notation indicating the document control number. Three copies of the comments should be submitted to either location listed under ''ADDRESSES'' at the beginning of this notice.

Information submitted as a comment concerning this notice may be claimed confidential by marking any or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132, at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

V. Public Record

The official record for this notice, as well as the public version, has been established for this notice under docket number [64035] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The official notice record is the paper record maintained at the

address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII format. All comments and data in electronic form must be identified by the docket number [OPP–64035]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

VI. Existing Stocks

For the purposes of this notice, existing stocks will be defined as those stocks of EtO products which do not bear the revised labeling (i.e. those stocks bearing the term ''other inanimate objects'') that were packaged, labeled, and/or released for shipment prior to July 31, 1997. After July, 31, 1997, EtO registrants may not sell or distribute existing stocks of EtO products which bear the terminated uses. Dealers and distributors may sell quantities of EtO products bearing the terminated use(s) to end users until such stocks are exhausted. End users may use existing stocks until such stocks are exhausted.

VII. Proposed Use Termination Order

The registrants' request for use termination will be accepted and will take effect on July 31, 1997 subject to the above-noted existing stocks provision, unless EPA publishes a notice in the **Federal Register** modifying this proposed order.

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Dated: July 3, 1997.

Lois A. Rossi,
Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 97–18404 Filed 7-15-97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66242; FRL 5729–7]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by January 12, 1998, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Rm. 216, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 64 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000100–00495	Caparol & MSMA with Surfactant Herbicide	Monosodium acid methanearsonate
		2,4-Bis(isopropylamino)-6-(methylthio)-*s*-triazine
000100–00757	Caparol Accu-Pak	2,4-Bis(isopropylamino)-6-(methylthio)-*s*-triazine
000100–00853	Pentac WP Miticide	Decachlorobis(2,4-cyclopentadiene-1-yl)
000100–00854	Pentac Technical	Decachlorobis(2,4-cyclopentadiene-1-yl)
000100–00855	Pentac Aquaflow Miticide	Decachlorobis(2,4-cyclopentadiene-1-yl)
000100–00856	Pentac Miticide Mist	Decachlorobis(2,4-cyclopentadiene-1-yl)
000100–00859	Pentac Miticide Mist Concentrate	Decachlorobis(2,4-cyclopentadiene-1-yl)
000100 OR–93–0006	D.Z.N. Diazinon 14G	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl)phosphorothioate
000168–00330	Wasco Brand Sanital Rinse	Alkyl* dimethyl benzyl ammonium chloride *(60%C_{14}, 30%C_{16}, 5%C_{18}, 5%C_{12})
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C_{12}, 30%C_{14}, 17%C_{16}, 3%C_{18})
000279 TX–93–0012	Command 4EC	2-(2-Chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone
000303–00227	Di-Crobe NN	2-Benzyl-4-chlorophenol
		4-tert-Amylphenol
		o-Phenylphenol
000352 TX–92–0017	Du Pont ''Vydate'' L Insecticide/Nematicide	Oxamimidic acid, *N',N'*-dimethyl-*N*-((methylcarbamoyl)oxy)-1-thio-methyl ester

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
000352 WA–83–0008	Vydate L Insecticide Nematicide	Oxamimidic acid, *N',N'*-dimethyl-*N*-((methylcarbamoyl)oxy)-1-thio-methyl ester
000352 WA–84–0023	Vydate L Insecticide Nematicide	Oxamimidic acid, *N',N'*-dimethyl-*N*-((methylcarbamoyl)oxy)-1-thio-methyl ester
000352 WA–89–0024	Vydate L Insecticide Nematicide	Oxamimidic acid, *N',N'*-dimethyl-*N*-((methylcarbamoyl)oxy)-1-thio-methyl ester
000400 OR–91–0005	Terraguard 50W	1-(1-((4-Chloro-2-(trifluoromethyl)phenyl)imino)-2-propoxyethyl)-1*H*-imidazole
000400 OR–95–0003	Casoron 4G	2,6-Dichlorobenzonitrile
000499–00154	Whitmire PT 575 Pyrethrum	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
000499–00169	Whitmire PT 550 Resmethrin Insect Fogger	(5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate
000499–00205	Whitmire PT 555	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl *d-trans*-2,2-dimethyl-
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
000499–00237	Whitmire PT 271	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate
000499–00241	Whitmire PT 120 Sumithrin Aerosol Generator	(3-Phenoxyphenyl)methyl *d-cis* and *trans**2,2-dimethyl-3-(2-methylpropenyl)cyclopro
000499–00268	Whitmire Regulator PT 430	Ethyl 2-(*p*-phenoxyphenoxy)ethyl carbamate
000499–00275	Whitmire PT 265a Knox-Out Plus II	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl)phosphorothioate
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
000499–00281	Whitmire PT 265 PC Plus Synergized Pyrethrin	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl)phosphorothioate
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
000499–00295	Whitmire PT 567	*N*-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
000499–00297	Whitmire PT 122 Sumithrin	(3-Phenoxyphenyl)methyl *d-cis* and *trans**2,2-dimethyl-3-(2-methylpropenyl)cyclopro
000499–00298	Whitmire Avert PT 300A Pressurized Bait	Avermectin B1
000499–00359	P/P Residual Ant + Roach Spray No. 2	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate
		(5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate
002935 ID–87–0012	Wilbur-Ellis Methyl Parathion 5 Spray	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
002935 ID–92–0007	Wilbur-Ellis Methyl Parathion 5 Spray	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
002935 MT–92–0004	Wilbur-Ellis Methyl Parathion 5 Spray	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
002935 NV–78–0004	Red-Top Methyl Parathion 5 Spray	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
002935 OR–92–0012	Wilbur-Ellis Methyl Parathion 5 Spray	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
002935 TX–91–0009	Methyl Parathion 4 Spray	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
002935 WA–92–0016	Wilbur-Ellis Methyl Parathion 5 Spray	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
003125–00007	Dipterex Sugar Bait Insecticide	Dimethyl (2,2,2-trichloro-1-hydroxyethyl)phosphonate
003125–00076	Dylox 5% Granular	Dimethyl (2,2,2-trichloro-1-hydroxyethyl)phosphonate
003125–00151	Dipterex Roach Bait Insecticide	Dimethyl (2,2,2-trichloro-1-hydroxyethyl)phosphonate
003125–00405	Grub Control 5%	Dimethyl (2,2,2-trichloro-1-hydroxyethyl)phosphonate
005813–00032	Pine Det Pine Odor Disinfectant	2-Benzyl-4-chlorophenol
		Pine oil
007969–00117	MCPP-LV Technical Ester	Isooctyl 2-(2-methyl-4-chlorophenoxy)propionate

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
009198–00100	The Andersons Tee Time Insecticide with Dylox	Dimethyl (2,2,2-trichloro-1-hydroxyethyl)phosphonate
010163–00002	Prokil Methyl Parathion 4	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
010163–00007	Prokil Methyl Parathion 5	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
010163–00073	Gowan Methyl Parathion 7.5	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
010163–00118	Gowan Methyl Parathion 5EC	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
010163–00121	Gowan Methyl Parathion 4E	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
010163–00162	Ketokil No. 52	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
		Cyclopropanecarboxylic acid, 3-(2,2-dichloroethenyl)-2,2-dimethyl-
010163–00178	Prokil Ethyl-Methyl Parathion 6–3	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
		O,O-Diethyl *O-p*-nitrophenyl phosphorothioate
010163 AZ–88–0011	Gowan Methyl Parathion 7.5	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
010163 AZ–88–0027	Gowan Methyl Parathion 7.5	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
010163 MT–93–0002	Gowan Methyl Parathion 5	*O,O*-Dimethyl *O-p*-nitrophenyl phosphorothioate
010370–00189	Lindane 12 1/2% Concentrate	Lindane (Gamma isomer of benzene hexachloride) (99% pure gamma isomer)
010370–00191	20% Lindane Concentrate	Lindane (Gamma isomer of benzene hexachloride) (99% pure gamma isomer)
034704–00703	Clean Crop Linuron4l Herbicide	3-(3,4-Dichlorophenyl)-1-methoxy-1-methylurea
050534 OR–95–0028	Bravo 720	Tetrachloroisophthalonitrile
051036 WA–97–0011	Captan 50–WP	*cis-N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
062719–00203	B & G Multi-Purpose Insecticide S.E.C.	Aliphatic petroleum hydrocarbons
		(1-Cyclohexene-1,2-dicarboximido)methyl 2,2-dimethyl-3-(2-methylpropenyl)cycloprop
		(5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl)cyclopropanecarboxylate
062719 WA–91–0011	Treflan E.C. Weed and Grass Preventer	Trifluralin (α,α,α-trifluro-2,6-dinitro-*N,N*-dipropyl-*p*-toluidine) (Note: α = alpha)
067517–00025	Fly Patrol (Fly Bait)	*S*-Methyl *N*-((methylcarbamoyl)oxy)thioacetimidate
070596–00002	Riverdale MCPA Technical Amine	Dimethylamine 2-methyl-4-chlorophenoxyacetate
070596–00003	Riverdale MCPA Technical Ioe	2-Ethylhexyl 2-methyl-4-chlorophenoxyacetate
070596–00004	Riverdale MCPA Technical Acid	2-Methyl-4-chlorophenoxyacetic acid

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 90–day period. The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000100	Novartis Crop Protection, Inc., Box 18300, Greensboro, NC 27419.
000168	Great Western Chemical Co., 808 S.W., 15th Ave., Portland, OR 97205.
000279	FMC Corp., Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103.
000303	Huntington Professional Products, A Service of Ecolab, Inc., 370 N. Wabasha Street, St. Paul, MN 55102.
000352	E. I. Du Pont De Nemours & Co., Inc., Barley Mill Plaza, Walker's Mill, Wilmington, DE 19880.
000400	Uniroyal Chemical Co., Inc., 74 Amity Rd., Bethany, CT 06524.
000499	Whitmire Micro-Gen Research Laboratories Inc., 3568 Tree Ct., Industrial Blvd, St. Louis, MO 63122.
002935	Wilbur Ellis Co., 191 W. Shaw Ave, Fresno, CA 93704.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
005813	The Clorox Co., c/o PS & RC, Box 493, Pleasanton, CA 94566.
007969	BASF Corp., Agricultural Products, Box 13528, Research Triangle Park, NC 27709.
009198	The Andersons Lawn Fertilizer Division, DBA/Free Flow Fertilizer, Box 119, Maumee, OH 43537.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
010370	Agrevo Environmental Health, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
034704	Cherie Garner, Agent For: Platte Chemical Co., Inc., Box 667, Greeley, CO 80632.
050534	ISK Biosciences Corp., 5966 Heisley Rd., Box 8000, Mentor, OH 44061.
051036	Micro-Flo Co., Box 5948, Lakeland, FL 33807.
062719	DowElanco, 9330 Zionsville Rd., 308/3E, Indianapolis, IN 46268.
067517	R. E. Broyles, Agent For: PM Resources Inc., 1401 Hanley Rd., St. Louis, MO 63144.
070596	Nufarm Americas Inc., Agent For: Nufarm BV, 1009-D W., St. Martens Drive, St. Joseph, MO 64506.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before January 12, 1998. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; [FRL 3846–4]. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: June 29, 1997.

Linda A. Travers,

Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 97–18086 Filed 7–15–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

July 10, 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 August 15, 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., N.W., 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 Number: 3060–XXXX.

Title: Section 90.176, Coordination notification requirements on frequencies below 512 MHz.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 15.

Estimated Time Per Response: .25 hours

Cost to Respondents: N/A.

Total Annual Burden: 975 hours.

Needs and Uses: Section 90.176 requires each Private Land Mobile

frequency coordinator to provide, within one business day, a listing of their frequency recommendations to all other frequency coordinators in their respective pool, and, if requested, an engineering analyses. They can use any method to ensure compliance with the one business day requirement and must provide, at a minimum, the name of the applicant; frequency or frequencies recommended; antenna locations and heights; the effective radiated power; the type(s) of emissions; description of the service area; and date and time of the recommendation. Should a conflict in recommendations arise the affected coordinators are jointly responsible for taking action to resolve the conflict, up to and including notifying the Commission that an application may have to be returned.

The requirement is necessary to avoid situations where harmful interference is created because two or more coordinators recommend the same frequency in the same area at approximately the same time to different applicants.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–18585 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[CS Docket No. 97–141, FCC 97–194]

Annual Assessment of the Status of Competition in Markets for the Delivery of Video Programming

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The Commission is required to report annually to Congress on the status of competition in markets for the delivery of video programming pursuant to Section 628(g) of the Communications Act of 1934, as amended. On June 3, 1997, the Commission adopted a *Notice of Inquiry* to solicit information from the public for use in preparing the competition report that is to be submitted to Congress in December 1997. The *Notice of Inquiry* will provide parties with an opportunity to submit comments and information to be used in conjunction with publicly available information and filings submitted in relevant Commission proceedings to assess the extent of competition in the market for the delivery of video programming.

DATES: Comments are due by July 23, 1997, and reply comments are due by August 20, 1997.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Marcia Glauberman, Cable Services Bureau, (202) 418–7200, or Rebecca Dorch, Office of General Counsel, (202) 418–1880.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Inquiry* in CS Docket No. 97–141, FCC 97–194, adopted June 3, 1997, and released June 6, 1997. The complete text of this *Notice of Inquiry* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., 20554, and may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857–3800, 1900 M Street, N.W., Washington, D.C. 20054.

Synopsis of the Notice of Inquiry

1. Section 628(g) of the Communications Act of 1934, as amended (''Communications Act''), 47 U.S.C. § 548(g), requires the Commission to deliver an annual report to Congress on the status of competition in markets for the delivery of video programming. The *Notice of Inquiry* (''*NOI*'') is designed to solicit comments and information that the Commission can use to prepare its fourth annual report (''1997 Competition Report''). Specifically, the *NOI* invites commenters to submit data, information and analysis regarding the cable industry, existing and potential competitors to cable systems, and prospects for increasing competition in markets for delivery of video programming. Commenters also are requested to identify and comment on existing statutory provisions they perceive as restraining competition or inhibiting development of robust competition in markets for the delivery of video programming. The Commission expects to use the information that is submitted by commenters to supplement publicly available information and relevant comments that have been filed in other Commission proceedings.

2. As in previous reports, we seek factual information and statistical data regarding the status of video programming distributors using different technologies, and changes that have occurred in the past year. We seek information on multichannel video programming distributors (''MPVDs'') using predominantly wired distribution technologies, including cable systems, private cable or satellite master antenna television (''SMATV'') systems, and open video systems (''OVS''). We also request data for those relying predominantly on wireless distribution technologies, such as over-the-air broadcast television, multichannel multipoint distribution service (''MMDS''), instructional television fixed service (''ITFS''), local multipoint distribution service (''LMDS''), direct broadcast satellite (''DBS'') service, and home satellite dish (''HSD'') service, and for other potential distribution mechanisms, including interactive video and data services (''IVDS''), the Internet, and public utility companies.

3. The *NOI* asks a variety of questions concerning each of these video delivery services. In addition to statistical data on each of these delivery services, we seek information regarding: (a) industry transactions, including information on mergers, acquisitions, consolidations, swaps and trades, and cross-ownership; (b) other structural developments that affect distributors' delivery of video programming; (c) regulatory and judicial developments that affect use of different technologies; and (d) the effects of the Telecommunications Act of 1996 (''1996 Act'') and its implementation.

4. The 1996 Competition Report described various technological advances that may affect industry structure and competition in markets for the delivery of video programming. For this year's report, we seek updated information on: (a) developments in the deployment, or planned deployment, of advanced technologies, such as digital compression, switched digital services, and upgraded architectures; (b) different transmission facilities used for distribution of multichannel video programming, such as copper wire, coaxial cable, optical fiber, broadcast and other terrestrial radio frequency communications, terrestrial microwave, satellites, and use of the Internet; (c) the hybridization of different transmission media; and (d) system configurations and designs that may facilitate competition, such as the distribution of different types of signals and different types of services over the same transmission facility. In addition, we request information about developments in set-top boxes, including updates on interoperability, portability and market-driven standards. We also seek information on whether multichannel video distributors are leasing or selling reception equipment to subscribers, and the competitive impact, if any, of these marketplace alternatives. We further invite comment on the use of digital forms of communications and on

potential problems and new issues relevant to multichannel video distribution competition in a digital environment.

5. In the 1997 Competition Report, we will provide updated information on the structure and rivalry of markets for the delivery of video programming. We seek information on changes in the number and market share of all MVPDs, and the effects of MVPD horizontal concentration at the local, regional and national levels. We seek comment on the definition of the relevant market as revised in the 1996 Competition Report, which posited alternative approaches to measuring concentration in the average local market, and identified product differentiation and entry conditions as factors affecting competition. In local markets where incumbent cable operators face competition from one or more other video programming distributors, we seek information on: (a) the identity of the competitors; (b) the distribution technology used by each competitor; (c) the date that each competitor entered the market; (d) the location of the market, including whether it is predominantly urban or rural; (e) an estimate of the subscribership and market share for the services of each competitor; (f) a description of the service offerings of each competitor; (g) differentiation strategies each competitor is pursuing; and (h) the prices charged for the service offerings.

6. Mergers, acquisitions, consolidations and corporate restructuring are important causes of change in industry structure and in the intensity of market competition. We seek information on such events over the past year, their effects on industry structure, and impact on markets for the delivery of video programming. In particular, we solicit maps that show the ownership patterns that have resulted from industry restructuring and the effects of these changes on competition in markets for the delivery of video programming.

7. In the 1997 Competition Report, we will update information on existing and planned programming services, with particular focus on those programming services that are affiliated with video programming distributors. Thus, we seek information and ask a variety of questions on programming services that are affiliated with cable operators, affiliated with other non-cable video programming distributors, and unaffiliated with any MVPD.

8. As in prior reports, we seek to update our assessment of the effectiveness of our program access, program carriage, and channel occupancy rules. In the 1996 Competition Report, we observed a concern that the program access rules may be too narrowly focused to address some current issues related to access to programming and noted that the 1996 Act expanded the program access rules to apply to OVS operators and common carriers in the same manner as they apply to cable operators. Therefore, we seek information on the effectiveness of the program access rules during the past year, including the effect of expansion of these rules to OVS operators and common carriers, and on any remaining issues of concern to video programming providers or MVPDs. We also solicit comment on our leased access rules and, in particular, our recent revision of the formula for calculating the maximum reasonable rate for the carriage of leased access programming.

9. Moreover, as we did in the 1996 Competition Report, we will examine the effect of competition in local markets through case studies of local markets where cable operators faced actual competition from MVPD entrants. We seek updated information on the effects of actual and potential competition in these local markets and in others where consumers have, or soon will have, a choice between MVPDs, including information on incumbent MVPDs responses, such as decreased rates or increased service offerings, to anticipated and actual entry by competing MVPDs. In addition, we request identification of particular strategic behavior and conduct by other MVPDs that affect competition in markets characterized by head-to-head competition between or among MVPDs.

10. We also noted in the 1996 Competition Report that laws, regulations, and strategic behavior by incumbents can create impediments to entry and competition in markets for the delivery of video programming, and endeavored to briefly assess our efforts to reduce some of those impediments. We request information regarding existing or potential regulatory impediments that may have the effect of deterring entry or preventing expansion of competitive opportunities in video program delivery markets. In addition, we ask commenters to identify specific statutory provisions that are perceived as advancing or inhibiting competition or that have differential application and may distort competition among MVPDs, or that restrain competitive opportunities within markets for the delivery of multichannel video programming.

11. A number of the provisions of the 1996 Act were intended to encourage competition in markets for the delivery of video programming. In the 1997 Competition Report, we would like to update our assessment of the effects of the various provisions of the 1996 Act on the status of competition. In particular, we seek comment on ten specific changes from the 1996 Act relating to competition in video markets: (a) the establishment of OVS; (b) preemption of restrictions on over-the-air reception devices; (c) the change in the definition of cable television; (d) a new ''effective competition'' definition; (e) changes in rate regulation provisions; (f) rate competition in multiple dwelling units; (g) competition in MVPD ''navigation'' equipment markets; (h) the entry of exempt public utility companies into video markets; (i) pole attachment regulation; and (j) the elimination of entrance barriers for entrepreneurs and small businesses.

12. Finally, as provided in our Report submitted to Congress on July 29, 1996, concerning Video Programming Accessibility, *Implementation of Section 305 of the Telecommunications Act of 1996—Video Programming Accessibility,* 61 FR 4249 (August 14, 1996), we seek information on methods and schedules for providing greater accessibility to video programs for persons with visual disabilities. In the Video Programming Accessibility Report, which was required by Section 713(f) of the Communications Act, we concluded that the record before us was insufficient to assess the appropriate methods and schedules for phasing video description into the marketplace and indicated that we would collect additional information in the context of the 1997 Competition Report. Accordingly, in the *Notice,* we request data and information including: (a) the availability and cost of secondary audio programming (''SAP'') channels needed to deploy video description; (b) the cost and possible funding of video description; (c) the impact that implementation of digital technologies could have; (d) specific methods and schedules for ensuring that video programming includes descriptions; and (e) any other relevant technical, quality, legal and policy issues. We will use this additional record to better assess those issues that were not fully addressed in the *Video Accessibility Report.*

Administrative Matters

Ex Parte

13. There are no ex parte or disclosure requirements applicable to this proceeding pursuant to 47 CFR § 1.1204(a)(4).

Comment Dates

14. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR §§ 1.415 and 1.419, interested parties may file comments on or before July 23, 1997, and reply comments on or before August 20, 1997. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus ten copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

Ordering Clauses

15. This Notice of Inquiry is issued pursuant to authority contained in Sections 4(i), 4(j), 403 and 628(g) of the Communications Act of 1934, as amended.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–18690 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

July 10, 1997.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. 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 control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0781.

Expiration Date: 01/31/98.

Title: Universal Service Data Request.

Form No.: N/A.

Estimated Annual Burden: 10 respondents; 488 hours per response (avg.); 4880 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: One-time requirement.

Description: Pursuant to Congress's directive in the Telecommunications Act of 1996 (1996 Act) that the Commission establish support mechanisms to ensure the delivery of affordable telecommunications services to all Americans, the Commission determined on May 8, 1997 that universal service support for rural, insular, and high cost areas should be based on forward-looking economic costs. We stated that we will issue a Further Notice of Proposed Rulemaking to seek comment on the forward-looking economic cost mechanism we should adopt for non-rural LECs, and that we will adopt a mechanism by August 1998. The Universal Service Data request seeks from the Regional Holding Companies, GTE, Sprint Corporation, Anchorage Telephone Utility, and Puerto Rico Telephone Company specific information that is necessary to evaluate and compare the forward-looking economic cost models submitted by industry members for the Commission's review, and to adopt a mechanism to estimate the forward-looking economic costs that non-rural LECs will incur to provide universal service in rural, insular, and high cost areas. The data request solicits information on the following subjects: Loops, loop length studies; subscriber line usage studies; basic residential service offerings; apportionment of cable costs; installation cost data for cable facilities; subscriber utilization studies; structure-sharing percentages; multi-line residential customers; poles; detailed continuing property records; digital switches; contracts with switching manufacturers; digital line carrier devices; drop lines; maintenance expenses; riser cable; residential, single-line businesses, and multi-line business customers; miles served by wire center; cost of land and buildings; and contracts with digital line carrier manufacturers. The Commission will use the information collected in the data request to evaluate forward-looking economic cost models, to adopt a mechanism to estimate the forward-looking economic costs that non-rural LECs will incur to provide universal service in rural, insular, and high cost areas, and to determine the inputs for such a mechanism. Response is mandatory.

Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, D.C. 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–18734 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

[DA 97–1453]

Cable Services Action; Commission Postpones En Banc Hearing On Industry Proposal for Rating Video Programming

July 10, 1997.

In light of the announced agreement to modify the joint proposal describing a voluntary system for rating video programming submitted to the Commission on January 17, 1997 by the National Association of Broadcasters, the National Cable Television Association and the Motion Picture Association of America (''the industry proposal''), the Commission has postponed its en banc hearing on: (1) the industry proposal; and (2) video programming blocking technology. The en banc hearing was scheduled for July 14, 1997. The hearing will be rescheduled. The current reply comment date in CS Docket No. 97–55 of July 28, 1997 is cancelled.

Media contact: Morgan Broman (202) 418–2358.

TV Ratings contacts: Rick Chessen or Meryl S. Icove (202) 418–7200; Charles Logan (202) 418–2130.

V-chip Technology contact: Rick Engelman (202) 418–2157.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–18733 Filed 7–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Request for Additional Information

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: Notice is hereby given that the Federal Maritime Commission

pursuant to section 6(d) of the Shipping Act of 1984 (46 U.S.C. app. 1701–1720) has requested additional information from the parties to the Agreement in order to complete the statutory review of the Agreement as required by the Act. This action extends the review periods as provided in section 6(c) of the Act.

Dated: July 11, 1997.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–18685 Filed 7–15–97; 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. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 8, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. United Community Banks Inc., Blairsville, Georgia; to merge with First Clayton Bancshares, Inc., Clayton, Georgia, and thereby indirectly acquire First Clayton Bank and Trust Company, Clayton, Georgia.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Progress Bancshares, Inc., Sullivan, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Progress Bank of Sullivan, Sullivan, Missouri, a *de novo* bank.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Commerce Bancshares, Inc., Kansas City, Missouri, and CBI-Kansas Inc., Kansas City, Missouri; to acquire 100 percent, and thereby merge with CNB Bancorp, Inc., Independence, Kansas, and thereby indirectly acquire Citizens National Bank, Independence, Kansas.

Board of Governors of the Federal Reserve System, July 10, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–18625 Filed 7-15-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 11, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Hibernia Corporation, New Orleans, Louisiana; to merge with Unicorp Bancshares-Texas Inc., Orange, Texas, and thereby indirectly acquire OrangeBank, Orange, Texas.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Cabot Bankshares, Inc., Cabot, Arkansas; to acquire 7.7 percent of the voting shares of The Capital Bank, Little Rock, Arkansas.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Southwestern Bancshares, Inc., Oklahoma City, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Southwestern Bank & Trust Company, Oklahoma City, Oklahoma.

Board of Governors of the Federal Reserve System, July 11, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–18719 Filed 7–15–97; 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. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies

with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 30, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Royal Bank of Canada, Toronto, Canada; to acquire RBC Dominion Securities Corporation, New York, New York, and thereby engage in acting as a futures commission merchant for unaffiliated persons in the execution, clearance, or execution and clearance of any futures contract and options on a futures contract traded on an exchange in the United States or abroad, pursuant to § 225.28(b)(7) of the Board's Regulation Y; in providing to customers as agent transactional services with respect to swaps and similar transactions, pursuant to § 225.28(b)(8) of the Board's Regulation Y; acting as agent with respect to bank eligible securities, and any other transaction involving a forward contract, option, futures, option on a futures or similar contract relating to a commodity that is traded on an exchange, pursuant to § 225.28(b)(7) of the Board's Regulation Y; in engaging as principal in Foreign Exchange; Forward Contracts, options, futures, options on futures, swaps, and similar contracts, whether traded on exchanges or not, based on any rate, price, financial asset (including gold, silver, platinum, palladium, copper, or any other metal approved by the Board), nonfinancial asset, or group of assets, other than a bank ineligible security, pursuant to § 225.28(b)(8) of the Board's Regulation Y. These proposed activities will be conducted worldwide.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. P.C.B. Bancorp, Inc., Largo, Florida; to acquire Anchor Savings Bank, F.S.B., St. Petersburg, Florida, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4) of the Board's Regulation Y. The proposed activity will be conducted throughout the state of Florida. Comments on this proposal must be received by August 8, 1997.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Citizens Bancshares Company, Chillicothe, Missouri; to engage in a joint venture with John Birchfield and Debbie Keele, and thereby engage in the purchase and servicing of accounts receivable, pursuant to § 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 10, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–18624 Filed 7-15-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of May 20, 1997

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on May 20, 1997.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that growth in economic activity has slowed after surging in late 1996 and earlier this year. Private nonfarm payroll employment increased at a considerably reduced pace over March and April, but the civilian unemployment rate fell appreciably to 4.9 percent in April. Industrial production was flat in April following sizable gains over previous months. Nominal retail sales were unchanged in March and declined in April after a considerable advance in earlier months. Housing activity in March and April was little changed from other recent months. Available indicators point to further sizable gains in business fixed investment. The nominal deficit on U.S. trade in goods and services widened substantially in January-February from its temporarily depressed rate in the fourth quarter. Underlying price inflation has remained subdued.

Market interest rates generally have posted small mixed changes since the Committee meeting on March 25, 1997; share prices in equity markets have risen considerably. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G-10 currencies declined on balance over the intermeeting period.

Growth of M2 and M3 was brisk over March and April, boosted by a buildup in household balances to cover unusually large tax payments. For the year through April, both aggregates expanded at rates appreciably above the upper bounds of their respective ranges for the year. Growth in total domestic nonfinancial debt has moderated over recent months, reflecting reductions in federal government borrowing.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at its meeting in February established ranges for growth of M2 and M3 of 1 to 5 percent and 2 to 6 percent respectively, measured from the fourth quarter of 1996 to the fourth quarter of 1997. The monitoring range for growth of total domestic nonfinancial debt was set at 3 to 7 percent for the year. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, somewhat greater reserve restraint would or slightly lesser reserve restraint might be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with some moderation in the expansion of M2 and M3 over coming months.

By order of the Federal Open Market Committee, July 9, 1997.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 97–18718 Filed 7–15–97; 8:45 am]

BILLING CODE 6210–01–F

[1] Copies of the Minutes of the Federal Open Market Committee meeting of May 20, 1997, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

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, July 21, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st 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: July 11, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–18784 Filed 7–11–97; 4:36 pm]

BILLING CODE 6210–01–P

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board; Meeting

AGENCY: General Accounting Office.

ACTION: Notice of July meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will meet on Friday, July 25, 1997, from 9 a.m. to 4 p.m. in the Elmer Staats Briefing Room, room 7C13 of the General Accounting Office building, 441 G St., NW., Washington, DC.

The purpose of the meeting is to discuss the following issues: (1) Proposed amendments to the Property, Plant, and Equipment standard, (2) a draft interpretation on the pension measurement date, (3) social insurance, (4) Management's Discussion and Analysis (MD&A), and (5) a request for deferral of implementation of the cost accounting standard.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., NW., Room 3B18, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. 92–463, sec. 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: July 10, 1997.

Wendy M. Comes,

Executive Director.

[FR Doc. 97–18613 Filed 7–15–97; 8:45 am]

BILLING CODE 1610–91–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of a Cooperative Agreement With the City University of New York Research Foundation

The Office of Minority Health (OMH), Office of Public Health and Science, announces that it will enter into a cooperative agreement with the City University of New York Research Foundation to establish a peer model program for asthma attack avoidance education.

The purpose of this cooperative agreement is to establish a community-based, parent-child focused educational program designed to increase identification of potential asthma attack-triggering factors among minority, specifically Hispanic, urban children, decrease the incidence of asthma attacks and ensure appropriate referral for medical care. The OMH will provide technical assistance and oversight as necessary for the implementation, conduct, and assessment of the project activities. On an as-needed basis, OMH will assist in arranging consultation from other Government agencies and non-governmental agencies.

Authorizing Legislation

This cooperative agreement is authorized under Title XVII, Section 1707(d)(1) of the Public Health Service Act, as amended by Public Law 101–527.

Background

Assistance will be provided only to the City University of New York Research Foundation. No other applications are being solicited under this announcement. City University of New York Research Foundation through its program with Health Force is uniquely qualified to accomplish the objectives of this cooperative agreement because it has the following combination of factors:

- A service area consisting primarily of an economically disadvantaged minority population.
- Strong ties to the community and the ability to work with the community on health related activities.
- Previous experience in working with the targeted population, training peer educators, and coordinating community based health activities with hospitals and community health centers.
- Education programs designed to meet the health care prevention needs of critical and chronically ill children.
- A targeted area which is composed of a predominantly minority population with a high rate of asthma among children and youth of Hispanic descent, e.g., of the 32,000 Hispanic children within this service area of South Bronx, 8.3 percent suffer from asthma.
- Commitment of neighborhood partners to provide sites for asthma related educational and prevention programs.
- Experience in conducting parent and teen focused programs.

This cooperative agreement will be awarded for a 3-year project period with funding at $250,000 (including indirect cost) per 12-month budget period. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this project, contact Ms. Cynthia Amis, Office of Minority Health, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852 or telephone (301) 594–0769.

Dated: June 19, 1997.

Clay E. Simpson, Jr., MSPH,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 97–18674 Filed 7–15–97; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Contract Review Meeting

In accordance with Section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), announcement is made of the following technical review committee to meet during the month of July 1997:

Name: Committee on the Agency for Health Care Policy and Research Publications Clearinghouse.

Date and Time: July 21–22, 1997, 10:00–3:00 p.m.

Place: Agency for Health Care Policy and Research, 2101 East Jefferson Street, Suite 502, Rockville, MD 20852.

This meeting will be closed to the public.

Purpose: The Technical Review Committee's charge is to provide, on behalf of the Agency for Health Care Policy and Research (AHCPR) Contracts Review

Committee, recommendations to the Administrator, AHCPR, regarding the technical merit of contract proposals submitted in response to a specific Request for Proposals regarding the AHCPR Publications Clearinghouse that was published in the Commerce Business Daily on May 19, 1997.

The purpose of this contract is to continue the provision of services by an AHCPR Publications Clearinghouse. The Clearinghouse operation includes a 24-line information and publication dissemination call center; the storage, distribution, and postal metering of publications; the maintenance and management of an automated mailing and inventory control system; and the management, storage, and shipping of exhibits. These services are required to ensure the timely dissemination of AHCPR research findings and related publications to the research community and general public.

Agenda: The Committee meeting will be devoted entirely to the technical review and evaluation of contract proposals submitted in response to the above referenced Request for Proposals. The Administrator, AHCPR, has made a formal determination that this meeting will not be open to the public. This action is necessary to protect the free and full exchange of views in the contract evaluation process and safeguard confidential proprietary information, and personal information concerning individuals associated with the proposals that may be revealed during the meeting. This action is taken in accordance with section 10(d) of the Federal Advisory Committee Act, 5 U.S.C., Appendix 2, 5 USC 522(b)(c)(6), 41 CFR Section 101–6.1023 and Department procurement regulations, 48 CFR section 315.604(d).

Anyone wishing to obtain information regarding this meeting should contact Judy Wilcox, Center for Research Dissemination, Agency for Health Care Policy and Research, 2101 East Jefferson Street, Suite 501, Rockville, Maryland 20852, 301/594–1364.

Dated: July 9, 1997.

John M. Eisenberg,

Administrator.

[FR Doc. 97–18686 Filed 7–15–97; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Notice of Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of August 1997:

Name: Health Care Policy and Research Special Emphasis Panel.

Date and Time: August 6, 1997, 8:00 a.m.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Gallery Room, Bethesda, Maryland 20814.

Open August 6, 1997, 8:00 a.m. to 8:15 a.m. Closed for remainder of meeting.

Purpose: This Panel is charged with conducting the initial review of grant applications requesting dissertation support for health services research undertaken as part of an academic program to qualify for a doctorate.

Agenda: The open session of the meeting on August 6 from 8:00 a.m. to 8:25 a.m. will be devoted to a business meeting covering administrative matters. During the closed session, the panel will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members of other relevant information should contact Carmen Johnson, Agency for Health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1449 x1613.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: July 10, 1997.

John Eisenberg,

Administrator.

[FR Doc. 97–18684 Filed 7–15–97; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Notice of Health Care Policy and Research; Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of July 1997:

Name: Health Care Policy and Research Special Emphasis Panel.

Date and Time: July 24, 1997, 1:00 p.m.

Place: Agency for Health Care Policy and Research, 2101 E. Jefferson Street, Suite 400, Rockville, MD 20852.

Open: July 24, 1997, 1:00 p.m. to 1:15 p.m. Closed for remainder of meeting.

Purpose: This Panel is charged with conducting the initial review of grant applications on health services research issues related to care for persons with acquired immune deficiency syndrome (AIDS) and other related human immunodeficiency virus (HIV) diseases.

Agenda: The open session of the meeting on July 24, from 1:00 p.m. to 1:15 p.m., will be devoted to a business meeting covering administrative matters. During the closed session, the committee will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Acting Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact Carmen M. Johnson, Agency for Health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1449 x1613.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: July 10, 1997.

John Eisenberg,

Administrator.

[FR Doc. 97–18687 Filed 7–15–97; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: 45 CFR Part 303.72—Request for collection of past-due support by Federal tax refund offset and administrative offset.

OMB No.: None.

Description: The Office of Child Support Enforcement (OCSE) operates the Tax refund offset (TROP). The TROP was enacted by Congress on August 13, 1981 (Pub. L. 97–35, section 2331). This is a computerized system operated by the Office of Child Support Enforcement (OCSE) within the Administration for Children and Families (ACF) of the U.S. Department of Health and Human Services (HHS) and State child support agencies. The TROP was established to recover delinquent AFDC child support debts with ongoing cooperation of states and local child support agencies.

The Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) signed by the President in November 1990, expanded the Program to include a provision for non-AFDC cases.

In 1996 the Debt Collection Improvement Act (Pub. L. 104–134)

further expanded the program to increase the collection of nontax debts owed to the Federal Government and to assist families in collecting past-due child support. It required the development and implementation of procedures necessary to collect past-due support by administrative offset by agencies. As a result, this program is now known as the Tax Refund and Administrative Offset Program (TROP/ADOP).

Purpose: Pursuant to Public Laws 97–35 enacted by Congress on August 13, 1981, Public Law 101–508 signed by the President in November 1990 and Public Law 104–134 enacted into law on April 26, 1996, the Debt Collection Improvement Act of 1996, and pursuant to the Executive Order 13019 dated September 28, 1996, the OCSE will match the tax refund records against Federal payment certification records and Federal financial assistance records. The purpose is to facilitate the collection of delinquent child support obligations from persons who may be entitled or eligible to receive certain Federal payments or Federal assistance. State child support agencies submit cases of delinquent child support claims to the OCSE for submission to the Financial Management Service (FMS). These cases are sent by on-line dial-up access via personal computer, tape and cartridge via mail, Mitron tape, file transfer, or electronic data transmission. The Office of Child Support Enforcement serves as a conduit between state child support enforcement agencies and the FMS by processing weekly updates of collection data and distributing the information back to the appropriate State child support agency. The information will be disclosed by OCSE to state child support agencies for use in the collection of child support debts, through locate action wage withholding or other enforcement actions.

Respondents: State and local governments. (50 States, District of Columbia, Guam, Puerto Rico, and Virgin Islands.)

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Standard forms	54	30	2	3,240

Estimated Total Annual Burden Hours: 3,240.

* The 1,620 transmittals (54 x 30) represent 5.2M offset requests per year.

In compliance with the requirements of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20047, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: July 10, 1997.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 97–18677 Filed 7–15–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: ACF–196 Temporary Assistance for Needy Families Financial Reporting Form.

OMB No.: New.

Description

Description for **Federal Register** Notice of why the information is being collected, what it is and how it will be used. Provide specifics where relevant: The form provides specific data regarding claims and provides a mechanism for States to request grant awards and certify availability of State matching funds. Failure to collect this data would seriously compromise ACF's ability to monitor expenditures. This information is also used to estimate outlays and may be used to prepare ACF budget submissions to Congress. The following citations should be noted in regards to this collection: 405(c)(1); 409(a)(7); and 409(a)(1).

Respondents: States, Puerto Rico, Guam and the District of Columbia

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–196 ...	54	4	8	1,728

Estimated Total Annual Burden Hours: 1,728.

Additional Information

ACF is requesting that OMB grant a 180 day approval for this information collection under procedures for emergency processing by October 1, 1997. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Bob Driscoll at (202) 401–6465.

Comments and questions about the information collection described above should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paperwork Reduction Project, 725 17th Street N.W., Washington, D.C. 20503, (202) 401–9313.

Dated: July 10, 1997.

Bob Driscoll,

Reports Clearance Officer.

[FR Doc. 97–18676 Filed 7–15–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0266]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by August 15, 1997.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC, 20503, Attention: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Judith V. Bigelow, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1479.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Administrative Detention and Banned Medical Devices (21 CFR 800.55, 800.55(k), 895.21, and 895.22) (OMB Control Number 0910–0114—Reinstatement)

FDA has the statutory authority under section 304(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 334(g)), to detain during establishment inspections devices that are believed to be adulterated or misbranded. On March 9, 1979, FDA issued a final regulation on administrative detention procedures, which includes, among other things, certain reporting requirements (§ 800.55(g) (21 CFR 800.55(g))) and recordkeeping requirements (§ 800.55(k)). Under § 800.55(g), an appellant of a detention order must show documentation of ownership if devices are detained at a place other than that of the appellant. Under § 800.55(k), the owner or other responsible person must supply records about how the devices may have become adulterated or misbranded, as well as records of distribution of the detained devices. These recordkeeping requirements for administrative detentions allow FDA to trace devices for which the detention period expired before a seizure is accomplished or injunctive relief is obtained.

FDA also has the statutory authority under section 516 of the act (21 U.S.C. 360f) to ban devices that present substantial deception or an unreasonable and substantial risk of illness or injury. The final regulation for banned devices contains certain reporting requirements (§§ 895.21(d) and 895.22(a) (21 CFR 895.21(d) and 895.22(a))). Section 895.21(d) states that if the Commissioner of Food and Drugs (the Commissioner) decides to initiate a proceeding to make a device a banned device, a notice of proposed rulemaking will be published in the **Federal Register**, and this notice will contain the finding that the device presents a substantial deception or an unreasonable and substantial risk of illness or injury. The notice will also contain the reasons why the proceeding was initiated, an evaluation of data and information obtained under other provisions of the act, any consultations with the panel, and a determination as to whether the device could be corrected by labeling or change of labeling, or change of advertising, and if that labeling or change of advertising has been made. Under § 895.21(d), any interested person may request an informal hearing and submit written comments. Under § 895.22, a manufacturer, distributor, or importer of a device may be required to submit to FDA all relevant and available data and information to enable the Commissioner to determine whether the device presents substantial deception, unreasonable and substantial risk of illness or injury, or unreasonable, direct, and substantial danger to the health of individuals.

Respondents to this collection of information are those manufacturers, distributors, or importers whose products FDA seeks to detain or ban. As previously stated, the collection of data and information under these regulations is conducted on a very infrequent basis and only as necessary.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
800.55(g)	1	1	1	25	25
895.21(d) and 895.22(a)[2]	0	0	0	0	0
Total	.....	.....	.....	.....	25

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.
[2]No devices were banned during the past 3 years (§§ 895.21 and 895.22). Therefore, no burden has been imposed upon industry. When the prosthetic hair fibers were banned, there were no firms in the United States that were manufacturing or distributing the products. Thus, FDA has put zeroes in the columns estimating reporting and recordkeeping burdens.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
800.55(k)	1	1	1	20	20
Total	.....	.....	.....	.....	20

There are no capital costs or operating and maintenance costs associated with this collection of information.

Over the past 3 years, there has been an average of one new administrative detention action per year. Each administrative detention will have varying amounts of data and information that must be maintained.

FDA's estimate of the burden under the administrative detention provision is based on FDA's discussion with one of the three firms whose devices had been detained over the last 3 years.

Dated: July 7, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–18592 Filed 7–15–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0265]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by August 15, 1997.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC, 20503, Attention: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Judith V. Bigelow, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1479.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Investigational Device Exemptions Reports and Records (21 CFR Part 812) (OMB Control Number 0910–0078—Reinstatement)

This information is collected under the statutory authority of the Federal Food, Drug, and Cosmetic Act (the act) regarding investigational devices (section 520(g) (21 U.S.C. 360j(g))). An investigational device exemption (IDE) allows a device, which would otherwise be subject to provisions of the act such as premarket notification or premarket approval, to be used in investigations involving human subjects in which the safety and effectiveness of the device is being studied. The purpose of this section, as explained in part 812 (21 CFR part 812) in § 812.1, is to encourage, to the extent consistent with the protection of public health and safety and with ethical standards, the discovery and development of useful devices intended for human use. Under §§ 812.20, 812.25, and 812.27, information collected in the application includes sponsor information; a report of prior investigations including reports of all prior clinical, animal, and laboratory testing of the device, a bibliography of all publications, and a summary of all other unpublished information; an investigational plan including study, purpose, protocol, risk analysis, device description, and monitoring procedures; a description of the methods, facilities, and controls used for the manufacture, processing, packing, and storage of the device; investigator information including agreements and certifications; institutional review board (IRB) information; information on the amount to be charged for the device; device labeling; and informed consent materials.

Section 812.10, regarding waiver of IDE requirements, states that if a sponsor does not wish to comply with certain requirements of part 812, the sponsor may voluntarily submit a waiver request.

Under § 812.35, when an investigational plan changes, a sponsor is required to submit a supplemental application to FDA, and the sponsor may not begin a part of an investigation at a facility until the IRB has approved the investigation, FDA has received the certification of IRB approval, and FDA has approved the supplemental application relating to that part of the investigation.

Section 812.140 requires investigators to maintain records, including correspondence and reports concerning the study; records of receipt, use or disposition of devices; records of each subject's case history and exposure to the device; informed consent documentation; study protocol and documentation of any deviation from the protocol. Sponsors are required, under the same section, to maintain records including correspondence and reports concerning the study; records of shipment and disposition; signed investigator agreements; adverse device effects information; and, if of nonsignificant risk, an explanation of nonsignificant risk determination, records on device name and intended use, study objectives, investigator information, IRB information, and statement on the extent that good manufacturing practices will be followed.

Section 812.150 requires investigators to submit reports on unanticipated adverse device effects, withdrawal of IRB approval, progress reports, deviations from investigational plan, failure to obtain informed consent, and final report. Sponsors are required to submit reports on unanticipated adverse device effects, withdrawal of IRB approval, withdrawal of FDA approval, current investigator lists, progress reports, notification of recall and device disposition, final report, failure to obtain informed consent, and significant risk device determination.

The following parts of the IDE regulations are covered by other sections of part 812, and thus are not mentioned as separate reporting or recordkeeping burden requirements. The requirements for § 812.18, regarding import and export requirements for IDE's, are already covered under § 812.20(b)(1). Section 812.18 states that foreign companies are required to be sponsored by a U.S. agent, whose identity is required under the IDE application. This is not an additional information collection, and a separate requirement for information is not essential just because this is an imported device. Sections 812.40, 812.45, and 812.46, regarding the general responsibilities of sponsors, are described under §§ 812.20, regarding actual application and 812.150, regarding recordkeeping.

Section 812.5, regarding the labeling of investigational devices, is included under § 812.20(b)(10), where the submitter is required to enclose a copy of the label that bears information required by § 812.5 (i.e., name and place of business of manufacturer, packer, or distributor, the quantity of contents if appropriate, and the following statement: ''CAUTION—Investigational device. Limited by Federal (or United States) law to investigational use''). This label shall describe all relevant contraindications, hazards, adverse effects, interfering substances or devices, warnings, and precautions. The label will also not bear any statement that is false or misleading in any particular and shall not represent that the device is safe or effective for the purposes for which it is being investigated. If the device is being used solely for animal research, the label shall bear the following statement: ''CAUTION—Device for investigational use in laboratory animals or other tests that do not involve human subjects.'' This section's burden is required under § 812.20(b)(10), therefore a separate burden estimate is not required.

This information will allow FDA to collect data to ensure that the use of the device will not present an unreasonable risk for the subject enrolled in the study and will not violate the subject's rights.

The likely respondents to this information collection will primarily be medical device manufacturers, investigators, hospitals, health maintenance organizations, and businesses.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
812.10 (waiver requests)	0.0	0.0	0.0	0.50[1]	0.1[2]
812.20, 812.25, and 812.27 (original application)	500	0.428	214	80	17,120
812.35 and 812.150 (amendments and supplements)	500	6.86	3,430	6	20,580
Total					37,700

There are no capital costs or operating and maintenance costs associated with this collection of information.
[1] FDA's best estimate given the fact that no waiver request has ever been submitted.
[2] FDA's best estimate given the fact that no sponsor has submitted such a request between fiscal years 1991 and 1995.

Based on past conversations with manufacturers, industry and trade association representatives, and businesses, FDA has estimated that the annual reporting burden for one IDE original application takes approximately 80 hours to complete, and the annual reporting burden for one IDE amendment and supplement takes approximately 6 hours to complete. The number of respondents who annually respond to this collection of information has decreased from 700 to 500, due to multiple applications received from each respondent.

Based on an average of IDE's submitted from fiscal years 1991 through 1995, approximately 500 respondents submit IDE applications (originals and supplements) annually. Based on data from fiscal years 1991 to 1995, an average of 214 original IDE applications are submitted annually.

The reporting burden for nonsignificant risk device studies is negligible. Normally, nonsignificant risk device studies are not reported to FDA unless a problem is reported such as an unanticipated adverse device reaction, failure to obtain informed consent, withdrawal of IRB approval, or a recall of a device. In the past, an average of 10 incidences or less annually have been reported to FDA.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
812.140 (original and supplement)	500	0.428	214	10	2,140
		6.86	3,430	1	3,430
812.140 (nonsignificant)	500	1	500	6	3,000
Total					8,570

There are no capital costs or operating and maintenance costs associated with this collection of information.

Over the past several years, in conversations with manufacturers, industry trade association groups, and businesses, FDA has estimated that the recordkeeping burden for preparing an original IDE submission averages 10 hours for each original IDE submission. Similarly, through the same conversations mentioned above, FDA has estimated recordkeeping for each supplement requires 1 hour.

The recordkeeping burden for nonsignificant risk device investigations is difficult to estimate because nonsignificant risk device investigations are not required to be submitted to FDA. The IDE staff estimates that the number of nonsignificant risk device investigations is equal to the number of active significant risk device investigations. The recordkeeping burden, however, is reduced for nonsignificant risk device studies.

Dated: July 7, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–18593 Filed 7-15-97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0264]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by August 15, 1997.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Judith V. Bigelow, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1479.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Information Required in a Premarket Notification Submission (21 CFR 807.87, 807.92, and 807.93) (OMB Control Number 0910–0281—Reinstatement)

Under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)), a premarket notification must be filed before the introduction or delivery for introduction of a device intended for human use. Under § 807.87 (21 CFR 807.87), premarket notifications are required to contain certain information, including the device name, establishment registration number, class of the device, the device's proposed labeling, action taken by the person required to register to comply with performance standards, and a 510(k) summary as described in § 807.92 (21 CFR 807.92) or a 510(k) statement as described in § 807.93 (21 CFR 807.93). In addition, § 807.87(i) requires that those filing premarket notification who claim substantial equivalence to certain devices as described in § 807.87(i), that are classified into class III, must submit to FDA a summary of safety and effectiveness problems and a citation to the information upon which the summary is based. The premarket notification submitter must also furnish FDA with a certification that a reasonable search has been conducted of all known information.

The information collected in the premarket notification is necessary to enhance FDA's ability to ensure that only premarket notification submissions for devices that are as safe and as effective as legally marketed predicate devices are cleared for marketing. In addition, FDA makes publicly available this information concerning devices for which a marketing order has been issued, in order to provide to the public the agency's basis for equivalence determinations.

Respondents to this collection of information are medical device manufacturers and distributors.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
807.87(h) and 807.92 (simple 510(k) summaries)	2,592	1	2,592	8	20,736
807.87(h) and 807.92 (complex 510(k) summaries)	247	1	247	12	2,964
807.87(h) and 807.93 (510(k) statements)	2,896	1	2,896	1	2,896
807.87(i) and 807.94 (certifications)	208	1	208	40	8,320
Total					34,916

There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA bases these estimates on conversations with industry and trade association representatives, and from internal review of the documents listed in the table above.

Under § 807.93, anyone submitting a 510(k) statement must make that information available to anyone who requests it.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
807.93	2,896	10	28,960	0.5	14,480
Total					14,480

There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: July 7, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–18595 Filed 7-15-97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0129]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''FDA Safety Alert/Public Health Advisory Readership Survey'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 21, 1997 (62 FR 19323), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). OMB has now approved the information collection and has assigned OMB control number 0910–

0341. The approval expires on June 30, 2000. 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.

Dated: July 8, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–18594 Filed 7–15–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPD–845–PN]

RIN 0938–AH28

Medicare Program; Special Payment Limits for Home Oxygen

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: This notice would establish special payment limits for home oxygen. Currently, payment under the Medicare program for home oxygen and other items of durable medical equipment is equal to 80 percent of the lesser of the actual charge for the item or the fee schedule amount for the item. Based on our experience and after consulting with representatives of home oxygen suppliers, we have determined that the Medicare fee schedule amounts for home oxygen are grossly excessive and are not inherently reasonable because they are excessively high relative to the payment amount for similar services by the Department of Veterans Affairs which uses a true competitive payment methodology. This notice would replace the use of the fee schedule amount and proposes that payment for home oxygen be equal to 80 percent of the lesser of the actual charge or a special payment limit set by HCFA, which would vary by locality. It is intended to prevent continuation of excessive payment. The special limit would be based on the average payment amount for home oxygen services by the Department of Veterans Affairs.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, by 5 p.m. on September 15, 1997.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–845–PN, P.O. Box 26676, Baltimore, MD 21207–0476.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–845–PN. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

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FOR FURTHER INFORMATION CONTACT: William J. Long (410) 786–5655.

SUPPLEMENTARY INFORMATION:

I. Background

A. Payment Under Reasonable Charges

Payment for durable medical equipment (DME) furnished under Part B of the Medicare program (Supplementary Medical Insurance) is made through contractors known as Medicare carriers. Before January 1, 1989, payment for DME was made on a reasonable charge basis by these carriers. The methodology used by the carriers to establish reasonable charges is set forth in sections 1833 and 1842(b) of the Social Security Act (the Act) and 42 CFR part 405, subpart E of our regulations. Reasonable charge determinations are generally based on customary and prevailing charges derived from historic charge data. The reasonable charge for an item of DME was generally set at the lowest of the following factors—

- The supplier's actual charge for the item.
- The supplier's customary charge.
- The prevailing charge in the locality for the item. (The prevailing charge may not exceed the 75th percentile of the customary charges of suppliers in the locality.)
- The inflation indexed charge (IIC). (The IIC is defined in § 405.509(a) as the lowest of the fee screens used to determine reasonable charges for services, supplies, and equipment paid on a reasonable charge basis (excluding physician services) that is in effect on December 31st of the previous fee screen year, updated by the inflation adjustment factor.)

B. Exception to the Reasonable Charge Payment Methodology—Special Reasonable Charge Limits

Section 1842(b)(3) of the Act requires that payments under Part B of the Medicare program that are made on a charge basis must be reasonable. Paragraphs (8) and (9) of section 1842(b) provide that we may establish a special reasonable charge for a category of service if, after appropriate consultation with representatives of affected parties, we determine that the standard rules for calculating reasonable charges result in grossly deficient or grossly excessive charges.

The applicable regulations are located at § 405.502(g) and require us to consider the available information that is relevant to the category of service and establish reasonable charge limits that are realistic and equitable. The limit on the reasonable charge is an upper limit to correct a grossly excessive charge or a lower limit to correct a grossly

deficient charge. The limit is either a specific dollar amount or is based on a special method to be used in determining the reasonable charge.

Section 405.502(g)(1) provides the following examples of circumstances that may result in grossly deficient or excessive charges—

- The marketplace is not competitive.
- Medicare and Medicaid are the sole or primary source of payment for a service.
- The charges involve the use of new technology for which an extensive charge history does not exist.
- The charges do not reflect changing technology, increased facility with that technology, or changes in acquisition, production, or supplier costs.
- The prevailing charges for a service in a particular locality are substantially higher or lower than prevailing charges in other comparable localities, taking into account the relative costs of furnishing the services in the different localities.
- Charges are grossly lower than or exceed acquisition or production costs.
- There have been increases in charges for a service that cannot be explained by inflation or technology.
- The prevailing charges for a service are substantially higher or lower than the payments made for the service by other purchasers in the same locality.

Section 405.502(g)(3) requires that we publish proposed payment limits in the **Federal Register**. We then allow 60 days for receipt of public comments on the proposal. After we have considered all timely comments, we publish in the **Federal Register** a final notice announcing the special payment limits and our analyses and responses to the comments. Section 405.502(g)(3) also provides that the proposed and final notices must set forth the criteria and circumstances, if any, under which a carrier may grant an exception to the limit(s).

C. Durable Medical Equipment Fee Schedules

On December 22, 1987, the Congress passed section 4062 of the Omnibus Budget Reconciliation Act of 1987, Public Law 100–203, which added section 1834(a) to the Act. Section 1834(a) provides for a fee schedule payment methodology for DME furnished on or after January 1, 1989. Section 4152(h) of the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, delayed the effective date of the oxygen fee schedule payment methodology until June 1, 1989. (This fee schedule payment methodology is set forth in 42 CFR part 414, subpart D.) Sections 1834(a)(1)(A) and (B) of the Act provide that Medicare payment for DME is equal to 80 percent of the lesser of the actual charge for the item or the fee schedule amount for the item. Section 1834(a) of the Act classifies DME into the following payment categories:

- Inexpensive or other routinely purchased DME.
- Items requiring frequent and substantial servicing.
- Customized items.
- Oxygen and oxygen equipment.
- Other items of DME (capped rental items).

There is a separate methodology for determining the fee schedule payment amount for each category of DME and the fee schedules are adjusted annually by a covered item update factor. The covered item update factor is generally equal to the change in the Consumer Price Index for all Urban Consumers (CPI–U) for the 12-month period ending June 30 of the preceding year.

Section 1834(a)(10)(B) of the Act provides that we may apply the special payment limits authority of paragraphs (8) and (9) of section 1842(b) to covered items of DME and suppliers of these items and payments under section 1834(a) in the same manner as these provisions apply to physician services and physician and reasonable charges under section 1842(b).

D. Current Payment for Home Oxygen

Home oxygen is covered by the Medicare program as DME and is paid for in accordance with the methodology specified in the oxygen and oxygen equipment payment category. This methodology is contained in sections 1834(a)(5) and (9) of the Act. Section 1834(a)(5) requires that payment for oxygen and oxygen equipment be on a monthly basis. An add-on for portable oxygen equipment is provided under this section as well as a 50 percent increase in payments when the prescribed liter flow is greater than 4 liters of oxygen per minute or a 50 percent decrease in payments when the prescribed liter flow is less than 1 liter of oxygen per minute.

Section 1834(a)(9)(A) specifies how the monthly payment amount is computed. Section 1834(a)(9)(A) requires that each Medicare carrier compute a base local average monthly payment rate per beneficiary as an amount equal to the total reasonable charges for all items of oxygen and oxygen equipment (other than portable oxygen equipment) divided by the total number of months for all beneficiaries receiving oxygen during 1986. For 1989 and 1990, the base local average monthly payment rate was equal to 95 percent of the base local average monthly payment rate increased by the percentage increase in the CPI–U for the six-month period ending with December 1987. For subsequent years, the payment rate is increased by the covered item update, generally the percentage increase in the CPI–U for the 12-month period ending with June of the previous year.

In addition, section 1834(a)(9)(B) requires the computation of a national limited monthly payment rate beginning in 1991. The national limited monthly payment rate is defined as an amount not to exceed 100 percent of the median of all local monthly payment rates computed for the item or less than 85 percent of the median.

Regulations implementing the statutory provisions of sections 1834(a)(9)(A) and (a)(9)(B) are contained in 42 CFR 414.226.

Currently, there are three types of oxygen delivery systems: gas, liquid, and concentrators. As a result of the fee schedule methodology, Medicare pays for home oxygen without regard to the type of system. The fee schedule amounts are based on an average of the amounts paid for all three types of oxygen delivery systems during the 1986 base period. A major expectation under this modality neutral payment methodology was that suppliers would be able to furnish the most cost effective and medically appropriate system to their patients.

The current fee schedule amounts for home oxygen are a result of the fee schedule methodology as specified in sections 1834(a)(5) and (9) of the Act and § 414.226 as discussed above.

Since the enactment of section 1834(a)(5), we have not utilized the special reasonable charge limits located at § 405.502(g) to determine whether the standard fee schedule payment rules for oxygen result in grossly deficient or excessive charges. However, as explained below, we are proposing to reduce Medicare's payment amounts for home oxygen because Medicare's payment amounts for oxygen are substantially higher than the payments made by another purchaser in the same locality.

E. Comparison With the Department of Veterans Affairs

The Department of Veterans Affairs (VA) also administers a national program for the furnishing of oxygen to patients at home. The VA is different from Medicare and most other payers in that it uses a competitive bidding methodology for making payment, whereas Medicare carriers use historical charge data to establish a base local average monthly payment per

beneficiary that is used to determine a national limited monthly payment rate.

The primary objective of a competitive bidding methodology is to utilize competitive market forces in order to establish a payment amount that is closer to suppliers' marginal costs of doing business including a fair profit amount. Under competitive bidding, suppliers are required to specify in advance the minimum price they will accept for each product of service, and low bidders are awarded contracts on either an exclusive or non-exclusive basis to provide these items to program clients. In that bidders are in competition with one another, each bidder's bid is likely to reflect its true costs plus a reasonable rate of profit, because unrealistically high bid prices would ensure a bidder's exclusion from a particular segment of the market and unrealistically lower bids would result in reimbursement rates that are below costs. Therefore, we conclude that a competitive bidding methodology results in a bid that reflects a supplier's true costs plus a reasonable profit. In contrast, suppliers do not reveal their true costs to Medicare because Medicare reimbursement rates for oxygen reflect a ''reasonable charge'' methodology driven by supplier charges and then a modality neutral fee schedule derived from charges in a base year. These payment rates are likely, over time, to have little, if any, relationship to suppliers' costs.

No other payment methodology that we reviewed takes full advantage of competitive market forces to the extent of the competitive bidding methodology. Only in a competitive environment can buyers take full advantage of the sellers' marginal costs of doing business in that the potential for lost business is brought to bear on those suppliers whose prices exceed their competitors' prices. The lowest bid is the best indicator of the actual costs of supplying the product by an efficient supplier, plus a reasonable profit. Thus, we believe that the VA's competitive bidding payment methodology produces a payment amount that takes advantage of true competitive forces and, therefore, is a better measure upon which to compare current Medicare payment amounts.

Economic analyses of Medicare reimbursement arrangements have been undertaken for a variety of health care providers and suppliers over the past two decades. A principal motivation in these analyses is to understand how reimbursement arrangements affect the price taxpayers pay for the purchased good or service. In its 1990 ''Review of Reimbursement Methods of Other Payers for Durable Medical Equipment,'' Abt Associates Inc., found ample evidence that competitive bidding encourages suppliers to bid prices closer to their true costs while Medicare's reimbursement methods offer no such incentives to suppliers. Abt found that competitive bidding programs for oxygen concentrators at VA Medical Centers obtained reimbursement levels as much as 70 percent lower than Medicare. A similar procurement program for concentrators in the Utah Medicaid program obtained a monthly rental price that was 42 percent below the average Medicare prices in the State for the 1986 to 1988 period. The Minnesota Medicaid program obtained a monthly rental price for concentrators that was 60 percent below the Medicare prices in the State for this same three-year period.

An examination of the payment outcomes produced by the Medicare payment methodology and the reimbursement mechanisms for oxygen concentrators in Utah and Minnesota indicates that while starting at a lower level than Medicare, the competitive Medicaid payment levels decreased from the mid- to late-1980's, while the corresponding Medicare prices increased over the same period. We believe that the differences in both the absolute amounts of these prices and the opposing direction of price changes over time, demonstrate the inherent inability of Medicare's formulaic, historical, charge-based reimbursement methodology (whether fee schedule or reasonable charge) to accurately reflect the true costs of suppliers in the home oxygen market.

In its yearly home oxygen program report ''National Home Oxygen Program, FY94 Cost Review'', the VA indicated that the weighted average payment amount for oxygen concentrators is $125.96 per month. The VA reports that this amount includes the costs of the portable/back-up system and refills. In contrast, Medicare pays an average monthly payment amount of approximately $280 for a stationary oxygen system (including contents), regardless of the type of oxygen system, plus an average of $45 per month for a portable system, for a total of $325 per month. Thus Medicare is paying 2.6 times as much as the VA for an oxygen concentrator plus portable system and portable refills.

II. Provisions of This Proposed Notice

Based on our experience and after consulting with representatives of home oxygen suppliers, we have determined that the Medicare fee schedule payment amounts for home oxygen are not inherently reasonable because they are grossly excessive relative to the payment amount for similar services by the VA which uses a true competitive payment methodology. In accordance with section 1842(b)(8) of the Act, we are proposing to replace the use of the current fee schedule payment with special payment limits for home oxygen.

A. Special Payment Limits for Home Oxygen

For home oxygen services furnished to Medicare beneficiaries, we propose a special payment limit.

The national limited monthly payment rate for stationary home oxygen services for 1994 would be reduced by 40.11 percent, then updated by the covered item update for years subsequent to 1994. Similarly, the 1994 local stationary fee schedule amount for Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands, would be reduced by 40.11 percent, then updated by the covered item update for years subsequent to 1994.

We arrived at the 40.11 percent adjustment by comparing what Medicare would have paid for oxygen services in 1994 had it paid the 1994 VA weighted average payment amount for concentrators plus a 30 percent differential ($37.79). Using the VA weighted average of $125.96 for oxygen concentrators plus portable system, plus a 30 percent differential (i.e., $125.96 + $37.79 = $163.75) instead of Medicare's average payment amounts for a concentrator, i.e., approximately $325, would yield a reduction of 40.11 percent in annual costs of stationary oxygen.

The following chart illustrates this computation. Column B contains Medicare expenditures for home oxygen by type of oxygen system. We assumed the ratio of expenditures for portable equipment would be the same as the ratio of patients using portable equipment, that is, 82.4 percent for concentrators, 16 percent for liquid, and 1.6 percent for gas. We applied these ratios to total expenditures for portable equipment, that is, $143 million. Similarly, column C contains the number of Medicare beneficiary months by type of oxygen system. Medicare's oxygen concentrator expenditures for 1994 would have been $617,274,286, as reflected in column E, rather than the actual $1,210,578,776 had the payment rate calculations been based on VA's weighted average payment amount for concentrator plus portable systems (i.e., $125.96) plus a 30 percent differential (i.e., $163.75).

Medicare's total expenditures for home oxygen for 1994 would have been

$885,858,597 rather than the $1,479,163,088 had payment been based on the VA's payment amount for home oxygen plus a 30 percent differential. Thus, Medicare would have saved $593,304,490 (i.e., $1,479,163,088 less $885,858,597) or 40.11 percent.

We would point out that this proposed adjustment does not apply to Medicare's portable add-on even though such adjustment would be justified in that the VA payment amounts for concentrators include payment for portable oxygen equipment. We estimate that application of this proposed adjustment to portable equipment would generate an additional savings of 4 percent. We specifically solicit comments on applying the adjustment to portable equipment.

We would also point out that the 40.11 percent reduction could be further reduced since it does not take into account that the VA also pays less for gas and liquid equipment and contents than Medicare.

RECOMPUTATION OF MEDICARE OXYGEN EXPENDITURES

Type of Stationary Oxygen System	1994 Expenditures for Oxygen (Stationary and Contents and Portable) Source 1	1994 Number of Beneficiary Months Source 1	Revised Average Monthly Payment Amount Source 2	1994 Expenditures Based on Revised 1994 VA Concent. Pricing (C X D) for Concentrators B for Liquid and Gas
A	B	C	D	E
Total	1,479,163,088	4,559,200		885,858,597
Concentrators	1,210,578,776	3,769,660	163.75	617,274,286
Liquid	249,994,932	728,900		249,994,932
Gas	18,589,379	60,640		18,589,379

Inherent Reasonableness Adjustment

1994 Total Expenditures = (B)	1,479,163,088
Minus Total 1994 Expenditures Based on VA Concentrator Prices = (E)	885,858,597
Amount That Would Have Reduced Total Expenditures had Expenditures Been Based on VA Prices = (B—E)	593,304,490
Result: Reduce 1994 Oxygen Fees By (40.11%)	593,304,490/B

Source 1: from 1994 HCFA data files

Source 2: based on weighted average VA monthly rental payment for concentrators + 30 percent.

This formula recognizes that suppliers' costs of doing business with Medicare are somewhat higher than the VA. The VA, by its very nature is a provider as well as a payer of services. The VA's dual role has resulted in a series of administrative features which reduces the supplier's costs. In addition, the VA preauthorizes all services before they are provided to patients thus effectively removing the need for suppliers to add a cost factor for uncollectible services or bad debts.

Given that Medicare is a payer and not a provider of services, and given the size and geographic distribution of Medicare's beneficiary population, it would be difficult to duplicate these administrative features for the Medicare program. Therefore, in the absence of such features, some of the cost differences between Medicare and the VA payments for oxygen can be explained by the higher costs of doing business with Medicare. Another factor, less easy to quantify, is the industry's assertion that an exact comparison of the VA's payment allowances with Medicare's allowances is inappropriate because of the dynamics of the oxygen marketplace. An economist described in some detail the potential for a situation in which an industry may sell the yield of excess capacity in a smaller market for less than the price at which it could afford to sell the product to a larger market if the demand were great enough to require additional manufacturing capacity. This argument rests on the contention that the VA's consumption of oxygen is so small in comparison to Medicare's that the industry's pricing reflects the marginal value of excess productivity, not the full cost of basic production. We also tentatively accept this argument and have also made allowance for it since sections 1842(b)(8) and (b)(9) require that a special payment limit be realistic and equitable.

The 30 percent differential is designed to be a proxy for these costs and other factors identified and unidentified, that may affect the differences between the prices the VA pays for oxygen and the prices HCFA pays.

We arrived at the differential by taking account of factors explicitly known to us and then by doubling the resultant estimate to assure that we have more than offset the effect of estimating errors and omissions.

We would note that the industry itself has previously indicated, in writing, that there is a 15 percent cost disadvantage attributable to furnishing oxygen services to Medicare beneficiaries as compared with the VA. We are tentatively accepting the industry's finding and have included this amount as part of the 30 percent cost differential.

We would expect this differential to be sustained only if the comments we receive on this notice provide the necessary documentation and support for the contentions that underlie it. In this connection, we believe there is a real burden on the industry to provide documentation to support these contentions. We would note that the industry's only written contention—that the differential is 15 percent—would have led us to recommend a 45 percent reduction in the price of stationary oxygen. Thus, we are particularly interested in receiving comments and further data relating to the factors that underlie the cost differential and the values assigned to them. Commentors are encouraged to submit verifiable data.

We are also interested in receiving comments regarding the implementation of this payment reduction. We realize that a 40.11 percent reduction in payment allowances for oxygen is significant. For this reason, we would consider alternative implementation methodologies, such as phasing in the 40.11 percent reduction over a period of time.

B. Applicability

The initial special payment limits we propose would apply to home oxygen furnished on or after the effective date of the published final notice and before January 1, 1998. For home oxygen furnished in calendar year 1997, the

special payment limits would be equal to the initial special payment limits increased by the 1995, 1996, and 1997 covered item update factors (the factor used to update other items of DME). The covered item update for 1995, 1996, 1997, and each subsequent year, is defined in section 1834(a)(14)(B) of the Act as the percentage increase in the consumer price index-urban for the 12-month period ending with June of the previous year. The covered item update factor for 1995, 1996, and 1997 is 2.5, 3.0, and 2.8 percent respectively. For each calendar year after 1997, the special payment limits would be equal to the special payment limits for the preceding calendar year increased by the covered item update for the calendar year to which the limits would apply.

C. Proposed Payment for Home Oxygen

We propose that payment for a stationary home oxygen system, which includes the oxygen delivery device and all supplies and accessories as well as the contents for the portable system, equal 80 percent of the lesser of the actual charge for the system or the appropriate special payment limit, as described in section A. above.

D. Carrier-Granted Exceptions

We are not proposing any circumstances under which a carrier may grant an exception to the application of the proposed special payment limit. We solicit comments on any circumstances where such an exception should be granted.

III. Other Provisions Considered Under This Proposed Notice

In developing this proposed notice, we also considered a number of other factors and met with industry representatives. These other factors as well as the industry representatives' major comments are discussed below.

A. Technological Changes

Although we did not directly rely on technological changes to determine either that our payments are grossly excessive or that our proposed special payment limit is realistic and equitable, we did rely on information regarding technological changes to conclude that reliance on the VA's competitive bidding methodology was appropriate as a basis of comparison with Medicare payments.

Under the modality neutral oxygen payment methodology that went into effect in 1989, suppliers have greatly reduced their operating costs by taking advantage of less costly means of oxygen delivery. Suppliers have increased their use of less costly oxygen concentrators and reduced their use of the more costly gas and liquid systems. The Office of Inspector General's report ''Trends in Home Oxygen Use'' (OEI–03–91–00710), dated August 1991, found that oxygen concentrator usage has increased since 1986, both in absolute terms and as a percentage of total services for all types of systems. According to the report, from 1986 to 1988 oxygen concentrator usage increased, while gaseous system usage decreased and liquid system usage remained constant. In 1986, the number of Medicare patients using oxygen concentrators was 66 percent. By 1989, 78 percent of all Medicare patients were using oxygen concentrators.

HCFA data for the period 1987 to 1994 indicates that Medicare patients using concentrators increased from 68 percent to 82.7 percent.

The VA indicates that 80 percent of their patients used concentrators in 1994.

Oxygen concentrators produce oxygen for patients by removing impurities from room air, for example, nitrogen. Patients receive oxygen from tubing attached to these concentrator machines. Unlike compressed gas and liquid oxygen, which must be replaced or filled on a regular basis, concentrators require no contents. Suppliers favor these devices for home use of oxygen due to the decreased costs associated with not having to make costly oxygen deliveries to the patient's home.

A 1993 study by ECRI, a nonprofit, healthcare research institute located in Pennsylvania that evaluates the safety, performance, and cost effectiveness of healthcare technology, found that suppliers chose to maximize their profits and minimize the need for ongoing support by providing oxygen concentrators to patients. ECRI pointed out in testimony before the Senate Appropriations Subcommittee on Labor, Health and Human Services on November 2, 1994, that it found that suppliers are excessively reimbursed for oxygen services. ECRI testified: ''The acquisition cost of oxygen concentrators, as reported by the manufacturers to us in 1993, ranged from $965 to $1,175 for units with a 5-liter per minute capacity.''

With regard to maintenance requirements of oxygen concentrators, ECRI testified: ''They have, for all practical purposes, an unlimited service life as all components may be replaced. We have estimated the service frequency of the components through review of the service manuals and interviews with service centers and DME providers.'' ECRI goes on to estimate that the total annual cost for the maintenance of a concentrator is $405.

Assuming an oxygen concentrator has a useful life of 5 years, an oxygen supplier's equipment cost per month would be about $17 (i.e., $1,000 / 60 months) and another $34 in cost for maintenance (i.e., $405 / 12 months) for a total cost of $51 per month to the supplier.

Another technological improvement in the provision of oxygen services is the use of oxygen conserving devices. These devices, which conserve oxygen when the patient is not inhaling, can reduce the amount of oxygen normally consumed by up to 50 percent. We are unsure of the extent to which these devices are used with oxygen equipment and specifically request comments concerning the frequency with which these devices are used.

By taking into account the increased use of less costly oxygen concentrators by suppliers since the base year (i.e., 1986), we estimate that suppliers are incurring 6.8 percent less in costs than they would have if this increase had not taken place. We determined this percentage decrease by computing the increased use of less costly oxygen concentrators and applied the applicable charge for the less costly concentrators to the increase in utilization of these systems. We presented our analysis of the increased use of concentrators to the industry representatives. Their comments and our responses are discussed in C. below.

B. Payments Made by Other Purchasers

Similarly, we did not directly rely on payments made by other purchasers to determine either that our payments are grossly excessive or that our proposed special payment limit is realistic and equitable. However, we did rely on such information to conclude that reliance on the VA's competitive bidding methodology was appropriate as a basis of comparison with Medicare payments.

Early this year, we requested payment data from other insurers to compare Medicare's payment amounts. In most instances, the payment amounts of other insurers are the same as or more than Medicare's payment amounts. The reason for the payment similarities is that many insurers use Medicare's current fee schedule payment methodology or its previous reasonable charge methodology. In either case, the resulting payment allowances are very near Medicare's current fees. This finding does not necessarily indicate that Medicare's allowances are not grossly excessive. The other insurers' payment allowances may also be grossly

excessive. In other words, if Medicare's allowances are excessive using a fee schedule or reasonable charge methodology, and other insurers use the same or a similar methodology, then the other insurers' allowances will also be excessive. It appears from the data of the other insurers that Medicare is a model for other insurers when it comes to making payment for home oxygen and that most other insurers duplicate Medicare's payment methodology resulting in very similar payment amounts.

Also, a number of Medicaid insurers, such as New York, Ohio, and Minnesota pay significantly less for home oxygen than Medicare. All of these States pay less than $200 per month for a stationary oxygen system while the 1995 Medicare payment in each of these States is $308, $308, and $262 per month respectively. This indicates to us that there are a number of payers, typically those that use a different payment methodology or base period other than Medicare's, that are paying significantly less than Medicare yet attract a sufficient number of suppliers to furnish home oxygen to their insured beneficiaries. This further indicates to us that in at least these three States, the Medicare payment amounts for home oxygen are grossly excessive in comparison with these States' payment amounts.

However, because of the mixed reporting by insurers other than the VA, we are unable to reach any definitive conclusions regarding the reasonableness of Medicare's payments on a national basis with respect to other payers other than the VA. We specifically solicit comments with regard to payments by other insurers. We would point out that a comparison to many insurers may be inappropriate due to the other insurers' heavy reliance on Medicare's payment methodology. As such, a comparison would merely mirror Medicare's payment amounts. We would also point out, however, that some States pay significantly less than what Medicare pays for the same service yet are able to attract a sufficient number of suppliers to provide oxygen services. In particular, the VA pays significantly less for home oxygen than does Medicare and manages to attract a sufficient number of suppliers to provide its patients with home oxygen.

Of the States responding to our request for payment data, 22 use a fee schedule similar to Medicare's fee schedule. Two others use a reasonable charge methodology and another State reports using a cost methodology. Of the remaining States, three use a negotiated rate methodology, two use a competitive bidding methodology, and a single State pays based on a percent of the submitted charge.

C. Supplier Consultation

Section 1842(b)(9)(A) of the Act requires that we consult with representatives of the suppliers likely to be affected by any change in payment before making a determination that a fee schedule amount is not inherently reasonable by reason of its grossly excessive or deficient amount.

Over the past two and one half years, we had numerous discussions with supplier representatives concerning Medicare payment amounts for home oxygen services. We met with industry representatives to discuss the use of VA data for purposes of comparing the VA payment amounts with Medicare's payment amounts. On August 30, 1995, we held a public meeting with supplier representatives to formally discuss issues relating to Medicare payment for home oxygen. Since the August 30th meeting, we had several rounds of discussions with industry representatives. After publication of this proposed notice, we expect to receive additional comments that will be considered in making a determination regarding whether our payment amounts for home oxygen are inherently reasonable. The following is a synopsis of the comments and concerns of the supplier representatives as expressed at and since the August 30th meeting.

The supplier representatives wanted to know if, after studying our findings, they could submit additional comments. We indicated that we would consider any comments they chose to submit from and including the August 30th meeting until the end of the 60-day comment period. The major comments we received are included in the discussion below. All comments received during the 60-day comment period will be discussed in a final notice. Moreover, we may elect to engage in further consultation with industry representatives if the comments we receive make such further consultation necessary or appropriate.

Some supplier representatives expressed concern with the data we used in estimating that suppliers are incurring 6.8 percent less in costs than they would have incurred had they not taken advantage of less costly oxygen delivery systems. We indicated that we would share these data with them and did meet with selected supplier representatives on September 8, 1995 to review these data.

Some supplier representatives asserted that suppliers of oxygen equipment are using more costly liquid oxygen systems as a percentage of all oxygen systems than they were using during the base period and that more patients are using portable systems than were used during the base period. We agree with the supplier representatives that suppliers of oxygen equipment are using more costly liquid oxygen systems than used during the base period, however, since it is impossible to ascertain from our data the amount of oxygen being used in portable oxygen systems or to ascertain the extent of patients utilizing oxygen conserving devices, we are unable to either validate or challenge the supplier representatives' assertions at this time. Therefore, until we are able to obtain sufficient data to address these assertions, we will not use data that indicates that suppliers are using less costly oxygen delivery systems in the inherent reasonableness process.

Some supplier representatives have challenged the VA data indicating that we should conduct an independent recalculation and verification of the VA data. We do not believe it would be appropriate for us to conduct a recalculation and verification of a VA report. We have discussed with the VA the information contained in its report on a number of occasions. The VA indicated confidence in its report and we have no evidence upon which to question either the VA's integrity or the accuracy of its fundamental calculations.

In its FY 1994 report, which is used for analysis and decision making in this notice, the developers of the report have included all commercial costs for all facilities. In response to suggestions from the oxygen industry and others, the VA's National Center for Cost Containment worked closely with these facilities in the development and reporting of data to assure the accuracy of these cost figures. Therefore, the FY 1994 Cost Review represents an exacting effort to gather accurate cost information from the 164 facilities that have home oxygen programs. An improvement over previous year's analysis is the development of ''weighted averages'' for each of the monthly average costs per patient modality. This has provided for a more meaningful comparison with Medicare data as well as an overview of the VA Home Oxygen Program nationally, because weighted averages account for the extreme variances in costs for a small number of facilities.

Some supplier representatives indicated that they believe that we have been indiscriminately and inappropriately selective in our choice of the VA program as the sole comparative payor to Medicare and that

we have ignored information solicited from other payers. We have addressed this issue above indicating that the mixed reporting by these other insurers did not furnish any conclusive information regarding the reasonableness of Medicare's payments on a national basis. We would point out that a comparison to many insurers may be inappropriate due to the other insurers' heavy reliance on Medicare's payment methodology. As such, a comparison would merely mirror Medicare's payment amounts. We would also point out, however, that some States pay significantly less than what Medicare pays for the same service yet are able to attract a sufficient number of suppliers to provide oxygen services. In particular, the VA pays significantly less for home oxygen than does Medicare and manages to attract a sufficient number of suppliers to provide its patients with home oxygen.

Some supplier representatives indicated that they believe that the VA payment amount is ''unbundled,'' that is, it represents only the cost of the oxygen concentrator and not the oxygen contents of a portable system, accessories used with the concentrator, set-up and delivery charges, etc. However, the VA report states: ''This year's figures include costs for *all* components of the modalities including refills to the portable/back-up or system itself, as appropriate.'' (See page vii of the FY 1994 VA report.) This assertion indicates to us that the VA's payment amounts include not only the same bundle of services as is included in Medicare's bundled rate for oxygen concentrators but also the portable equipment that is paid separately by Medicare.

Some supplier representatives indicated that our analysis failed to consider supplier costs. We do not believe that we are required to include an analysis of supplier costs. Although the regulations at § 405.502(g)(1)(iv) allow us to consider supplier costs as an example of factors in making an inherent reasonableness determination, they do not require such consideration. Moreover, we did not consider supplier costs, in part, because, in our experience, such costs are unattainable. A United States General Accounting Office Report to Congress entitled: ''Medicare, Effect of Durable Medical Equipment Fee Schedules on Six Suppliers' Profits'' (GAO/HRD–92–22), dated November, 1991, states: ''DME suppliers do not maintain records in a manner that permits direct computation of costs and profits by DME item. * * *'' Although we have not evaluated supplier costs directly, we have considered supplier costs indirectly by relying on the VA's competitive bidding methodology to draw our conclusions regarding the relationship of costs to Medicare payment.

As discussed previously, under the VA's competitive bidding methodology, bidders make bids that reflect their true costs (plus a reasonable rate of profit).

IV. Regulatory Impact Statement

A. Executive Order 12866

Executive Order 12866 (E.O. 12866) requires us to prepare an analysis for any notice that meets one of the E.O. 12866 criteria for a ''significant regulatory action''; that is, that may—

- 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;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

This proposed notice would reduce unnecessary Medicare program expenditures for home oxygen services. Currently, payment under the Medicare program for home oxygen services is equal to 80 percent of the lesser of the actual charge for the item or the fee schedule amount for the item. Under this proposed notice, payment would be equal to 80 percent of the lesser of the actual charge or the appropriate special payment limit proposed by this notice.

We are proposing special payment limits for home oxygen services that would reduce the national limited monthly payment rate for home oxygen services for 1994 by 40.11 percent, then updated by the covered item update for years subsequent to 1994. Similarly, the 1994 local fee schedule amount for Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands, would be reduced by 40.11 percent, then updated by the covered item update for years subsequent to 1994.

We estimate that the proposed special payment limits would produce the following savings:

[By fiscal year, savings in millions of dollars]

1997	$120
1998	200
1999	230
2000	240
2001	260

We have determined that the provisions of this proposed notice would meet the $100 million criterion. Therefore, it is a significant regulatory action and an impact analysis under E.O. 12866 is required.

We expect suppliers of home oxygen services and beneficiaries to be affected by this special payment limit. We do not have sufficient data to predict exactly the nature of the impact of this proposed notice or the magnitude of such impact. Below, we discuss likely outcomes.

1. Suppliers

Suppliers of home oxygen would review the special payment limits to determine what strategy would maximize their profits. In response to a final notice that implemented the special payment limits as the proposed notice, we expect them to compare this limit to their costs of furnishing home oxygen to Medicare beneficiaries. We would expect that as a result of this comparison, many suppliers may seek to economize by reducing unnecessary expenditures. Many suppliers may consider whether or not to continue to accept assignment on Medicare claims. Suppliers that provide mostly home oxygen services would be more adversely affected by the special payment limits than those suppliers that also provide the full range of durable medical equipment in addition to oxygen because they will have other revenue sources from which to obtain income.

2. Beneficiaries

The effect of the proposed special payment limits on beneficiaries depends on whether there is a significant local change in the assignment rate. If the assignment rate were to remain the same, beneficiaries may expect lower coinsurance since the fee schedule amount for oxygen would be lower. However, if the assignment rate goes down, beneficiaries may have to make a greater effort to find a supplier that accepts assignment or have increased out-of-pocket expenses.

3. Conclusion

The primary benefit expected to result from this proposal is the anticipated reduction in the cost to the Medicare program of home oxygen services and reduced coinsurance payments by beneficiaries to the extent that suppliers continue to accept assignment. The disadvantages that could result from this proposed special payment limit

would be more initial out-of-pocket expenses for the beneficiary if the assignment rate is reduced.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless we certify that a notice would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all suppliers are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

In determining whether to adjust payment rates under section 1842(b)(8)(A) and (9)(A) of the Act, we are required to consider the potential impacts on quality, access, and beneficiary liability of the adjustment, including the likely effects on assignment rates, reasonable charge reductions on unassigned claims, and participation rates of suppliers.

This proposed reduction in Medicare payment would affect suppliers of home oxygen. These suppliers would have their payment allowances for Medicare home oxygen patients reduced. Suppliers can choose to accept assignment, which means they agree to accept Medicare's approved amount as payment in full. It is possible that, as a consequence of our reducing payments for home oxygen, the number of suppliers accepting assignment of a beneficiary's claim for Medicare payment for these services may decrease if suppliers choose instead to charge beneficiaries the full difference between the amount charged and the lower Medicare payment. Also, the number of suppliers who elect to become or remain ''participating suppliers'' may decrease as a result of reduced payments for home oxygen. Under the Medicare participation program, a supplier that decides to become a ''participating supplier'' must agree to accept assignment for all covered services furnished to Medicare beneficiaries. Participating suppliers benefit by being listed in the Medicare Participating Physician/Supplier Directories, known as Medpards, which are compiled by the Medicare carriers and furnished to various senior citizen groups. A Medicare beneficiary can obtain the Medpard for his or her State from the Medicare carrier.

Suppliers who do not accept assignment and charge more than the Medicare approved amount can collect the balance; that is, the actual charge minus Medicare payment, from the beneficiary. Therefore, beneficiaries who receive services from suppliers who do not accept assignment are exposed to greater financial liability than those who receive services from a supplier taking assignment. As a result, Medicare beneficiaries may choose to deal with suppliers who accept assignment in order to reduce their financial liability. We expect that this special payment limit would have minimal effects on the quality of home oxygen services furnished to beneficiaries since we do not expect suppliers to reduce the quality or the type of services provided. Also, we expect only minimal effects on beneficiary access to home oxygen, even in rural areas, since we do not expect many suppliers to discontinue supplying oxygen.

Although a payment reduction of 40.11 percent for home oxygen appears large, it is a result of Medicare's grossly excessive payment allowances that have resulted in windfall profits. We would expect suppliers to adjust to the elimination of this windfall accordingly.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

IV. Paperwork Reduction Act

This notice does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 through 3511).

V. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document. Moreover, we may elect to engage in further consultation with industry representatives if comments we receive make such further consultation necessary or appropriate.

Authority: Sections 1834(a) and 1842(b) of the Social Security Act (42 U.S.C. 1395m and 1395u).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 14, 1997.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: May 6, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–18716 Filed 7–11–97; 1:30 pm]

BILLING CODE 4120–03–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–85]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: August 15, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995. 44 U.S.C. 35, as amended.

Dated: July 8, 1997.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Single Family Monthly Default Monitoring System.

Office: Housing.

OMB Approval Number: 2502–0060.

Description of the Need for the Information and Its Proposed Use: The form is needed for reporting default information to HUD. The data is compiled for various reports used to monitor mortgagee's default and foreclosure performance. Additionally, HUD uses the data to monitor and evaluate mortgagee's servicing practices and to measure potential risk to HUD's Insurance Fund.

Form Number: HUD–92068–A.

Respondents: Business or Other For-Profit.

Frequency of Submission: Monthly.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92068–A	4,000		12		0.5		24,000

Total Estimated Burden Hours: 24,000.

Status: Reinstatement, without changes.

Contact: Leslie Bromer, HUD, (202) 708–1719 and, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: July 8, 1997.

[FR Doc. 97–18640 Filed 7–15–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–86]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: August 15, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequently of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 8, 1997.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Insurance Information.

Office: Public and Indian Housing.

OMB Approval Number: 2577–0045.

Description of the Need for the Information and Its Proposed Use: The Annual Contributions Contract requires public housing agencies and Indian housing authorities to obtain adequate fire insurance, extended coverage insurance, and boiler insurance to protect the Federal interest. Form HUD–5460 provides the format for determining the initial amount of insurance required for each project.

Form Number: HUD–5460.

Respondents: State, Local, or Tribal Government.

Frequency of Submission: On occasion and recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–5460	60		1		1		60
Recordkeeping	60		1		.25		17

Total Estimated Burden Hours: 77.

Status: Reinstatement, without changes.

Contact: Arthur Methvin, HUD, (202) 708–1872 x4037 and, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: July 8, 1997.

[FR Doc. 97–18641 Filed 7–15–96; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–87]

Submission for OMB Review; Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: August 15, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 8, 1997.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Canvass of Moving to Opportunity Families.

Office: Policy Development and Research.

OMB Approval Number: None.

Description of the Need for the Information and Its Proposed Use: The Moving to Opportunity for the Fair Housing (MTO) program is a unique experimental research demonstration. Authorized by Congress in the Housing and Community Development Act of 1992, MTO makes use of Section 8 Rental Assistance, in combination with intensive housing search and counseling services, to learn whether moving from a high-poverty neighborhood to a low-priority community significantly improves the social and economic prospects of poor families. The canvass will also seek information on current employment, education, and benefits provided in evaluating the demonstration impact.

Form Number: None.

Respondents: Individuals or households.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
First Canvass	2,900		1		0.16		347
Second Canvass	4,178		1		0.15		637

Total Estimated Burden Hours: 1,109.

Status: New.

Contact: Joan F. Kraft, HUD, (202) 708–4504 x109 and Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: July 8, 1997.

[FR Doc. 97–18642 Filed 7–15–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4248–N–01]

Fiscal Year 1997 Portfolio Reengineering Demonstration Program Request for Qualifications

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of request for qualifications.

SUMMARY: The Department is carrying out a statutory Demonstration Program that is intended to test approaches that reduce the cost of the ongoing Federal subsidy for FHA-insured, Section 8-assisted housing, while preserving this critical affordable housing resource in good physical and financial condition. The Guidelines for the Demonstration

Program were published on January 23, 1997, at 62 FR 3567.

One method HUD may use to carry out the Demonstration is to form limited partnerships with nonprofit Designees that are authorized to assume some of the functions, obligations, and responsibilities and to receive some benefits of HUD. The Designee process is detailed in section VII. of the Guidelines (62 FR 3578–3580). In accordance with the Guidelines, the Department is publishing this Notice as a formal Request for Qualifications (RFQ). This RFQ is directed to nonprofit organizations that are interested in participating in the Designee process under section VII. of the Guidelines.

In FY 1997, The Department expects to enter into one such participation arrangement with a qualified nonprofit Designee to restructure a portfolio of about 20 to 50 FHA-insured mortgages on Section 8 assisted projects.

FOR FURTHER INFORMATION CONTACT: George C. Dipman, Demonstration Program Coordinator, Office of Multifamily Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410–4000; Room 6106; Telephone (202) 708–3321. (This is not a toll-free number.) Hearing or speech-impaired individuals may call 1–800–877–8399 (Federal Information Relay Service TTY). Internet address: PRE@hud.gov.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this Request for Qualifications have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0519. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Nonprofit Partnership—Request for Qualifications

I. Background: Fiscal Year 1997 Portfolio Reengineering Demonstration Program

HUD seeks to form a limited partnership with a nonprofit organization to restructure a portfolio of about 20 to 50 FHA insured multifamily mortgages on projects scattered throughout the United States. The project-based Section 8 contracts associated with these projects are expiring. This Request for Qualifications is being issued in order to select nonprofit organizations with sufficient experience, capacity and financial strength, either on their own or in conjunction with other experienced organizations, to become HUD's partner in this effort.

II. Purpose and Structure of Partnership

The objective of the partnership will be to restructure project debt in a manner that achieves financial stability for the project at the least cost to the Federal Government, while addressing the other goals of the Demonstration Program. The partnership will also provide the Designee the opportunity to earn a financial return.

HUD is seeking responses from nonprofit organizations with a history of national or large regional operations because the size of the portfolio of FHA-insured mortgages on projects with Section 8 contracts that expire in FY 1997 is limited and is distributed widely throughout the country.

The partnership is expected to terminate when mortgage restructuring work is complete. This should occur before the end of FY 1998, unless mortgages with post-FY–1997 Section 8 contract expirations are added to the pool.

The partnership will be structured as a limited partnership with the Designee as managing general partner and HUD as limited partner. The Designee will invest cash or other financial instruments acceptable to HUD in anticipation of a return from the restructuring. The return will be generated by HUD's sharing with its Designee partner a portion of the project restructuring results effected by the partnership, which exceed the threshold established by HUD for the pool.

If the Designee is, itself, a partnership, the general partner must be a nonprofit and have tax-exempt status under section 501(a) of the Internal Revenue Code based on section 501(c)(3) of the Internal Revenue Code.

III. Request for Qualifications

A. Selection Process

HUD intends to conclude its selection process on or before August 27, 1997. HUD intends to qualify two or more nonprofit organizations that will bid to become HUD's partner. The qualifications will be based on the selection criteria established by section VII.A. of the Guidelines, which are as follows:

1. Demonstrated experience with multifamily loan restructurings;

2. Demonstrated experience in multifamily financing, and asset/property management experience relating to affordable multifamily housing;

3. Demonstrated staff experience and capacity for managing a restructuring process for a portfolio of multifamily projects; and

4. A history of stable, financially sound, and responsible administrative performance.

These selection criteria may be satisfied solely by the nonprofit organization or in conjunction with other entities with proven experience and capacity in the areas outlined.

The final selection of the designated partner, from among the nonprofit organizations who are qualified, will be made by a bid process based on the level of cash or financial instrument acceptable to HUD that the organizations are willing to commit.

HUD anticipates that only one partnership will be created during FY 1997. HUD, however, reserves the right not to select any partners from this RFQ, or to select more than one. Additional partnerships may be created in FY 1998 and beyond. In the future, HUD may use the list of qualified nonprofits developed under this RFQ to select Designees, if HUD decides to enter into additional partnerships either under current statutory authority or any similar statutory authority that may be enacted.

HUD may seek additional information from respondents during the selection process, in written or oral form.

B. Submission Requirements

Three copies of the response to the Request for Qualifications should be submitted.

C. Pre-Submission Conference

HUD will hold a pre-submission conference approximately two weeks after publication of this RFQ. The precise time and place will be posted on the FHA/Housing Multifamily Business Homepage at http://www.hud.gov/fha/fhamf.html.

D. Proposal Deadline

The required copies of the response to the Request For Qualifications must be delivered on or before 4:00 P.M. EDT on August 3, 1997 to: Mr. George Dipman, PRe Demonstration Program, Office of the Deputy Assistant Secretary for Multifamily Housing, Room 6106, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410.

IV. Response Contents

The response should address each of the items described in paragraphs A. through C. of this section IV.

A. Organizational Structure

For the entity proposed to be HUD's partner, provide:

1. A list of all principals and, if applicable, Board members, with their individual corporate affiliations; certification that the organization has a voluntary Board of Directors;
2. Evidence of nonprofit status and of tax-exempt status under section 501(a) of the Internal Revenue Code based on section 501(c)(3) of the Internal Revenue Code; and
3. A summary of current organization structure and staffing.

B. Financial Strength and History

For the nonprofit organization and any other entity that will be in the partnership with the nonprofit organization provide:

1. Documentation of a history of stable, financially sound, and responsible administrative performance, including prior relevant financial management experience;
2. Audited financial statements for the most recent two years including balance sheet and income statements. These materials should include unrestricted cash availability, net worth as a percent of assets, and current and long term liabilities, and a summary of key balance sheet, income statement, and cash flow trends over the last three years;
3. A summary of a certified independent auditor's key findings in its most recent annual letter to management and of management's subsequent actions. A copy of the most recent auditor's letter to management and of management's response is desirable but not required. If none of the above is available, provide a certification of adequacy of the applicant's internal management controls from an independent certified public accountant who has examined the current internal management controls, or is establishing those systems for a new entity; and
4. A description of any significant unresolved financial problems, or outstanding audit findings, and an explanation of how these problems are being resolved.

C. Capacity

Describe the capacity of the nonprofit organization and, if applicable, of its current or future team members or partners to undertake the restructuring of a portfolio of mortgages on subsidized multifamily projects. If a team approach is chosen, the primary nonprofit must provide evidence of its ability to manage the team. The response must address the following:

1. Experience With Multifamily Properties

Experience with multifamily properties, for the past five years, in each of the following activities, stating the annual volume for each activity:

a. Loan modifications, workouts, or other aspects of asset management;

b. Underwriting of debt or investment of equity, particularly for affordable housing, including delinquency/default rates on debt and return received and losses recognized on equity;

c. Property acquisition, ownership and/or management, indicating whether each property has operated at, above, or below ''breakeven'' and showing any increases or decreases in value during the period during which the property was managed or owned; and

d. Management of loan portfolios, describing systems developed to ensure quality management, including how the organization assesses risk and how it provides for reserves against potential loss.

For each of the four areas in paragraphs a. through d., above, that apply:

i. Describe the number and type of projects. Highlight experience with Section 8 or other publicly subsidized projects, Low Income Housing Tax Credit projects, etc.

ii. For each individual with responsibility for carrying out partnership activities, explain the extent of their participation in each of the four areas. What expertise did they contribute? Were they responsible for analysis, management, or decision making? Describe the contributions of non-staff team members. State whether the same experienced individual on the proposed team will be responsible for each of these four areas.

2. Geographic Area of Operation

a. Proven experience in operating nationally and/or regionally: Address the largest geographic area in which the organization has operated. Describe the number of units owned, managed, financed, and sold in various locations. State whether and, if so, how the results described in section C.1.a. through C.1.d. vary by geographic area.

b. If the organization does not now operate nationally, describe how the organization would undertake and manage restructurings on a national level.

3. Ability To Provide Capital to Demonstration Projects

a. Describe experience in obtaining debt and/or equity for projects, and state which projects involved HUD lending programs.

b. Describe experience in leveraging state and local financial support and other resources for projects.

4. Ability To Provide Equity Contribution to Partnership

Submit evidence of the availability of funds needed to participate in the partnership.

If funds are not currently available, indicate whether the equity investment will be provided by a partner. If so, show evidence of that partner's commitment to provide equity.

Describe any other method that will be used to provide equity.

V. Project Team

A. Identify key members of the team; the team leader; key decision makers; and the time commitment planned for each member. Include an organization chart. Explain the role of each member and expertise to be contributed. Provide detailed resumes for each team member.

B. Describe ability to commit experienced staff, including partners or consultants, to the Demonstration program, both immediately and for the duration of the partnership.

C. Describe ability to perform functions listed below, as outlined in resumes of key personnel and key contractors/partners, which detail prior related experience. The following are among the areas of expertise expected to be required:

1. Loan modifications or workouts for multifamily properties;
2. Underwriting of debt or equity for multifamily properties;
3. Portfolio management;
4. Valuation of multifamily properties;
5. Physical Needs Assessment; and
6. Resident and Community Involvement.

D. Describe the method by which the organization will provide Demonstration Program management and oversight.

E. Describe demonstrated staff experience and capacity for managing a team responsible for the restructuring of multiple multifamily financings.

VI. Draft Workplan

A. Provide a description of anticipated tasks required by the restructuring effort and a schedule for completing them.

B. Describe the organization's plan to bring new financing to projects being

restructured, either directly or through the private sector partner.

C. Describe your approach for involving tenants and communities in the restructuring effort.

D.i. For nonprofits operating nationally with a network of local affiliations, explain how the participation of this local network would complement the organization's role as HUD's partner.

ii. Explain how the organization will identify and resolve potential conflicts between the organization's other activities and its role as managing general partner of the partnership with HUD; for example, in its relationships with property owners, lenders, and contractors.

Dated: July 10, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–18780 Filed 7–11–97; 5:04 pm]

BILLING CODE 4210–27–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment, Finding of No Significant Impact, and Receipt of an Application for an Incidental Take Permit for a Project Called Satellite Motel Time-Share, a Residential Project, in Brevard County, Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Towne Realty Company of Milwaukee, Wisconsin (Applicant), is seeking an incidental take permit (ITP) from the Fish and Wildlife Service (Service), pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The ITP would authorize the take of one family of the threatened Florida scrub jay, *Aphelocoma coerulescens coerulescens* and the threatened Eastern indigo snake, *Drymarchon corais couperi,* in Brevard County, Florida, for a period of ten (10) years. The proposed taking is incidental to construction and redevelopment of approximately 6.7 acres of beachfront property, including the replacement of the older Satellite Motel which is currently present on the site (Project). The Project contains about 2.3 acres of occupied Florida scrub jay habitat, and the potential exists for the entire Project to provide habitat to the Eastern indigo snake. A description of the mitigation and minimization measures outlined the Applicant's Habitat Conservation Plan (HCP) to address the effects of the Project to the protected species is as described further in the **SUPPLEMENTARY INFORMATION** section below.

The Service also announces the availability of an environmental assessment (EA) and HCP for the incidental take application. Copies of the EA and/or HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice also advises the public that the Service has made a preliminary determination that issuing the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), as amended. The Finding of No Significant Impact (FONSI) is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10 of the Act and NEPA regulations (40 CFR 1506.6). The Service specifically requests comment on the appropriateness of the ''No Surprises'' assurances should the Service determine that an ITP will be granted and based upon the submitted HCP. Although not explicitly stated in the HCP, the Service has, since August 1994, announced its intention to honor a ''No Surprises'' Policy for applicants seeking ITPs. Copies of the Service's ''No Surprises'' Policy may be obtained by making a written request to the Regional Office (see **ADDRESSES**). The Service is soliciting public comments and review of the applicability of the ''No Surprises'' Policy to this application and HCP.

DATES: Written comments on the permit application, EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before August 15, 1997.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive, South, Suite 310, Jacksonville, Florida 32216–0912. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Comments must be submitted in writing to be processed. Please reference permit number PRT–831754 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. Rick G. Gooch, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7110; or Ms. Dawn Zattau, Fish and Wildlife Biologist, Jacksonville Field Office, (see **ADDRESSES** above), telephone: 904/232–2580, extension 120.

SUPPLEMENTARY INFORMATION: *Aphelocoma coerulescens coerulescens* is geographically isolated from other subspecies of scrub jays found in Mexico and the Western United States. The Florida scrub jay is found almost exclusively in peninsular Florida and is restricted to scrub habitat. The total estimated population is between 7,000 and 11,000 individuals. Due to habitat loss and degradation throughout the State of Florida, it has been estimated that the Florida scrub jay population has been reduced by at least half in the last 100 years. Surveys have indicated that one family of Florida scrub jays inhabit the Project site. Construction of the Project's infrastructure and subsequent construction of the individual homesites will likely result in death of, or injury to, *Aphelocoma coerulescens coerulescens* incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with property development will reduce the availability of feeding, shelter, and nesting habitat.

The EA considers the environmental consequences of three alternatives. The no action alternative may result in loss of habitat for *Aphelocoma coerulescens coerulescens* and exposure of the Applicant under Section 9 of the Act. A third alternative is the proposed Project that is designed with a different mitigation strategy, focusing on mitigation of the project's impacts on the barrier island of Brevard County. The proposed action alternative is issuance of the ITP. The affirmative conservation measures outlined in the HCP to be employed to offset the anticipated level of incidental take to the protected species are the following:

1. Approximately 4.9 acres of scrub habitat would be purchased and preserved within Section 27, Township 29 South, Range 37 East. This area has been inspected by the Service and approved as an acceptable mitigation site and is located within a ''core'' as identified by the draft Brevard County Scrub Conservation and Development Plan. The 4.9-acre mitigation area would

first be donated to and subsequently managed by a holding company. After initial habitat restoration, the property would then be conveyed to Brevard County or other acceptable land conservation program, along with a conservation easement, requiring preservation and management for Florida scrub-jays (and eastern indigo snakes) into perpetuity.

2. The Applicant would pay $4,900 into an endowment fund which would be used to fund the long-term management of the mitigation site. The conservation easement accompanying the land would require Brevard County to manage the land for Florida scrub-jays and eastern indigo snakes into perpetuity. This provides for restrictions of construction activity, purchase of offsite habitat for the Florida scrub jay, the establishment of an endowment fund for the offsite acquired habitat, and donation of additional offsite habitat.

3. No clearing of scrub vegetation would occur during the nesting season of the Florida scrub jay.

4. The HCP provides a funding mechanism for these mitigation measures.

As stated above, the Service has made a preliminary determination that the issuance of the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of an ITP would not have significant effects on the human environment in the project area.

2. The proposed take is incidental to an otherwise lawful activity.

3. The Applicant has ensured that adequate funding will be provided to implement the measures proposed in the submitted HCP.

4. Other than impacts to endangered and threatened species as outlined in the documentation of this decision, the indirect impacts which may result from issuance of the ITP are addressed by other regulations and statutes under the jurisdiction of other government entities. The validity of the Service's ITP is contingent upon the Applicant's compliance with the terms of the permit and all other laws and regulations under the control of State, local, and other Federal governmental entities.

The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: July 9, 1997.

Marvin E. Moriarty,

Acting Regional Director.

[FR Doc. 97–18656 Filed 7–15–97; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding for Federal Acknowledgment of the Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed finding.

SUMMARY: Pursuant to 25 CFR 83.10(h), notice is hereby given that the Assistant Secretary—Indian Affairs (Assistant Secretary) proposes to acknowledge that the Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan (MBPI), 112 W. Superior Street, Wayland, MI 49348, exists as an Indian tribe within the meaning of Federal law. This notice is based on the determination that the tribe satisfies all of the criteria set forth in 25 CFR 83.7 as modified by 25 CFR 83.8, and, therefore, meets the requirements for a government-to-government relationship with the United States.

DATES: As provided by 25 CFR 83.10(i), any individual or organization wishing to comment on the proposed finding may submit arguments and evidence to support or rebut the evidence relied upon. This material must be submitted within 180 calendar days from the date of publication of this notice. As stated in the regulations, 25 CFR 83.10(i), parties who submit arguments and evidence to the Assistant Secretary must also provide copies of their submissions to the petitioner.

ADDRESSES: Comments on the proposed finding and/or request for a copy of the report of evidence should be addressed to the Office of the Assistant Secretary, 1849 C Street, N.W., Washington, D.C. 20240, Attention: Branch of Acknowledgment and Research, MailStop 4603–MIB.

FOR FURTHER INFORMATION CONTACT: Holly Reckord, Chief, Branch of Acknowledgment and Research, (202) 208–3592.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary by 209 DM 8.

The petitioner, formerly called the Gun Lake Band of Grand River Ottawa, consists of descendants from Match-e-be-nash-she-wish's Potawatomi band, which received a three-mile square reserve at Kalamazoo, Michigan, under the Treaty of 1821. The Band moved northward from Kalamazoo to its current location in Allegan County, Michigan, after the 1833 Treaty of Chicago. Because of its location as the northernmost of the Potawatomi bands in Michigan, it was incorporated for payment purposes with the Grand River Ottawa under the Compact of 1838 following the 1836 Ottawa Treaty.

The band was a signatory to the 1855 Treaty of Detroit. It received annuity payments under this and prior treaties until the final commutation payment in 1870. The petitioner thus meets the requirements of section 83.8 as having unambiguous previous Federal acknowledgment and has been considered under the modifications of section 83.7 that are prescribed by section 83.8. The date of the band's final annuity commutation payment, 1870, has been used as the date of the latest Federal acknowledgment for purposes of this finding to enable the petitioner to proceed under the provisions of section 83.8.

Between 1870 and 1904, the petitioner's ancestors continued to reside on lands of the former Griswold Mission, which was referred to as an ''Indian Colony'' in the 1880 Federal census of Allegan County, Michigan. During 1883–1884, the former Griswold Reserve lands were allotted among the families, generating extensive court records which identified the community and its members. In 1900 and 1910, the Federal census enumerated the Allegan County settlement on the special Indian Population schedules.

The 1904 Taggart Roll and the 1908 Durant Roll—rolls compiled by the Bureau of Indian Affairs (BIA) special agents to settle claims of Michigan's Potawatomi and Ottawa Indians, respectively—listed ancestors of the petitioner. From 1885 onward, the Methodist Church designated the church near Bradley on the former Griswold Reserve lands as an Indian mission. In 1917, a sister church of the petitioner was established at Salem in Allegan County, also designated as an Indian mission by the Methodist

Church. Annual mission reports to the Methodist Church have provided documentation on petitioner participation in mission activities from this period to the present. In 1939, the BIA's Holst Report on Indians in the Lower Peninsula of Michigan provided a summary description of the ''Bradley group consisting of 23 families.'' The 1941 WPA guide to the State of Michigan identified the Bradley settlement as an Indian entity.

Numerous newspaper articles published from the early 1900's to the present have described the petitioner and their ancestors in Allegan County, Michigan, as a Potawatomi group or combined Potawatomi/Ottawa group. Some of these specified that the current group descends from the historical Match-e-be-nash-she-wish band. Therefore, we conclude that the petitioner meets criterion 83.7(a) as modified by criterion 83.8(d).

The petitioner presented evidence that more than 50 percent of the group had resided in a geographical area almost exclusively composed of band members from historical times up to 1920 and maintained consistent interaction with the remainder of the group. At least 50 percent of the band's members, including children and adults, were Potawatomi speakers from historical times up through early 1957. Since then, the members have come together in significant numbers, across all family lines, and have maintained a significant rate of informal social interaction. Thus, the petitioner meets the requirements of criterion 83.7(b) for community up to the present.

Since World War II to the present, younger members of the group have moved away from the Bradley settlement area, a.k.a. the Griswold Colony, to nearby urban areas in search of housing and employment. The majority of the young emigrants relocated to Grand Rapids or Kalamazoo, both approximately 25 miles from the Bradley settlement. These emigrants and their offspring maintained close social and kinship ties with members still residing near Bradley. We conclude the petitioner meets criterion 83.7(b), as modified by section 83.8(d)(2), and that the petitioner demonstrates that it comprises a distinct community at present.

From the early 1800's to at least 1904, traditional chiefs led the Band and were clearly identified by authoritative outside observers. The records of the BIA, the Methodist church, and Allegan County, Michigan, as well as the D.K. Foster papers, provided extensive documentation of the activities undertaken by the traditional chiefs on behalf of the band. This evidence, in conjunction with evidence under 83.7(c)(iv) and 83.7(b)(2) is sufficient for the MBPI to meet 83.8(d)(3) from the time of last Federal recognition to 1904.

From 1904 to 1992, the leadership was closely associated with lay and ordained band ministers of the community's Methodist missions. The documentation submitted by the petitioner and consulted by the Government's researchers did not find continuous identification of these leaders by authoritative outside sources, at a level required by 83.8(d)(3). However, in cases where a petitioner with prior unambiguous Federal acknowledgment does not submit evidence to demonstrate that the group meets the standards described under the expedited process for previously recognized tribes, they may alternatively demonstrate that they meet 83.7(c) using the forms of evidence described in that section. Under the revised Federal acknowledgment regulations which became effective March 28, 1994, the presumption is made under 83.7(c)(3) that at any period during which the petitioner can show sufficient evidence to meet criterion 83.7(b)(2), they also meet criterion 83.7(c). As the petitioner meets criterion 83.7(b) with sufficient evidence through 1957, under 83.7(3), it also meets criterion 83.7(c) until 1957. Also, the petitioner submitted substantial evidence concerning the actual leadership activities of the lay ministers at Bradley and Salem missions for this period.

From 1957 to 1992, the actual activities and leadership were analyzed to show that the MBPI meet 83.7(c), until 1992, when the group was formally incorporated with a council. Since then, the MBPI have made significant decisions and taken actions to buy land, organize their governing structures, and deal with certain social issues at a level that meets 83.7(c).

The petitioning group has provided a copy of its governing document, which describes its membership criteria. Thus, we conclude that the petitioner meets criterion 83.7(d).

All band members listed on the October 20, 1994 roll are of Michigan Potawatomi ancestry and descend from persons listed on the 1904 Taggart Roll. All band members listed on the 1994 roll meet the petitioner's constitutional membership qualifications. We conclude that the petitioner meets criterion 83.7(e).

One hundred twenty-six persons who previously were carried on the Huron Potawatomi, Inc. membership roll committed themselves to the Match-e-be-nash-she-wish petitioner in writing in October, 1994, and withdrew from the Huron Potawatomi, Inc. prior to the effective date of Huron Potawatomi, Inc.'s Federal acknowledgment. Accordingly, the MBPI's membership is composed primarily of persons who are not members of any acknowledged North American tribe. Therefore, we conclude that the petitioner meets criterion 83.7(f).

No evidence was found that the petitioner or its members are the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship. Therefore, we find that the petitioner meets criterion 83.7(g).

Based on this preliminary factual determination, we conclude that the Match-e-be-nash-she-wish Band of Pottawatomi Indians should be granted Federal acknowledgment under 25 CFR Part 83.

As provided by 25 CFR 83.10(h) of the revised regulations, a report summarizing the evidence, reasoning, and analyses that are the basis for the proposed decision will be provided to the petitioner and interested parties, and is available to other parties upon written request. Comments on the proposed finding and/or requests for a copy of the report of evidence should be addressed to the Office of the Assistant Secretary, Bureau of Indian Affairs, 1849 C Street, N.W., Washington, D.C. 20240, Attention: Branch of Acknowledgment and Research, MailStop 4603–MIB. Third parties must also supply copies of their comments to the petitioner in order for them to be considered by the Department of the Interior.

During the response period, the Assistant Secretary shall provide technical advice concerning the proposed finding and shall make available to the petitioner in a timely fashion any records used for the proposed finding not already held by the petitioner, to the extent allowable by Federal law (83.10(j)(1)). In addition, the Assistant Secretary shall, if requested by the petitioner or any interested party, hold a formal meeting for the purpose of inquiring into the reasoning, analyses, and factual bases for the proposed finding. The proceedings of this meeting shall be on the record. The meeting record shall be available to any participating party and become part of the record considered by the Assistant Secretary in reaching a final determination (83.10(j)(2)).

If third party comments are received during the regular response period, the petitioner shall have a minimum of 60 days to respond to these comments.

This period may be extended at the Assistant Secretary's discretion if warranted by the nature and extent of the comments (83.10(k)).

At the end of the response periods the Assistant Secretary shall consider the written arguments and evidence submitted during the response periods and issue a final determination. The Assistant Secretary shall consult with the petitioner and interested parties to determine an equitable time frame for preparation of the final determination and notify the petitioner and interested parties of the date such consideration begins. The Assistant Secretary may conduct any necessary additional research and may request additional information from the petitioner and third parties. A summary of the final determination will be published in the **Federal Register** within 60 days from the date on which the consideration of the written arguments and evidence rebutting or supporting the proposed finding begins, as provided in 25 CFR 83.10(l)(2).

Dated: June 23, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–18659 Filed 7–15–97; 8:45 am]

BILLING CODE 4310–02–U

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Approval of Record of Decision, Final Environmental Impact Statement for the Santa Rosa Island Resources Management Plan for Improving Water Quality and Conserving Rare Species and Their Habitats; Channel Islands National Park, Santa Barbara County, California

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended), and the regulations promulgated by the Council of Environmental Quality at 40 CFR 1505.2, the Department of the Interior, National Park Service has prepared and approved a Record of Decision for the Final Environmental Impact Statement and Resources Management Plan for Improvement of Water Quality and Conservation of Rare Species and Their Habitats on Santa Rosa Island (Final EIS/RMP).

The National Park Service will implement actions described in the Proposed Action, Alternative D (Revised Conservation Strategy), in the Final EIS/RMP issued in April, 1997, except as follows: (1) A small cattle gathering area, the ''Arlington Trap'', would be available to the permittee for occasional rounding up of cattle in the years following closure of Pocket Field; and (2) Regarding utilization of Old Ranch Pasture, under the Proposed Action this Pasture would be closed immediately to cattle and horses. Currently there are no cattle in the Pasture, and the permittee will have until January 1, 1998, to move the existing horse herd from this Pasture to other pastures. Horse utilization for this additional period of time was deemed to have negligible effect on resources and will not hinder restoration efforts.

Copies of the Record of Decision may be obtained from the Superintendent, Channel Islands National Park, 1901 Spinnaker Drive, Ventura, CA 93001, or via telephone at (805) 658–5776.

Dated: June 30, 1997.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 97–18632 Filed 7–15–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Acadia National Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. Ap. 1, sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, July 28, 1997.

The Commission was established pursuant to Pub. L. 99–420, Sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at park headquarters, Acadia National Park, Rt. 233, Bar Harbor, Maine, at 1 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held June 16, 1997
2. Subcommittee reports
3. Committee assignments
4. Superintendent's report
5. Public comments
6. Proposed agenda, date and location of next Commission meeting

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, PO Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Dated: July 8, 1997.

David Manski,

Acting Superintendent, Acadia National Park.

[FR Doc. 97–18627 Filed 7–15–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 5, 1997. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by July 31, 1997.

Beth Boland,

Acting Keeper of the National Register.

CALIFORNIA

Santa Clara County

Agnews Insane Asylum, 4000 Lafayette Ave., Santa Clara, 97000829

CONNECTICUT

Hartford County

Canton Center Historic District, Roughly along Barbourtown, E. Mountain, Humphrey, West, and W. Mountain Rds., Canton vicinity, 97000831

New Haven County

Center Street Cemetery, 2 Center St., Wallingford, 97000833

Grove Street Cemetery, 200 Grove St., New Haven, 97000830

Tolland County

Tolland Green Historic District, Roughly along Old Post, Tolland Stage, and Cider Mill Rds., Tolland, 97000832

DELAWARE

New Castle County

Graham, Robert, House, 751 Crossan Rd., Newark vicinity, 97000835

Mayfield, 1603 Levels Rd., Middletown vicinity, 97000836

Sussex County

Baltimore Mills Historic Archaeological Site, Address restricted, Omar, 97000837

DISTRICT OF COLUMBIA

District of Columbia State Equivalent

Fletcher Chapel, 401 New York Ave., NW, Washington, 97000834

FLORIDA

Bay County

St. Andrew School, 3001 W. 15th St., Panama City, 97000839

Lake County

Taylor, Moses J., House, 117 Diedrich St., Eustis, 97000840

Leon County

Ruge Hall, 655 W. Jefferson St., Tallahassee, 97000838

GEORGIA

Emanuel County

Rountree, John, Log House, Jct. of US 80 and GA 192, Twin City, 97000841

NEW JERSEY

Union County

Crane—Phillips House, 125 N. Union Ave., Cranford, 97000842

NEW YORK

Livingston County

New Family Theater, 102 Main St., Mount Morris, 97000846

Sullivan County

Loch Sheldrake Synagogue, NY 52, N of jct. of NY 52 and Loch Sheldrake Rd., Loch Sheldrake, 97000844

St. Paul's Evangelical Lutheran Church, 24 Chestnut St., Liberty, 97000845

Wayne County

Phelps, Ezra T., Farm Complex, 4365 E. Williamson Rd., Marion vicinity, 97000843

OREGON

Lane County

Eugene Pioneer Cemetery, Jct. of E. Eighteenth Ave. and University St., Eugene, 97000850

Multnomah County

Dickson, Henry B., House (Architecture of Ellis F. Lawrence MPS), 2123 NE Twenty-First Ave., Portland, 97000849

Portland (Steam Tug), Willamette R., ft. of SW Pine St., Portland, 97000847

Umatilla County

Umatilla County Library, 214 N. Main St., Pendleton, 97000848

TEXAS

Tarrant County

Bedford School, 2400 School Ln, Bedford, 97000851

VIRGIN ISLANDS

St. Thomas Island

St. Thomas Synagogue—Beracha Veshalom Vegemiluth Hasadim, 16AB Krystal Gade, Charlotte Amalie, 97000853

WASHINGTON

King County

Sather, Thorban, House (Bothel MPS), 17424 95th Ave., NE, Bothel, 97000852

[FR Doc. 97–18626 Filed 7–15–97; 8:45 am]

BILLING CODE 4310–10–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Noatak National Preserve, National Park Service, Kotzebue, AK

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects in the possession of the Noatak National Preserve, National Park Service, Kotzebue, AK.

A detailed assessment of the human remains was made by professional staff of the National Park Service in consultation with representatives of the Native Village of Noatak and the Northwest Alaska Native Association.

In 1982, human remains representing one individual were collected by a park visitor during a boating trip down the Noatak River. No known individuals were identified. No associated funerary objects are present.

Park records indicate that the remains were collected from an area 75 miles downstream of Lake Matcherak on the Noatak River. The exact location is not known. The human remains are dated to the 19th century AD based on the state of preservation. Historical documentation as well as testimony from Inupiaq elders indicates this area was located within the traditional territory of the historic Nuataagmiut. The descendants of the historic Nuataagmiut have been widely dispersed. However, the largest group of descendants currently reside in Noatak, Alaska and are represented by the Native Village of Noatak.

Based on the above information, officials of the National Park Service have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the National Park Service have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Native Village of Noatak.

This notice has been sent to officials of the Native Village of Noatak and Northwest Alaska Native Association. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Superintendent David Spirtes, Northwest Alaska Areas, P.O. Box 1029, Kotzebue, Alaska, 99752, telephone (907) 442–3760, before August 15, 1997. Repatriation of the human remains to the Native Village of Noatak may begin after that date if no additional claimants come forward.

Dated: July 10, 1997.

Veletta Canouts,

Acting Departmental Consulting Archeologist, Assistant Manager, Archeology and Ethnography Program.

[FR Doc. 97–18709 Filed 7–15–97; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains in the Possession of the University of Alaska Museum, Fairbanks, AK

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains in the possession of the University of Alaska Museum, Fairbanks, AK.

A detailed assessment of the human remains was made by University of Alaska Museum professional staff in consultation with representatives of Native Village of Brevig Mission and Bering Straits Foundation.

In 1980, human remains representing one individual were found at Brevig Mission by an unknown individual under unknown circumstances. Alaska State troopers from Nome, AK took custody of the human remains and sent them to the Anthropology Department at the University of Alaska Fairbanks in October, 1980. In 1993, these human remains were transferred to the University of Alaska Museum. No known individual was identified. No associated funerary objects are present.

Archeological evidence indicates continuous occupation of the Brevig

Mission area from 900 AD to the present based on material culture and habitation sites. The remains are undated and may be as recent as the late 19th or early 20th century. Archeological evidence and historical documents indicate the area surrounding the present day Brevig Mission site was used traditionally as a burial area. Oral tradition presented by the representatives of the Native Village of Brevig Mission and the Bering Straits Foundation also states the Brevig Mission was used as a traditional burial area.

Based on the above mentioned information, officials of the University of Alaska Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Lastly, officials of the University of Alaska Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Native Village of Brevig Mission.

This notice has been sent to officials of the Native Village of Brevig Mission and Bering Straits Foundation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Gary Selinger, Special Projects Manager, University of Alaska Museum, 907 Yukon Drive, Fairbanks, AK 99775–1200; telephone: (907) 474–6117 before August 15, 1997. Repatriation of the human remains to the Native Village of Brevig may begin after that date if no additional claimants come forward.

Dated: July 10, 1997.

Veletta Canouts,

Acting Departmental Consulting Archeologist, Assistant Manager, Archeology and Ethnography Program.

[FR Doc. 97–18710 Filed 7–15–97; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development (USAID)

Notice of Reestablishment of the Advisory Committee of the USAID Malaria Vaccine Development Program

SUMMARY: The Administrator of the U.S. Agency for International Development (USAID) has determined that reestablishment of the Advisory Committee on the Malaria Vaccine Development Program for a two year period, beginning in May 1997, is necessary and in the public interest. The Advisory Committee performs necessary and important functions in connection with the formulation of USAID research policy and in evaluating and providing necessary advice concerning the progress and future potential of Agency-funded research activities.

FOR FURTHER INFORMATION CONTACT: Carter Diggs at (703) 875–5693.

Dated: July 1, 1997.

Jerry Patterson,

Special Assistant, Legal Counsel, Office of the General Counsel.

[FR Doc. 97–18602 Filed 7–15–97; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980, as Amended

Notice is hereby given that a proposed consent decree in the action entitled *United States* v. *Browning-Ferris Industries of South Jersey, Inc.*, Civil Action No. 97–3320 (GEB) (D.N.J.), was lodged on July 2, 1997, with the United States District Court for the District of New Jersey. The proposed consent decree resolves the United States's claims against nine potentially responsible parties (''Settling Defendants'') at the Lone Pine Landfill Superfund Site (''Site'') under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. § 9601 *et seq.*, on behalf of the Department of the Interior (''DOI'') and the National Oceanic and Atmospheric Administration (''NOAA''), for damages for injury to, destruction of, or loss of natural resources, including costs of assessment. The Site is located in Freehold Township, Monmouth County, New Jersey. The consent decree will also resolve the claims of the State of New Jersey, on behalf of the New Jersey Department of Environmental Protection, against the Settling Defendants with respect to natural resource damages at the Site. The claims of the State of New Jersey were filed in an action entitled *State of New Jersey* v. *Browning-Ferris Industries of South Jersey, Inc.*, Civil Action No. 97–3321 (GEB) (D.N.J.).

Under the proposed consent decree, the Settling Defendants have agreed to create, restore and/or enhance about 13 acres of wetlands located at the Site and to create about 10 acres of forested wetlands at an off-Site parcel. The Settling Defendants have also agreed to pay $80,974 to DOI and $38,838 to the State of New Jersey to reimburse them for their past and future costs of assessment as well as the cost to be incurred in overseeing the Settling Defendants' mitigation work.

The Department of Justice will receive, for a period of up to thirty days from the date of this publication, comments relating to the proposed consent decree. Any comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, 950 Pennsylvania Avenue, Washington, D.C. 20530, and should refer to *United States* v. *Browning-Ferris Industries of South Jersey, Inc.*, DOJ Ref. Number 90–11–2–294D.

The proposed consent decree may be examined at the United States Attorney's Office, District of New Jersey, 402 East State Street, Trenton, New Jersey 08608 (contact Irene Dowdy at 609–989–0562) and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $30.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–18621 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

Notice is hereby given that a proposed Consent Decree in *United States* v. *Johnson Engineering, Inc. & Lee County School Board*, Civil No. 97–283–CIV–FTM–24D (M.D. Fla.), was lodged with the United States District Court for the Middle District of Florida on June 25, 1997. The proposed Consent Decree concerns alleged violations of sections 301(a) and 404 of the Clean Water Act, 33 U.S.C. 1311(a) and 1344, resulting from the unauthorized clearing and discharge of fill material into approximately 22.0 acres of wetlands at the Colonial Properties Site in Fort Myers, Lee County, Florida. The

defendant, Johnson Engineering, Inc., is an engineering and consulting firm hired to assist with the site's development. Johnson Engineering has agreed to a proposed Consent Decree to settle its alleged violations of the Clean Water Act.

The proposed Consent Decree would require Johnson Engineering, Inc. to pay a $100,000 civil penalty and to fund wetland preservation, restoration, or creation project(s) to be selected by the United States in mitigation for the wetlands altered or destroyed. The cost of those wetland projects would total no less than $100,000 and they shall be for the purpose of improving and/or protecting wetlands or water quality within the Ten Mile Canal Watershed. Johnson Engineering would also be permanently enjoined from future violations of the Clean Water Act at the site.

The U.S. Department of Justice will receive written comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to S. Randall Humm, Trial Attorney, U.S. Department of Justice, Environmental Defense Section, PO Box 23986, Washington, D.C. 20026–3986 and should refer to *United States* v. *Johnson Engineering, Inc. & Lee County School Board,* Civil No. 97–283–CIV–FTM–24D (M.D. Fla.), DJ# 90–5–1–6–626.

The proposed Final Consent Decree may be examined at the Clerk's Office, United States District Court for the Middle District of Florida, 2301 First Street, Room 106, Fort Myers, Florida 33901.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, United States Department of Justice.

[FR Doc. 97–18628 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree With Third Party Defendant Owners of Residential Property Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on July 8, 1997, a proposed Consent Decree with Third Party Defendant Owners of Residential Property in *United States* v. *Raymark Industries, Inc., et al.,* No. 97CV00035 (DJS) (D. Conn.), was lodged with the United States District Court for the District of Connecticut.

This consent decree resolves claims pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9606 and 9607, against certain third party defendant owners of residential property in the Town of Stratford, Connecticut related to the Raymark Industries, Inc. Superfund Site in Stratford, Connecticut. In the proposed consent decree, the settling parties agree to pay to the United States and the State of Connecticut $1 each, to provide the Environmental Protection Agency with access to their property, to exercise due care with respect to their property, and to covenant not to sue the United States or the State.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Raymark Industries, Inc., et al.,* D.J. Ref. 90–7–1–545E.

The consent decree may be examined at the Office of the United States Attorney, 915 Lafayette Blvd., Bridgeport, Connecticut, at U.S. EPA Region 1, One Congress Street, J.F. Kennedy Federal Building, Boston, Massachusetts, and at the Consent Decree Library, 1120 G Street, N.W. 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the consent decree may be obtained in person or by mail for the Consent Decree Library, 1120 G Street, N.W. 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $16.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 97–18622 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Consent Decree in Action Under the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with the Departmental Policy, 28 C.F.R. § 50.7, notice is hereby given that a Consent Decree in *United States* v. *Ralph Riehl, et al.,* Civil Action No. 89–226(E), was lodged with the United States District Court for the Western District of Pennsylvania on July 1, 1997.

On October 16, 1989, the United States filed a compliant against the owners and operator of, and certain transporters to, the Millcreek Dump Superfund Site (the ''Site''), pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9607(a). In September 1991, the United States added additional defendants to the action. The proposed Consent Decree resolves the liability of defendants Max Silver & Sons, A. Arthur Silver, Larry Silver, and Eugene and Frieda Davis for response costs incurred and to be incurred by the United States at the Site. The Consent Decree requires the defendants to pay $20,000 in reimbursement of response costs.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States* v. *Ralph Riehl, et al.,* DOJ No. 90–11–3–519.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Western District of Pennsylvania, Federal Building and Courthouse, Room 137, 6th and States Streets, Erie, Pennsylvania, 15219; Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107; and at the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, D.C. 20005 (202) 624–0892). A copy of the proposed Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, D.C. 20005. When requesting a copy of the proposed Consent Decree, please enclose a check in the amount of $6.00 to cover the twenty-five cents per page reproduction costs. Please make the check payable to the ''Consent Decree Library.''

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 97–18619 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Southern Pacific Transportation Company; CSX Transportation, Inc.; Union Pacific Railroad Company; Northwest Enviroservice, Inc.; Chicago and Northwestern Railway Company; and AT&T Corp.*, No. 97–1004JO, (D. Oregon), was lodged on June 30, 1997, with the United States District Court for the District of Oregon. With regard to the Defendants, the Consent Decree resolves a claim filed by the United States on behalf of the United States Environmental Protection Agency (''EPA'') pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, *as amended*, 42 U.S.C. §§ 9601, *et seq.*

The United States entered into the Consent Decree in connection with the Environmental Pacific Corporation Site located approximately 42 miles southwest of Portland, Oregon. The Consent Decree provides that the Settling Defendants will reimburse the United States a total of $666,137 for past costs incurred by the United States 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 Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Southern Pacific Transportation Company; CSX Transportation, Inc.; Union Pacific Railroad Company; Northwest Enviroservice, Inc.; Chicago and Northwestern Railway Company; and AT&T Corp.*, DOJ Reg. #90–11–2–1080 A.

The proposed Consent Decree may be examined at the office of the United States Attorney, 888 S.W. 5th Avenue, Portland, Oregon 97204; the Region 10 office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy refer to the referenced case and enclose a check in the amount of $8.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section.

[FR Doc. 97–18620 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Membership of the 1997 Senior Executive Service Performance Review Boards

AGENCY: Department of Justice.

ACTION: Notice of Department of Justice's 1997 Senior Executive Service Performance Review Boards.

SUMMARY: Pursuant to the requirements of 5 U.S.C. 4314(c)(4), the Department of Justice announces the membership of its Senior Executive Service (SES) Performance Review Boards (PRBs). The purpose of the PRBs is to provide fair and impartial review of SES performance appraisals and bonus recommendations. The PRBs will make recommendations to the Deputy Attorney General regarding the final performance ratings to be assigned and SES bonuses to be awarded.

FOR FURTHER INFORMATION CONTACT: Henry Romero, Director, Personnel Staff, Justice Management Division, Department of Justice, Washington, DC 20530; (202) 514–6788.

Department of Justice, 1997 Senior Executive Service Performance Review Board Members

Antitrust Division

Norman Familant, Chief, Economic Litigation Section
Thomas D. King, Executive Officer

Civil Division

Gary W. Allen, Branch Director (Aviation)
James G. Bruen, Jr., Special Litigation Counsel, Commercial Litigation Branch
JoAnn J. Bordeaux, Deputy Branch Director, Environmental and Occupational Disease Litigation

Civil Rights Division

Merrily A. Friedlander, Chief, Coordination and Review Section
Paul H. Hancock, Acting Deputy Assistant Attorney General

Criminal Division

Joseph E. Gangloff, Deputy Chief, Public Integrity Section
James S. Reynolds, Chief, Terrorism and Violent Crimes Section

Environment and Natural Resources Division

William M. Cohen, Chief, General Litigation Section
Joel M. Gross, Chief, Environmental Enforcement Section
Phyllis A. Gardner, Executive Officer
William J. Kollins, Chief, Land Acquisition Section

Justice Management Division

Robert F. Diegelman, Director, Management and Planning Staff
Theodius McBurrows, Director, Equal Employment Opportunity Staff
James E. Price, Director, Computer Services Staff

Tax Division

Gary R. Allen, Chief, Appellate Section
Ronald A. Cimino, Regional Chief, Western Region
Milan D. Karlan, Chief, Office of Review
Robert S. Watkins, Chief, Civil Trial Section, Central Region

Bureau of Prisons

Michael B. Cooksey, Assistant Director, Correctional Programs Division
Thomas R. Kane, Assistant Director, Information, Policy, and Public Affairs Division
Ira B. Kirschbaum, General Counsel for Federal Prison Industries (UNICOR)
Robert J. Newport, Senior Deputy Assistant Director for Administration
Kevin D. Rooney, Assistant Director for Administration
Ronald G. Thompson, Assistant Director, Human Resource Management Division
Ronald J. Waldron, Senior Deputy Assistant Director, Health Services Division

Executive Office for Immigration Review

Michael J. Creppy, Chief Immigration Judge

Immigration and Naturalization Service

Michael D. Cronin, Assistant Commissioner, Inspections
Joan C. Higgins, Assistant Commissioner for Detention and Deportation
Paul W. Virtue, Acting Executive Associate Commissioner for Programs
Jeffrey M. Weber, Assistant Commissioner, Budget
Jeffrey L. Weiss, Director, Asylum Division
David A. Yentzer, Assistant Commissioner, Administration

United States Marshals Service

Suzanne D. Smith, Assistant Director for Human Resources

Valerie M. Willis,

Executive Secretary, Senior Executive Resources Board.

[FR Doc. 97–18630 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–26–M

DEPARTMENT OF JUSTICE

Notice of Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a proposed Prospective Purchaser Agreement (the ''Agreement'') regarding the Solar Usage Now, Inc. Property located at 5550 West Tiffin Road, Seneca County, Bascom, Ohio (the ''Property'') has been entered into by the United States Department of Justice, the United States Environmental Protection Agency (''U.S. EPA'') and the Hopewell Township Board of Trustees, Bascom, Ohio (the ''Township'') pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (''CERCLA''), 42 U.S.C. § 9601 *et seq.*

Under the terms of the proposed Agreement, the Township intends to acquire the Property and to demolish and remove the buildings currently on the Property and improve the land to expand a community park adjacent to the southern boundary of the Property for recreational use by the local community. In addition, the Township agrees to provide U.S. EPA with access to the Property and to cooperate fully with U.S. EPA with regard to any future response actions carried out at the Property as well as other consideration. Under the Agreement, the United States will covenant not to sue the Township for claims under Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for Existing Contamination at the Site not caused or contributed to by the Township. However, the United States reserves its rights under CERCLA against the Township for releases of hazardous substances not within the definition of Existing Contamination and for exacerbation of any Existing Contamination.

The Department of Justice will receive comments relating to the proposed Agreement for 30 days following publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to the D.J. Ref. No. 91–11–3–1693A. The proposed Agreement may be examined at the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, telephone no. (202) 624–0892. A copy of the proposed Agreement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to DJ#90–11–3–1693A, and enclose a check in the amount of $5.50 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–18629 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—134a Consortium

Notice is hereby given that, on June 12, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the 134a Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objective of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the joint venture which shall be known as the 134a Consortium are: Boehringer Ingelheim Pharmaceuticals, Inc., Ridgefield, Ct; Institut de Recherches Internationales Servier, Paris, France; IVAX, Miami, Fl; Medeva Americas, Inc., Rochester, Ny; Rhone-Poulenc Rorer Pharmaceuticals, Inc., Collegeville, Pa; and 3M Pharmaceuticals, a division of Minnesota Mining and Manufacturing Company, St. Paul, Mn. The general planned activities are to explore and possibly implement options for acceptance testing of HFA–134a for use as a propellant in pharmaceutical aerosols.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–18623 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Bethlehem Steel Corporation and U.S. Steel Group, a Unit of USX Corporation

Notice is hereby given that, on May 23, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Bethlehem Steel Corporation and U.S. Steel Group, a Unit of USX Corporation, filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing an extension of a cooperative research and development venture. Specifically, the venture has been extended for an additional year. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

No other changes have been made in either the membership, corporate name, or planned activities of the venture.

On July 15, 1994, the parties filed their original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 31, 1994 (59 FR 45009). The last notification was filed with the Department on November 2, 1995 (59 FR 9498). A notice was published in the **Federal Register** on April 8, 1996.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–18618 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Massachusetts Institute of Technology

Notice is hereby given that, on March 13, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Massachusetts

Institute of Technology (''MIT'') has filed written notifications on behalf of a Joint Venture concerning the development of digital media networks (the ''Venture'') simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are American International Group, Inc., New York, NY; Bell Canada, Ottawa, Ontario, CANADA; BMG Entertainment, Bertelsmann AG, Gutersloh, GERMANY; Bonnier Interaktiv Media Lab, Stockholm, SWEDEN; Dentsu, Inc., Tokyo, JAPAN; Eastman Kodak, Rochester, NY; LM Ericsson, Stockholm, SWEDEN; HAKUHODO, Inc., Tokyo, JAPAN; Hughes Telecommunications & Space New Venture Organization, Los Angeles, CA; Kodansha, Tokyo, JAPAN; LEGO Futura Aps, Billund, DANMARK; Merrill Lynch, Princeton, NJ; Minnesota Mining & Manufacturing Company, St. Paul, MN; NIKE, Inc., Beaverton, OR; Nortel, Richardson, TX; NYNEX/Bell Atlantic, White Plains, NY; OMRON Corporation, Kyoto, JAPAN; Panasonic Technologies, Inc., Princeton, NJ; Perot Systems Corporation, Stamford, CT; Philips Research Labs, Briarcliff Manor, NY; Riverland, BELGIUM; RR Donnelley & Sons Company, Lisle, IL; SARITEL S.p.A., Roma, ITALY; SHINGAKUSHA Co., Ltd., Kyoto, JAPAN; Tandem Computers, Inc., Cupertino, CA; Tele Danmark, Tranbjerg j, DENMARK; Telecom Finland, Helsinki, FINLAND; TOPPAN Printing Co., Ltd., Santa Monica, CA; U.S. Robotics Access Corporation, Skokie, IL; WPP Group plc, London, ENGLAND; and Xerox Corporation, Palo Alto, CA.

The nature of the Venture will be to conduct research in the area of developing digital media networks to facilitate communication, education, and entertainment. The major focus of the research will be towards encouraging the growth and development of digital media networks and incorporating such networks into the daily lives of their users.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–18617 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Portland Cement Association

Notice is hereby given that, on June 2, 1997, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Portland Cement Association (''PCA'') filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Great Lakes Cement Promotion Association, Northville, MI has become an Affiliate Member of PCA.

No other changes have been made in either the membership, corporate name, or planned activities of the venture.

On January 7, 1985, PCA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on February 5, 1985 (50 FR 5015). The last notification was filed with the Department on March 17, 1997. A notice was published in the **Federal Register** on May 1, 1997 (62 FR 23796).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–18616 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice of Relocation

AGENCY: Office of Operations/Director of Operations, Justice.

ACTION: Notice of relocation.

SUMMARY: The Office of Operations will be relocating from: U.S. Department of Justice, Antitrust Division, Office of Operations, 950 Pennsylvania Ave., N.W., Room 3214, Washington, D.C. 20530.

Effective July 28, 1997 the new address will be: U.S. Department of Justice, Antitrust Division, Office of Operations, Patrick Henry Building, 601 D Street, N.W., Room 10103, Washington, D.C. 20530.

Do not use the 20530 zip code for FEDEX Airbills. For FEDEX airbills, use the above address information, using the zip code 20004. The use of the 20530 zip code will result in a delay of the delivery of FEDEX packages to our office.

All telephone numbers will remain unchanged.

DATES: Effective July 28, 1997.

ADDRESS: U.S. Department of Justice, Antitrust Division, Office of Operations, Patrick Henry Building, 601 D Street, N.W., Room 10103, Washington, D.C. 20530.

FOR MORE INFORMATION CONTACT: Cynthia C. Morgan at (202) 514–3544.

Constance K. Robinson,

Director of Operations.

[FR Doc. 97–18631 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 14, 1997, and published in the **Federal Register** on March 28, 1997, (62 FR 14948), Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Stepan Company to manufacture the listed controlled substances is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: July 2, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–18704 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated March 14, 1997, and published in the **Federal Register** on March 28, 1997, (62 FR 14947), Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application by renewal to the Drug Enforcement Administration to be registered as an importer of coca leaves (9040), a basic class of controlled substance listed in Schedule II.

No comment or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Stepan Company to import coca leaves is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1301.34, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: July 2, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–18705 Filed 7–15–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; 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 Standards Administration is soliciting comments concerning two proposed extension information collections: (1) Regulations governing the administration of the Longshore and Harbor Workers' Compensation (LS–200, 201, 203, 204, 262, 267, 271, 274, 513, and ESA–100) and (2) Resubmission Turnaround Document (CM–1173). Copies of the proposed information collection requests 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 addressee section below on or before September 15, 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: Ms. Margaret Sherrill, U.S. Department of Labor, 200 Constitution Ave., N.W., Room S–3201, Washington, D.C. 20210, telephone (202) 219–7601. (This is not a toll-free number.) Fax 202–219–6592.

SUPPLEMENTARY INFORMATION:

I. Background

The Longshore and Harbor Workers' Compensation Act, as amended (20 CFR 702.162, 702.174, 702.175, 20 CFR 702.242, 20 CFR 702.285, 702.321, 702.201, and 702.111) pertains to the provision of benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel, as well as coverage extended to certain other employees. The Longshore Act administration requirements include: payment of compensation liens incurred by Trust Funds; certification of exemption and reinstatement of employers who are engaged in the building, repairing, or dismantling of exclusively small vessels; settlement of cases under the Act; reporting of earnings by injured claimants receiving benefits under the Act; filing applications for relief under second injury provisions; and, maintenance of injury reports under the Act.

II. Current Actions

The Department of Labor (DOL) seeks extension of approval to collect this information in order to carry out its responsibility to insure that Longshore beneficiaries are receiving appropriate benefits. Failure to request this information, there would be no way to insure beneficiaries are receiving the correct amount of benefits.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Regulations Governing the Administration of the Longshore and Harbor Workers' Compensation Act.

OMB Number: 1215–0160.

Agency Numbers: LS–200, 201, 203, 204, 262, 267, 271, 274, 513, ESA–100.

Affected Public: Individuals or households, Businesses or other for profit, Small businesses or organizations.

Total Respondents: 212,547.

Frequency: On occasion.

Total Responses: 212,547.

Average Time Per Response for Reporting:

LS–200, 10 minutes, LS–271, 2 hours.

LS–201, 203, 204, 262, 15 minutes, LS–274, 1 hour.

LS–267, 2 minutes, LS–513, 30 minutes.

Estimated Total Burden Hours: 84,576.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintenance): $846.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection requests; they will also become a matter of public record.

I. Background

The Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 901) and 20 CFR 725.701 provides the Division of Coal Mine Workers' Compensation with responsibility for payment of covered black lung related medical treatment rendered to miners who are awarded Black Lung benefits.

Form CM–1173 is used to request specific medical data to insure the processing of Form HCFA–1500 (for payment of out-patient bills and for service and supplies provided to beneficiaries) and Form UB–92 (for payment of hospitals bills).

II. Current Actions

The Department of Labor (DOL) seeks extension of approval to collect this information in order to carry out its responsibility to insure that Black Lung beneficiaries are receiving benefits as mandated in the legislation. Failure to request this information would eliminate DOL's ability to insure beneficiaries are receiving the correct amount of benefits.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Resubmission Turnaround Document.

OMB Number: 1215–0177.

Agency Numbers: CM–1173.

Affected Public: Businesses or other for profit, Not-for-profit institutions.

Total Respondents: 30,000.

Frequency: On occasion.

Total Responses: 30,000.

Average Time Per Response for Reporting: 5 minutes.

Estimated Total Burden Hours: 2,500.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintenance): $9,600.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection requests; they will also become a matter of public record.

Dated: July 9, 1997.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 97–18698 Filed 7–15–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Apogee Coal Company dBA Arch of Illinois

[Docket No. M–97–73–C]

Apogee Coal Company dBA Arch of Illinois, P.O. Box 308, Percy, Illinois 62272–0308 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Conant Mine (I.D. No. 11–02886) located in Perry County, Illinois. The petitioner requests a modification of the standard to allow the use of high-voltage trailing cables (2400 VAC) inby the last open crosscut and within 150 feet of pillar workings at the continuous miner sections. The petitioner states that this modification would not result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. Canterbury Coal Company

[Docket No. M–97–74–C]

Canterbury Coal Company, R.D. #1, Box 119, Avonmore, Pennsylvania 15618 has filed a petition to modify the application of 30 CFR 75.362(d)(2) (on-shift examination) to its DiAnne Mine (I.D. No. 36–05708) located in Armstrong County, Pennsylvania. The petitioner requests a modification of the standard to allow an alternative method of compliance to the taking of methane tests at the face using an extendible probe. The petitioner proposes to conduct methane tests during the roof bolting cycle using a 20-foot extendable probe inby the first row of permanent supports. After this initial check is made, the petitioner proposes to conduct methane tests using an approved, hand-held, digital detector at the row of roof bolts to be installed prior to installation. The petitioner would repeat this procedure until the 20-foot extendable probe can reach within 12 inches from the roof, face, and rib. The petitioner states that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. Addington, Inc.

[Docket No. M–97–75–C]

Addington, Inc., P.O. Box 203, Ivel, Kentucky 41642 has filed a petition to modify the application of 30 CFR 75.1710–1(a) (canopies or cabs; self-propelled electric face equipment; installation requirements) to its Pond Creek No. 1 Mine (I.D. No. 15–17287) located in Pike County, Kentucky. The petitioner proposes to operate its self-propelled electric face equipment without canopies due to mining heights. The petitioner states that application of the standard would result in a diminution of safety to the miners.

4. Fola Coal Company

[Docket No. M–97–76–C]

Fola Coal Company, P.O. Box 180, Bickmore, West Virginia 25019 has filed a petition to modify the application of 30 CFR 71.402(c) (minimum requirements for bathing facilities, change rooms, and sanitary flush toilet facilities) to its Surface Mine No. 2 (I.D. No. 46–08377), and its Peach Orchard Preparation Plant and Loadout Facility (I.D. No. 46–08376) located in Clay and Nicholas Counties, West Virginia. The petitioner proposes to construct an additional shower and locker building near its preparation plant. The petitioner asserts that the reason for this petition is that there is a lack of sewage treatment facilities necessary to handle the volume required by the mandatory standard; and that the West Virginia Department of Environmental Protection prohibits them from using the only level areas available for the size leach fields required. The petitioner states that the additional eight showers in the new shower and locker building would meet the needs of the workforce given the existing constraints at their facilities.

5. Apogee Coal Company dBA Arch of Illinois

[Docket No. M–97–77–C]

Apogee Coal Company dBA Arch of Illinois, P.O. Box 308, Percy, Illinois 62272 has filed a petition to modify the application of 30 CFR 75.701 (grounding metallic frames, casings, and other enclosures of electric equipment) to its Conant Mine (I.D. No. 11–02886) located in Perry County, Kentucky. The petitioner requests a modification of the standard to allow the use of a diesel-powered generator to supply power to mobile mining equipment when the equipment is being moved from one area to another without grounding the neutral to a low resistance ground field. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

6. Eastern Associated Coal Corporation

[Docket No. M–97–78–C]

Eastern Associated Coal Corporation, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.507 (power connection points) to its Harris No. 1 Mine (I.D. No. 46–01271) and its Lightfoot No. 2 Mine (I.D. No. 46–04955) both located in Boone County,

West Virginia. The petitioner proposes to use a 2300 volt three-phase alternating current electric power circuit for the pump. The power circuit would be designed and installed to contain (1) either a direct or derived neutral which would be grounded through a suitable resistor at the source transformer or power center; (2) a grounding circuit originating at the grounded side of the grounding resistor that would extend along with the power conductors and serve as the grounding conductor for the frame of the pump and all the associated electric equipment where power is supplied from the circuit; (3) a grounding resistor that would limit the ground fault current to no more that 15 amperes; (4) a suitable circuit breaker to provide protection against grounded phase, undervoltage, short circuit, and overload; (5) a disconnecting device; and (6) a fail-safe ground check circuit. The petitioner has listed in this petition other specific precautions and procedures that would be implemented in using the proposed alternative method, including the submission of a proposed revision of its approved 30 CFR Part 48 training plan to the Coal Mine Safety and Health District Manager for the area in which the pump and pump electric controls are located. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

7. Consolidation Coal Company

[Docket No. M–97–79–C]

Consolidation Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Blacksville No. 2 Mine (I.D. No. 46–01968) located in Monongalia County, West Virginia. The petitioner proposes to use high-voltage cables not exceeding 4,160 volts inby the last open crosscut and has listed in the petition specific terms and conditions for their safe use. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

8. Little Buck Coal Company

[Docket No. M–97–80–C]

Little Buck Coal Company, RD #4, Box 395, Pine Grove, Pennsylvania 17963 has filed a petition to modify the application of 30 CFR 75.1100 (quantity and location of firefighting equipment) to its No. 3 Slope Buck Mt. Vein (I.D. No. 36–08568) located in Schuylkill County, Pennsylvania. The petitioner proposes to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage are not practical. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. Branham & Baker Coal Company, Inc.

[Docket No. M–97–81–C]

Branham & Baker Coal Company, Inc., 148 South Lake Drive, P.O. Box 271, Prestonsburg, Kentucky 41653 has filed a petition to modify the application of 30 CFR 77.1304(a) (blasting agents; special provisions) to its Road Creek Mine No. 1 (I.D. No. 15–17008) located in Pike County, Kentucky. The petitioner proposes to use recycled oil from equipment at the Road Creek, Petty's Fork, Gum Branch, Three Mile, Big Branch, and Ridge Top mines, which is filtered and blended with fuel oil, to create an ammonium nitrate-fuel oil (ANFO). The petitioner proposes numerous safeguards for implementing and using the proposed alternative method, and proposes to submit to the District Manager revisions to the mine's approved 30 CFR Part 48 training plan within 60 days after the petition is granted. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before August 15, 1997. Copies of these petitions are available for inspection at that address.

Dated: July 8, 1997.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 97–18639 Filed 7–15–97; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–97–35]

Agency Information Collection Activities; Proposed Collection; Comment Request; Derricks (29 CFR 1910.181(g)(1) and 29 CFR 1910.181(g)(3))—Inspection Certifications

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 (PRA 95) (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 impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of the information collection requirements contained in 29 CFR 1910.181(g)(1) and 29 CFR 1910.181(g)(3). The Agency 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.

DATES: Written comments must be submitted on or before September 15, 1997.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR–97–35, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, D.C. 20210. Telephone: (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Richard Sauger or Belinda Cannon, Directorate of Safety Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3605, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 219–7202. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Theda Kenney at (202) 219–8061, ext. 100, or Barbara Bielaski at (202) 219–8076, ext. 142. For electronic copies of the information Collection Request on the certification provisions of Derricks, contact OSHA's WebPage on the Internet at http://www.osha.gov/ and click on ''standards.''

SUPPLEMENTARY INFORMATION:

1. Background

The Occupational Safety and Health Act of 1970 (the Act) authorizes the promulgation of such health and safety standards as are necessary or appropriate to provide safe or healthful employment and places of employment. The statute specifically authorizes information collection by employers as necessary or appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents.

The inspection certification records required in 29 CFR 1910.181(g)(1) and 29 CFR 1910.181(g)(3) are necessary to assure compliance with the requirement for ropes on derricks. They are intended to assure that the ropes have monthly maintenance checks and that the inspections are recorded.

II. Current Actions

This notice requests an extension of the current Office of Management and Budget (OMB) approval of the inspection certification requirements contained in 29 CFR 1910.181(g)(1) and 29 CFR 1910.181(g)(3)—Derricks (currently approved under OMB Control No. 1218–0210).

Type of Review: Extension.

Agency: U.S. Department of Labor, Occupational Safety and Health Administration.

Title: Derricks (29 CFR 1910.181(g)(1) and 29 CFR 1910.181(g)(3)—Inspection Certifications.

OMB Number: 1218–.

Agency Number: Docket Number ICR–97–35.

Affected Public: State and local governments; Business or other for-profit.

Number of Respondents: 10,000.

Frequency: Monthly.

Average Time per Response: 0.25 hours.

Estimated Total Burden Hours: 28,508.

Total Annualized Capital/Startup Costs: $0.

Signed at Washington, DC, this 9th day of July 1997.

John F. Martonik,

Acting Director, Directorate of Safety Standards Programs.

[FR Doc. 97–18699 Filed 7–15–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 97–13]

Agency Information Collection Activities: Proposed Collection; Comment Request; Asbestos in General Industry

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 Occupational Safety and Health Administration is soliciting comments concerning the proposed extension of the information collection request for the Asbestos Standard 29 CFR 1910.1001. A copy of the proposed information collection request (ICR) can be obtained by contacting the employee listed below in the addressee section of this notice. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information 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 technique or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted by September 15, 1997.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 97–13, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210, telephone number (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Barbara Bielaski at (202) 219–8076 or Todd Owen at (202) 219–7075. For electronic copies of the Information Collection Request on Asbestos in General Industry contact OSHA's WebPage on the Internet at http://www.osha.gov/ and click on standards.

SUPPLEMENTARY INFORMATION:

I. Background

The Asbestos standard and its information collection is designed to provide protection for employees from the adverse health effects associated with occupational exposure to asbestos. The standard requires employers to monitor employee exposure to asbestos, to monitor employee health and to provide employees with information about their exposures and the health effects of injuries.

II. Current Actions

This notice requests an extension of the current OMB approval of the paperwork requirements in the Asbestos Standard. Extension is necessary to provide continued protection to employees from the health hazards associated with occupational exposure to asbestos.

Type of Review: Extension.

Agency: Occupational Safety and Health Administration.

Title: Asbestos in General Industry.

OMB Number: 1218–0133.

Agency Number: Docket Number ICR 97–13.

Affected Public: Business and other for-profit, Federal and State government, Local or Tribal governments.

Total Respondents: 233.

Frequency: On Occasion.

Total Responses: 85,306.

Average Time per Response: Time per response ranges from 5 minutes to maintain records to 1.5 hours to train employees.

Estimated Total Burden Hours: 24,234.

Estimated Capital, Operation/Maintenance Burden Cost: $1,578,743.

Comments submitted in response to this notice 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: July 8, 1997.

Adam M. Finkel,

Director, Directorate of Health Standards Programs.

[FR Doc. 97–18700 Filed 7–15–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 97–15]

Agency Information Collection Activities: Proposed Collection; Comment Request; Asbestos in Shipyards

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 Occupational Safety and Health Administration is soliciting comments concerning the proposed extension of the information collection request for the Asbestos Standard 29 CFR 1915.1001. A copy of the proposed information collection request (ICR) can be obtained by contacting the employee listed below in the addressee section of this notice. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information 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 technique or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted by September 15, 1997.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 97–15, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, DC 20210, telephone number (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Health Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3718, telephone (202) 219–7075. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Barbara Bielaski at (202) 219–8076 or Todd Owen at (202) 219–7075. For electronic copies of the Information Collection Request on Asbestos in Shipyards contact OSHA's WebPage on the Internet at Http://www.osha.gov/ and click on standards.

SUPPLEMENTARY INFORMATION:

I. Background

The Asbestos standard and its information collection is designed to provide protection for employees from the adverse health effects associated with occupational exposure to asbestos. The standard requires employers to monitor employee exposure to asbestos, to monitor employee health and to provide employees with information about their exposures and the health effects of injuries.

II. Current Actions

This notice requests an extension of the current OMB approval of the paperwork requirements in the Asbestos Standard. Extension is necessary to provide continued protection to employees from the health hazards associated with occupational exposure to asbestos.

Type of Review: Extension.

Agency: Occupational Safety and Health Administration.

Title: Asbestos in Shipyards.

OMB Number: 1218–0195.

Agency Number: Docket Number ICR 97–15.

Affected Public: Business and other for-profit, Federal and State government, Local or Tribal governments.

Total Respondents: 89.

Frequency: On Occasion.

Total Responses: 2,468.

Average Time per Response: Time per response ranges from 5 minutes to maintain records to 40 hours to train qualified persons.

Estimated Total Burden Hours: 1,093.

Estimated Capital, Operation/Maintenance Burden Cost: $34,861.

Comments submitted in response to this notice 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: July 10, 1997.

Ruth McCully,

Acting Deputy Director, Directorate of Health Standards Programs.

[FR Doc. 97–18701 Filed 7–15–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–97–36]

Agency Information Collection Activities; Proposed Collection; Comment Request; Certification Records for Slings (29 CFR 1910.184)

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 (PRA 95) (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 impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed approval of the information collection requirements contained at 29 CFR 1910.184. The Agency 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.

DATES: Written comments must be submitted on or before September 15, 1997.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR–97–36, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, D.C. 20210. Telephone: (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Richard Sauger, Directorate of Safety Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3605, 200 Constitution Avenue, NW, Washington, D.C. 20210. Telephone: (202) 219–7202, ext. 137. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Theda Kenney at (202) 219–8061, ext. 100, or Barbara Bielaski at (202) 219–8076, ext. 142. For electronic copies of the Information Collection Request on the certification provisions in Slings, contact OSHA's WebPage on the Internet at http://www.osha.gov/ and click on ''standards.''

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Safety and Health Act of 1970 (the Act) authorizes the promulgation of such health and safety standards as are necessary or appropriate to provide safe or healthful employment and places of employment. The statute specifically authorizes information collection by employers as necessary or appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents.

The sling proof test and repair certification records required in 29 CFR 1910.184 are necessary to assure compliance with the requirements for slings in general industry. Included in this standard are the requirements for: the proof testing of all new, repaired, or reconditioned alloy steel chain slings and the certification of that proof testing; the proof testing of all wire rope slings with welded end attachments and the certification of that proof testing; and the marking, tagging or certification of repair of metal mesh slings.

II. Current Actions

This notice requests an extension of the current Office of Management and Budget (OMB) approval of the certification requirements contained in 29 CFR 1910.184.

Type of Review: Extension.

Agency: U.S. Department of Labor, Occupational Safety and Health Administration.

Title: Certification Records for Slings (29 CFR 1910.184).

OMB Number: 1218– .

Agency Number: ICR–97–36.

Frequency: On Occasion.

Affected Public: State and local governments; Business or other for-profit.

OMB Number: 1218– .

Agency Number: ICR–97–28.

Affected Public: State and local governments; Business or other for-profit.

Number of Respondents: 975,000.

Estimated Total Burden Hours: 1,071.

Average Time per Response: 0.11 hours.

Total Annualized Capital/Startup Costs: $0.

Signed at Washington, D.C., this 8th day of July 1997.

John F. Martonik,

Acting Director, Directorate of Safety Standards Programs.

[FR Doc. 97–18702 Filed 7–15–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket Number ICR–97–43]

Agency Information Collection Activities: Proposed Collection; Comment Request; Lead in Construction

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

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 Occupational Safety and Health Administration is soliciting comments concerning the proposed extension of the information collection request for the Lead in Construction 29 CFR

1926.62. 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 assumption 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.

DATES: Written comments must be submitted by September 15, 1997.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR–97–43, U.S. Department of Labor, Room N–2625, 200 Constitution Ave. NW., Washington, DC 20210, telephone (202) 219–7894. Written comments limited to 10 pages or fewer may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Todd Owen, Directorate of Health Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3647, 200 Constitution Ave., NW., Washington, DC 20210. Telephone: (202) 219–7075. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Todd Owen at (202) 219–7075 or Barbara Bielaski at (202 219–8076. For electronic copies of the Information Collection Request on Lead in Construction contact OSHA's WebPage on Internet at http://www.osha.gov/ and click on standards.

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of the Lead in Construction Standard and its information collection requirements are to reduce occupational lead exposure in the construction industry. Lead exposure can result in both acute and chronic effects and can be fatal in severe cases of lead intoxication. Some of the health effects associated with lead exposure include brain disorders which can lead to seizures, coma, and death; anemia; neurological problems; high blood pressure; Kidney problem; reproductive problems; and decreased red blood cell production. The Standard requires that employers establish and maintain a training and compliance program, and exposure monitoring and medical surveillance records. These records are used by employees, physicians, employers and OSHA to determine the effectiveness of the employers' compliance efforts.

Type of Review: Extension.

Agency: Occupational Safety and Health Administration.

Title: Lead in Construction 29 CFR 1926.62.

OMB Number: 1218–0189.

Affected Public: Business or other for-profit, Federal government, State and Local governments.

Total Respondents: 147,073.

Frequency: On occasion.

Total Responses: 6,351,167.

Average Time per Response: Approximately 0.286 hour.

Estimated Total Burden Hours: 1,814,671.

Total Annualized capital/startup costs: 0.

Total initial annual costs: (operating/maintaining systems or purchasing services): $87,087,005.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request. The comments will become a matter of public record.

Dated: July 10, 1997.

Ruth McCully,

Acting Deputy Director, Directorate of Health Standards Programs.

[FR Doc. 97–18703 Filed 7–15–97; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–354]

Public Service Electric & Gas Co.; Atlantic City Electric Co.; Hope Creek Generating Station; Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied part of a request by Public Service Electric & Gas Company, (licensee) for an amendment to Facility Operating License No. NPF–57 issued to the licensee for operation of the Hope Creek Generating Station, located at the licensee's site in Salem County, New Jersey. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on May, 1997 (62 FR 27798).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to change TS 3.6.5.3.2, ''Filtration, Recirculation and Ventilation System (FRVS),'' to provide an appropriate Limiting Condition for Operation and ACTION Statement that reflects the design basis for the FRVS. A second proposed change to TS 4.6.5.3.2b would permit the FRVS heaters to be OPERABLE rather than ON during the 31-day test. The change to TS 3.6.5.3.2 was found to be acceptable and issued as License Amendment No. 99 on July 9, 1997.

With regard to the proposed change to TS 4.6.5.3.2b, the NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated July 9, 1997.

By August 15, 1997, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 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.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated March 31, 1997, and (2) the Commission's letter to the licensee dated July 9, 1997.

These documents are available for public inspection at the Commission's Public document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Dated at Rockville, Maryland, this 9th day of July 1997.

For the Nuclear Regulatory Commission.

Chester Poslusny,

Acting Director, Project Directorate I–2, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–18666 Filed 7–15–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–356]

Environmental Assessment and Finding of No Significant Impact; Regarding Termination of Facility Operating License No. R–117; University of Illinois at Urbana-Champaign; Low Power Reactor Assembly

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an Order terminating Facility Operating License No. R–117 for the University of Illinois at Urbana-Champaign (the licensee or University) Low Power Reactor Assembly (LOPRA) located on the licensee's campus in Urbana, Illinois, in accordance with the application dated February 10, 1995, as supplemented on April 24, 1995; October 2, 1996; and April 15, 1997.

Environmental Assessment

Identification of Proposed Action

By application dated February 10, 1995, as supplemented on April 24, 1995, and October 2, 1996, the licensee requested authorization to decommission the LOPRA in accordance with the proposed decommissioning plan. The application of February 10, 1995, also requested authorization to terminate Facility Operating License No. R–117. Amendment No. 6 to the facility operating license was issued on January 21, 1997, approving the decommissioning plan. The licensee informed the NRC in a letter dated April 15, 1997, that the University had completed decommissioning of the LOPRA in accordance with the amendment. The NRC project manager for the LOPRA and a non-power reactor inspector visited the site on May 7, 1997, to confirm that the licensee had decommissioned the LOPRA in accordance with the license amendment and had transferred the LOPRA components and fuel to the Advanced TRIGA Research Reactor (TRIGA) license (Docket No. 50–151, Facility License No. R–115). Some components containing byproduct material were subsequently transferred to a University of Illinois byproduct materials license (License IL–01271–01) issued by the State of Illinois to allow the components to be stored at a facility away from the Nuclear Reactor Laboratory. No licensed material remains on the LOPRA license.

The University's Nuclear Reactor Laboratory houses the TRIGA (which the University continues to operate) and housed the LOPRA, which was located in the bulk shielding tank of the TRIGA. The Nuclear Reactor Laboratory continues to be subject to the terms of the TRIGA license. Because the LOPRA components and fuel have been transferred to other licenses and because the TRIGA continues to operate, no facility or site is being released for unrestricted use by this action. The licensee will maintain the capability to construct and operate a subcritical assembly in the TRIGA bulk shielding tank from the former LOPRA components, as currently authorized by the TRIGA license. The Nuclear Reactor Laboratory will be considered for release by NRC as part of the request to terminate the TRIGA license at some time in the future.

As requested by the licensee in its letter of April 15, 1997, the NRC, in a separate action, is considering granting a specific exemption in accordance with 10 CFR 50.12 to the part of the requirements of 10 CFR 50.82(b)(6)(ii) that requires a terminal radiation survey and associated documentation to demonstrate that the facility and site are suitable for release as a condition for license termination. Because all licensed material has been transferred from the LOPRA license and because the TRIGA and site will continue to be under an NRC license, there is no facility or site to be released for unrestricted use as part of the license termination, and a terminal radiation survey is not needed to terminate the license.

The Need for Proposed Action

In order to end regulatory oversight of the LOPRA, Facility Operating License No. R–117 must be terminated.

Environmental Impact of License Termination

No licensed material remains under the authority of the LOPRA license. The NRC staff has verified that the LOPRA components and fuel have been transferred to the TRIGA license and to the University of Illinois byproduct materials license issued by the State of Illinois, which are authorized to receive this material. Future use of these components and fuel as a subcritical assembly is currently authorized and will be governed by the TRIGA license. With the transfer of all material to other licenses, the termination of the LOPRA license is administrative in nature. Because the site will continue to be subject to an NRC license, terminating Facility Operating License No. R–117 will have no effect on the status of the facility or site and thus, has no significant impact on the environment.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denying the proposed action. Denying the application for license termination would not change current environmental impacts and would require continuance of the facility license. The staff also considered taking no action on the licensee's request. This would have the same outcome as denying the proposed action. The environmental impacts of the proposed action and of the alternative actions are similar. Since the LOPRA components and fuel have been transferred to the other licenses that are authorized to receive this material, there is no alternative with less environmental impact than the termination of Facility Operating License No. R–117.

Agencies and Persons Consulted

The staff consulted with the Illinois State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

The NRC has determined not to prepare an environmental impact statement for the proposed action. On the basis of the foregoing environmental assessment, the NRC has concluded that the issuance of the Order will have no significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the application for termination of Facility Operating License No. R–117, dated February 10, 1995, as supplemented. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20037.

Dated at Rockville, Maryland, this 9th day of July 1997.

For the Nuclear Regulatory Commission.

Marvin M. Mendonca,

Acting Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 97–18663 Filed 7–15–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–356]

Environmental Assessment and Finding of No Significant Impact; Regarding Issuance of a Specific Exemption to the Requirements of 10 CFR 50.82(b)(6)(ii); University of Illinois at Urbana-Champaign; Low Power Reactor Assembly

The U.S. Nuclear Regulatory Commission (NRC) is considering granting, for Facility Operating License No. R–117 for the University of Illinois at Urbana-Champaign (the licensee or University) Low Power Reactor Assembly (LOPRA) located on the licensee's campus in Urbana, Illinois, a specific exemption in accordance with 10 CFR 50.12 to the part of the requirements of 10 CFR 50.82(b)(6)(ii) that requires a terminal radiation survey and associated documentation to demonstrate that the facility and site are suitable for release as a condition of license termination.

Environmental Assessment

Identification of Proposed Action

By application dated February 10, 1995, as supplemented on April 24, 1995, and October 2, 1996, the licensee requested authorization to decommission the LOPRA in accordance with the proposed decommissioning plan, and terminate Facility Operating License No. R–117. Amendment No. 6 to the facility operating license was issued on January 21, 1997, approving the decommissioning plan. The licensee informed the NRC in a letter dated April 15, 1997, that the University has completed decommissioning of the LOPRA in accordance with the amendment. The NRC project manager for the LOPRA and a non-power reactor inspector visited the site on May 7, 1997, and found that the licensee had decommissioned the LOPRA in accordance with the license amendment and that no licensed material remained under the authority of the LOPRA license. The licensee had transferred the LOPRA components and fuel to the Advanced TRIGA Research Reactor (TRIGA) license (Docket No. 50–151, Facility License No. R–115). Some components containing byproduct material were subsequently transferred to a University of Illinois byproduct materials license (License IL–01271–01), issued by the State of Illinois to allow the components to be stored at a facility away from the Nuclear Reactor Laboratory.

The University's Nuclear Reactor Laboratory houses the TRIGA (which the University continues to operate) and housed the LOPRA, which was located in the bulk shielding tank of the TRIGA. The Nuclear Reactor Laboratory continues to be subject to the terms of the TRIGA license. The Nuclear Reactor Laboratory will be considered for release by NRC as part of the request to terminate the TRIGA license at some time in the future. Because the facility and site will continue to be used under an NRC license and will be surveyed in the future, and because application of the regulation is not necessary to achieve the underlying purpose of the rule, the licensee requested in its letter of April 15, 1997, that NRC consider granting a specific exemption in accordance with 10 CFR 50.12 to the part of the requirements of 10 CFR 50.82(b)(6)(ii) that requires a terminal radiation survey and associated documentation to demonstrate that the facility and site are suitable for release as a condition for license termination.

The Need for Proposed Action

The exemption is needed for termination of Facility Operating License No. R–117.

Environmental Impact of Granting of Exemption

No licensed material remains under the authority of the LOPRA license. The NRC staff has verified that the LOPRA components and fuel have been transferred to the TRIGA license and the University of Illinois byproduct materials license, issued by the State of Illinois, which are authorized to receive this material. Future use of these components and fuel as a subcritical assembly in the TRIGA bulk shielding tank is currently authorized by the TRIGA license. With the transfer of all licensed material from the LOPRA license, the termination of the LOPRA license is administrative in nature. Because the facility and site will continue to be used under an NRC license, and because no facility or site is to be released as part of the license termination, granting the exemption will have no effect on the status of the site and, thus, no significant impact on the environment.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denying the proposed action. Not granting the exemption would not change current environmental impacts and would require continuance of Facility Operating License No. R–117. The staff also considered taking no action. This would have the same outcome as not granting the proposed action. The environmental impacts of the proposed action and of the alternative actions are similar. Since the LOPRA components and fuel have been transferred to other licenses that are authorized to receive this material, there is no alternative with less environmental impact than granting the exemption, which would allow the termination of Facility Operating License No. R–117.

Agencies and Persons Consulted

The staff consulted with the Illinois State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

The NRC has determined not to prepare an environmental impact statement for the proposed action. On the basis of the foregoing environmental assessment, the NRC has concluded that the granting of the exemption will have no significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the application for termination of Facility Operating License No. R–117, dated February 10, 1995, as supplemented, which includes the letter of April 15, 1997, which requests the exemption. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20037.

Dated at Rockville, Maryland, this 9th day of July 1997.

For the Nuclear Regulatory Commission.

Marvin M. Mendonca,

Acting Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 97–18665 Filed 7–15–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any

amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 23, 1997, through July 3, 1997. The last biweekly notice was published on July 2, 1997 (62 FR 35846).

Notice Of Consideration of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Harards Consideration Determination, And Opportunith For A Hearing

The Commission has made a proposed determination that the following 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 amendment 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. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-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 amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after 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 a hearing and petitions for leave to intervene is discussed below.

By August 15, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license 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 for the particular facility involved. 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 a 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 amendment 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 a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no

significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

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 the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of 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 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 for the particular facility involved.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 30, 1997, identified as CY-97-006

Description of amendment request: Changes to the Operating License, DPR-61, and facility Technical Specifications (TS) that reflect the permanently shut down and defueled status of the plant.

CY-97-006 contains the proposed changes to the license conditions in DPR-61 on Fire Protection, Power Level and Fuel Movement; and submittal of a new set of TS referred to by the licensee as the Defueled TS (DTS). The DTS contain a revised Definitions section, removal of the sections on Safety Limits and Limiting Safety System Settings, Limiting Conditions for Operation and Surveillance Requirements were modified extensively, the Design Features section was revised, and the Administrative Controls section was modified to reflect all the preceding changes.

Basis for proposed no significant hazards consideration determination: 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:

Connecticut Yankee Atomic Power Company (CYAPCO) has reviewed the proposed changes to the Operating License and the Technical Specifications in accordance with 10 CFR 50.92 and concluded that the changes do not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised. The proposed changes do not involve an SHC because the changes would not:1. Involve a significant increase in the probability of consequences of an accident previously evaluated.

Because of the present plant configuration, many of the postulated accidents previously evaluated (i.e., loss or coolant accident, main steam line break, etc.) are no longer possible. The accidents previously evaluated that are still applicable to the plant are fuel handling accidents and gaseous and liquid radioactive releases.

There is no significant increase in the probability of a fuel handling accident since refueling operations have ceased. In fact, there is more likely a decrease in probability of a fuel handling accident since the need to move/rearrange fuel assemblies is minimal until they are removed from the spent fuel pool (i.e., for dry cask storage or for transferring to U.S. Department of Energy possession).

The radiological consequences of a gaseous or liquid radioactive release are bounded by the fuel handling accident. With the plant defueled and permanently shutdown, the demands on the radwaste systems is lessened since no new radioisotopes are being generated by irradiation or fission. Therefore, there is no increase in the probability or consequences of a gaseous or liquid radioactive release.

The changes to the Operating License reflect the permanently defueled condition for power level and fuel movement restrictions and the fire protection regulation which is applicable for a permanently defueled plant.

With respect to the Service Water System (Specification 3/4.7.3), Electrical Power Systems (Specification 3/4.8) and spent fuel pool makeup, the basis for placing appropriate requirements in the Technical Requirements Manual is due to the reduced heat load in the spent fuel pool.

The plant was shutdown on July 22, 1996 and more than 280 days have passed since the shutdown, thus the heat load on the spent fuel pool cooling system is greatly reduced. Present cooling performance data as well as calculations demonstrate that either the plate or the shell and tube heat exchanger has more than adequate heat removal capacity. In the event of a loss of forced cooling, calculations indicate that the spent fuel pool time to boil is greater than 40 hours based on an initial pool temperature of 150°F. The initial pool temperature of 150°F is based on Technical Specification 3/4.9.15 which has a pool temperature limit of 150°F. Even during boiling, the fuel is adequately cooled. Once boiling commences, the operators have in excess of 18 days to provide forced cooling and/or makeup before there is inadequate shielding provided by the water in the pool. This allows sufficient time to provide for alternate forced cooling or makeup to the spent fuel pool in the event of a service water system failure. Therefore, operability of spent fuel pool cooling does not require service water, electrical power, or makeup water to be immediately available.

Should failure to restore operation of the spent fuel pool cooling system occur before boiling takes place, cooling of the spent fuel can be accomplished by allowing the spent fuel pool to boil and adding makeup water at a rate equal to or greater than the boil-off rate.

CYAPCO has in place procedures to establish onsite power in the event of a Loss of Normal Power (LNP) and in the event of a loss of cooling to the Spent Fuel Pool. For a LNP, power can be made available within approximately one hour. If onsite power cannot be reestablished, due to equipment failure, at approximately 2 hours into the LNP, limited makeup water could be provided by gravity feed from a tank (available in approximately 30 minutes) or an unlimited supply of water could be provided via the diesel fire pump from the Connecticut River (available in approximately 30 minutes). Therefore, within approximately 2 1/2 hours of the event start, cooling and/or makeup would be reestablished to the spent fuel pool. Historically, the longest LNP the HNP has experienced has been less than 30 minutes.

The changes to Technical Specification 3.3.3.8, ''Radioactive Gaseous Effluent Monitoring Instrumentation'' and Table 3.3.-10 delete the trip function from the main stack noble gas activity monitor. The changes to Technical Specifications 3.11.2.1, Dose Rate, and 3.11.2.3, Dose, delete the requirement to include the radioiodine isotopes in the dose calculations. These changes are based on the following:

There is no significant increase in the consequences of a fuel handling accident since the accident scenarios assume an assembly with significant amounts of radioactive iodine or noble gas. The plant was shutdown on July 22, 1996. Except for I-125 (half-life =59.5 days), I-129 (half-life = 1.6E7 years), and Kr-85 (half-life =10.8 years), the spent fuel inventory of the dose contributing radioactive iodine and noble gas isotopes has decayed more than 20 half-lives since shutdown (i.e., less than 0.0001% of the original amount remains). In addition, the definition for ''Dose Equivalent I-131'' (≥Standard Technical Specifications, Westinghouse Plants,'' NUREG-1431) does not include I-125 and I-129 in the dose assessment due to their negligible inventory in the spent fuel. Except for Kr-85, the other noble gas nuclides that contribute to a whole

body dose have also decayed to a negligible amount. CYAPCO has performed fuel handling and cask drop accident dose calculations which conclude that doses (i.e., whole body and thyroid) at the Exclusion Area Boundary are a small fraction of the 1O CFR 100 dose limits and the EPA PAGS. In fact, due to this decreased radioactive inventory, there is a significant decrease in the consequences of a fuel handling accident.

Based on the above, the proposed changes to the Operating License and the Technical Specifications do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

There is no change in how spent fuel is stored or moved in the spent fuel pool. Therefore, the postulated fuel handling accidents are still bounding and are still considered as credible postulated accidents. The bases provided in the CYAPCO analysis of previously evaluated accidents in Section 1, above, also applies to the possibility of new or different accidents herein.

Based on the analysis in Section 1, above, the changes to Technical Specification related to radioactive iodine and noble gas isotopes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Based on these considerations, the proposed changes to the Operating License and the Technical Specifications do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

With respect to the Service Water System (Specification 3/4.7.3), Electrical Power Systems (Specification 3/4.8) and spent fuel pool makeup, the basis for placing appropriate requirements in the Technical Requirements Manual is due to the reduced heat load in the spent fuel pool.

The Technical Specification basis states that the time to spent fuel pool boiling after a loss of forced cooling following a full core offload is 7 hours.

In accordance with the analysis set forth above under No. 1, there is no change in how spent fuel is stored or moved in the spent fuel pool.

Based on the above, the proposed changes to the Operating License and the Technical Specifications do not involve a significant reduction in a 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 amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, CT 06457

Attorney for licensee: Ms. L. M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Service Company, Post Office Box 270, Hartford, CT 06141-0270

NRC Project Director: Marvin M. Mendonca, Acting Director

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 30, 1997, identified as CY-97-024

Description of amendment request: CY-97-024 provided the proposed technical specifications (TS) needed to implement the Certified Fuel Handler (CFH) program at the plant. This new position will replace the former licensed operator positions. A copy of the CFH Training Program, ''Nuclear Training Manual NTM-7.083'' was enclosed with the license amendment request for NRC review and approval. However, this manual will be reviewed separately from the proposed TS changes and when the NRC review of the manual is completed a letter of approval will be sent to the licensee.

Basis for proposed no significant hazards consideration determination: 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:

Connecticut Yankee Atomic Power Company (CYAPCO) has reviewed the proposed changes to the Technical Specifications in accordance with 10 CFR 50.92 and concluded that the changes do not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised. The proposed changes do not involve an SHC because the changes would not.

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed qualification, staffing and training requirements are appropriate for the present plant conditions.

The plant has permanently ceased operations, the reactor has been permanently defueled, and the spent fuel stored in the spent fuel pool.

Because the present plant conditions, many of the postulated accidents previously evaluated (i.e., loss-of-coolant accident, main steam line break, etc.) are no longer possible. The accidents previously evaluated that are still applicable to the plant are fuel handling accidents and gaseous and liquid radioactive releases.

There is no significant increase in the probability of a fuel handling accident since refueling operations have ceased. In fact, there is more likely a decrease in probability of a fuel handling accident since the need to move/rearrange fuel assemblies is minimal until they are removed from the spent fuel pool (i.e., for dry cask storage or for transferring to U.S. Department of Energy possession).

There is no significant increase in the consequences of a fuel handling accident since the accident scenarios assume an assembly with significant amounts of radioactive iodine or noble gas. The plant was shutdown on July 22, 1996. Except for I-125 (half-life=59.5 days), I-129 (half-life=1.6E7 years), and Kr-85 (half-life-10.8 years), the spent fuel inventory of the dose-contributing radioactive iodine and noble gas isotopes has decayed more than 20 half-lives since shutdown (i.e., less than 0.0001% of the original amount remains). In addition, the definition for ''Dose Equivalent I-131'' (≥Standard Technical Specifications, Westinghouse Plants,'' NUREG-1431) does not include I-125 and I-129 in the dose assessment due to their negligible spent fuel inventory. Except for Kr-85, the other noble gas nuclides that contribute to a whole body dose have also decayed to a negligible amount. CYAPCO has performed fuel handling and cask drop accident dose calculations which conclude that doses (i.e., whole body and thyroid) at the Exclusion Area Boundary and the Low Population Zone are a small fraction of the 10 CFR 100 dose limits. In fact, due to this decreased radioactive inventory, there is a significant decrease in the consequences of a fuel handling accident.

The radiological consequences of a gaseous or liquid radioactive release are bounded by the fuel handling accident. With the plant defueled and permanently shutdown, the demands on the radwaste systems are lessened since no new radioisotopes are being generated by irradiation. Therefore, there is no increase in the consequences of a gaseous or liquid radioactive release.

Based on the above, the proposed changes to the Technical Specifications do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

There is no change in how spent fuel is stored or moved in the spent fuel pool. Therefore, the postulated fuel handling accidents are still bounding and are still considered as credible postulated accidents.

Based on the above, the proposed changes to the Technical Specifications do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

There is no change in how spent fuel is stored or moved in the spent fuel pool.

The plant was shutdown on July 22, 1996. Except for I-125 (half-life=59.5 days), I-129 (half-life=1.6E7 years), and Kr-85 (Half-life=10.8 years), the spent fuel inventory of the dose-contributing radioactive iodine and noble gas isotopes has decayed more than 20 half-lives since shutdown (i.e., less than 0.0001% of the original amount remains). Except for Kr-85, the other noble gas nuclides that contribute to a whole body dose have also decayed to a negligible amount. CYAPCO has performed fuel handling and cask drop accident dose calculations which conclude that doses (i.e, whole body and

thyroid) at the Exclusion Area Boundary and the Low Population Zone are a small fraction of the 10 CFR 100 dose limits.

Therefore, there is no significant reduction the margin of safety. In fact, due to this decreased radioactive iodine inventory, there is more likely an increase in the margin of safety.

Based on the above, the proposed changes to the Technical Specifications do not involve a significant reduction in a 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 amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, CT 06457

Attorney for licensee: Ms. L. M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Service Company, Post Office Box 270, Hartford, CT 06141-0270

NRC Project Director: Marvin M. Mendonca

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: June 20, 1997 (NRC-97-0037), as supplemented by letter dated July 3, 1997

Description of amendment request: The proposed amendment would relocate technical specification surveillance requirement 4.4.1.1.2 for the reactor recirculation system motor-generator (MG) set scoop tube stop setpoints to the Updated Final Safety Analysis Report. In addition, the proposed amendment includes the following changes to the surveillance testing methodology: (1) eliminating any licensing basis requirement for the electrical stops, and (2) revising the periodicity from a calendar basis to a situational basis (i.e., plant conditions that would dictate a change in stop positions).

Basis for proposed no significant hazards consideration determination: 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 changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change removes from the Fermi 2 Technical Specifications (TS) a Surveillance Requirement (SR 4.4.1.1.2) that is an implementation detail and relocates it to the Updated Final Safety Analysis Report (UFSAR), where it is more adequately and more appropriately controlled in accordance with 10 CFR 50.59. In addition, this proposed change revises the test methodology by: (1) eliminating the requirement for the electrical stops because they are not credited for mitigating any transients or accidents, and (2) revising the periodicity from a calendar basis to a situational basis to coincide with the beginning of each operating cycle or post-maintenance. These changes do not eliminate the necessary testing of the MG set mechanical stops. The MG set mechanical stops will continue to remain operable because the recirculation pump MG set mechanical speed stop settings will continue to be maintained at or below the required limits. The $MCPR_f$ [minimum critical power ratio] and $MAPLHGR_f$ [maximum average planar linear heat-generation rate] limits, along with the recirculation pump MG set mechanical speed stop settings on which they are based, are specified in the Core Operating Limits Report and operation within these limits is required by Technical Specifications 3.2.1 and 3.2.3. The changes described will therefore have no impact on the probability or consequences of an accident previously evaluated.

2. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed Technical Specification change does not result in any changes to the design (equipment/configuration) or operation of the plant and will thus not create a new failure mode or common mode failure. The MG set mechanical stops will continue to operate as intended and as designed. These changes will therefore not create the possibility of a new or different kind of accident, from any accident previously evaluated.

3. The changes do not involve a significant reduction in the margin of safety.

Changes in the methodology and frequency of testing will not involve a significant reduction in the margin of safety because the testing necessary to ensure the stops are set correctly will continue to be performed. Additionally, the $MCPR_f$ and $MAPLHGR_f$ limits, along with the recirculation pump MG set mechanical speed stop setting that they are based on, are specified in the Core Operating Limits Report, and operation within these limits is still required by Technical Specifications 3.2.1 and 3.2.3. Therefore, the margin of safety as defined in the bases of any Technical Specification is not reduced by relocating the surveillance requirement from the TS to the UFSAR. In addition to the above, relocation of the TS is consistent with the BWR Improved Standard Technical Specification, NUREG-1433, Rev. 1.

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 amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226

NRC Project Director: John N. Hannon

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: April 24, 1997

Description of amendment request: The requested amendment revises the inservice inspection requirements associated with steam generator tube sleeves.

Basis for proposed no significant hazards consideration determination: 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. Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

This change implements a more stringent surveillance requirement than currently exists. It incorporates a requirement to inspect a minimum of 20% of each type of installed sleeve in each steam generator. The 20% inspection criterion is conservative with respect to the existing requirement of a 3% initial inspection of all steam generator tubes. Additionally, since the process for inspections has not changed, the probability or consequences of accidents previously analyzed are not increased as a result of inspection activities. The proposed changes have no impact on any previously analyzed accident in the safety analysis report.

The administrative changes made to update the technical specifications or to correct inconsistencies introduced in previous amendments do not affect reactor operations or accidental analyses and have no radiological consequences.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The changes made to increase the initial sample of sleeved tubes inspected during a surveillance, to update the technical specifications and to correct inconsistencies introduced in previous amendments are administrative and do not change the design, configuration or method of operation of the plant nor does it introduce any new possibility for an accident.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does Not Involve a Significant Reduction in the Margin of Safety.

As previously discussed, this change implements a more stringent surveillance requirement than currently exists. The existing technical specifications require an initial inspection of 3% of the tubes in each steam generator while the proposed change

requires inspection of a minimum of 20% of each type of installed sleeve. The 20% inspection criterion is conservative with respect to the existing technical specification. Existing technical specification operability and surveillance requirements are not reduced by the proposed change, thus no margins of safety are reduced.

The other administrative changes do not reduce technical specification operability and surveillance requirements, and therefore, do not reduce any margin of safety.

Therefore, this change does not involve a significant reduction in 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 amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005-3502

NRC Project Director: William D. Beckner

Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: June 26, 1997

Description of amendment request: The proposed amendment will modify Technical Specification (TS) Tables 3.7-1 and 3.7-2. Table 3.7-1 will be revised to change the Main Steam Safety Valves (MSSVs) orifice size from 26 square inches to 28.27 square inches and to relocate the orifice size from the TS Table to the TS Bases. The change to correct the orifice size is an editorial change to make the TS consistent with plant design. Table 3.7-2 will be revised by deleting the provision that allows continued plant operation with three MSSVs inoperable. The proposed amendment will also revise TS Bases 3/4.7.1.1 to remove the equation used for determining the reduced maximum allowable linear power level-high reactor trip settings of TS Table 3.7-2.

Basis for proposed no significant hazards consideration determination: 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. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

In response to the ABB/CE report pursuant to 10CFR21 regarding the omission of Main Steam Safety Valve (MSSV) piping pressure loss in safety analyses, the proposed change will eliminate the ability to operate the plant in accordance with Technical Specification 3.7.1.1 Action a with three MSSVs inoperable. The Bases to this Technical Specification will also be revised to state that the acceptability for operation at lower power levels with one or two MSSVs inoperable will be determined from results obtained from a loss of condenser vacuum accident analysis under these conditions. Deleting the allowance for continued operation with three MSSVs inoperable does not increase the probability of an accident. The consequences of an accident will not be increased by these changes. These changes are more restrictive and ensure that the MSSVs maintain their safety function of removing adequate heat from the steam generator in order to maintain peak steam generator pressure and peak pressurizer pressure well below their respective acceptance criteria during normal operation and all anticipated operational occurrences.

Changing the MSSVs orifice size listed in TS to their actual size and the orifice size utilized in the safety analysis, and relocating the MSSVs orifice size to the Technical Specification Bases does not affect the probability or consequences of an accident. The correct orifice size was used in the safety analysis and it is not subject to change unless a station modification is performed which will require a 10CFR50.59 evaluation and revision of the safety analysis. The MSSVs orifice size can be adequately controlled in the TS Bases which will also require a 10CFR50.59 to be changed.

Therefore, operation of Waterford 3 in accordance with this proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No

The proposed change will eliminate the ability to operate the plant in compliance with Technical Specification 3.7.1.1 Action a with three MSSVs inoperable. The Bases for this Technical

Specification will also be revised to state that the acceptability for operation at lower power levels with one or two MSSVs inoperable will be determined from results obtained from a loss of condenser vacuum accident under these conditions. The proposed change also revises the MSSVs orifice size to reflect the actual orifice size and the orifice size utilized in the safety analysis, and relocates the orifice size from Technical Specifications to the Technical Specification Bases. The proposed change does not involve any new equipment, components, or modifications and does not create any new system interactions or connections. Therefore, operation of Waterford 3 in accordance with this proposed change will not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No

The proposed change will ensure that all appropriate acceptance criteria for the MSSVs are met during normal operation and all anticipated operational occurrences. The Technical Specification Bases 3/4.7.1.1 will be updated to state that the acceptance criteria for operation in accordance with Technical Specification 3.7.1.1 Action a will be determined from the results of the limiting loss of condenser vacuum accident. This change ensures that the transient and dynamic effects which occur during accident scenarios are fully evaluated. These changes also ensure that the MSSVs will maintain peak steam generator pressure and peak pressurizer pressure well below their respective acceptance criteria during normal operation, design basis accidents and anticipated operational occurrences.

The proposed change also revises the MSSVs orifice size to reflect the actual orifice size and the orifice size utilized in the safety analysis, and relocates the orifice size from Technical Specifications to the Technical Specification Bases. This change corrects an editorial error in the Technical Specifications and relocates unsurveilled design details from the Technical Specifications. Adequate control of the orifice size will remain adequate because any changes to the orifice size or the orifice size listed in the Bases will require a station modification and a TS Bases change. Station Modifications and TS Bases changes requires evaluation in accordance with 10CFR50.59.

Therefore, operation of Waterford 3 in accordance with this proposed change will not involve a significant reduction in 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 amendment request involves no significant hazards consideration.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

NRC Project Director: James W. Clifford, Acting

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: May 5, 1997

Description of amendment request: The proposed amendment to Technical Specifications 3.9.1.2 and 3.9.13 and

their Bases would allow crediting soluble boron for maintaining k-effective at less than or equal to 0.95 within the spent fuel pool (SFP) rack matrix following a seismic event of a magnitude greater than or equal to an operating basis earthquake (OBE).

Basis for proposed no significant hazards consideration determination: 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:

NNECO has reviewed the proposed change in accordance with 10CFR50.92 and has concluded that the change does not involve a Significant Hazards Consideration (SHC). The bases for this conclusion is that the three criteria of 10CFR50.92(c) are not satisfied. The proposed change does not involve [an] SHC because the change would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

There is one Spent Fuel Pool accident condition discussed in Chapter 15 of the FSAR [Final Safety Analysis Report]. The FSAR discusses a fuel handling accident which drops a fuel assembly onto the fuel racks during fuel movement. Degradation of the Boraflex panels in a post-seismic condition will have no effect on the probability of a fuel assembly drop onto the stored fuel, or the fuel racks. Changing the way Boraflex responds to a seismic event will have no impact on the probability of a seismic event. A misplaced fuel assembly can be postulated in the MP3 [Millstone Unit 3] fuel pool as a result of either equipment malfunction or operator error. Degradation of the Boraflex panels will have no effect on the probability of a fuel misplacement event. Therefore, the degradation of Boraflex in a post-seismic condition does not involve an increase in the probability of an accident previously evaluated.

A fuel handling accident could cause a radioactive release of fission gases, resulting in dose consequences. This radioactive release of fission gases is due to the failure of a certain number of fuel pins which are postulated to fail during the fuel handling accident. The number of fuel pins which are postulated to fail in this event is not affected by the degradation of the Boraflex panels in a post-seismic condition. There are no criticality issues with this fuel handling accident for the reasons described next. Should a fuel handling accident occur prior to a seismic event, the existing fuel handling accident/misloading criticality analysis is still valid, such that 800 ppm [parts per million] of soluble boron is sufficient to ensure that K-effective of the SFP is maintained at less than 0.95. Although overly conservative, should a fuel handling accident occur during or after a seismic event, even with no Boraflex credit, the proposed 1750 ppm of soluble boron is sufficient to ensure that K-effective of the SFP is maintained at less than 0.95. Therefore, this proposed change does not involve an increase in the probability or consequences of an accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The change in the way Boraflex in conjunction with the addition of 1750 ppm boron responds to a seismic event does not create a new accident. The use of soluble boron in the Spent Fuel Pool is safe during and immediately following a seismic event, because the balance of the equipment in the fuel building not connected to the fuel pool which could cause a dilution (firewater, hot water heating, and demineralized water, CCP [component cooling-plant]) are seismic or mounted in such a fashion as to not direct unborated water into the fuel pool should a line rupture. Non borated water sources that are connected to the SFP will be isolated following a seismic event of greater than or equal to [an] OBE to prevent dilution. Therefore there is no possibility of [an] SFP boron dilution accident coincident with a seismic event, and credit for soluble boron is acceptable to meet the K-effective limit of 0.95 for the SFP. The crediting of soluble boron in the Spent Fuel Pool to control K-effective following a seismic event does not create a new accident as boron dilution of the pool can be prevented by closing and administratively controlling the opening of dilution paths to the pool and initiating routine sampling requirements on SFP boron. At present the crediting of soluble boron following a fuel misplacement event is allowed for the Millstone 3 Spent Fuel Pool. Analysis has shown that a seismic event of greater than an OBE level earthquake can be more limiting than a fuel misplacement event. As such the minimum boron requirement in the fuel pool will be increased from 800 ppm to 1750 ppm. As such, no new accident has been created because the crediting of boron following a malfunction/accident has always been an allowed event.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The margin of safety, as defined by MP3 Technical Specifications, is to ensure that the K-effective of the MP3 SFP is maintained less than or equal to 0.95 at all times. There is no reduction in the margin of safety as the result of the degradation of Boraflex following a greater than an OBE seismic event, because soluble boron can be used to compensate for the loss of Boraflex. A value of 1750 ppm of soluble boron in the SFP at all times ensures that K-effective of the MP3 SFP is maintained less than or equal to 0.95 at all times, including this new malfunction of degraded Boraflex following a greater than an OBE seismic event.

Eliminating the credit for the negative reactivity effect of Boraflex panels in conjunction with the addition of 1750 ppm boron will have no effect on the probability of a seismic event. As the probability of a seismic event has not changed there is no increase in the probability of an accident or malfunction due to a seismic event. Following a seismic event operators are presently required to make inspections of the plant to determine post seismic event plant conditions. As a result of this change, inspections will be required to post seismic event evaluations to review the status of the Spent Fuel Pool and isolate potential dilution paths. These action are consistent with present guidance in the seismic response procedure and do not create an undue burden on the operator. To compensate for the potential

loss of Boraflex after a seismic event, the SFP is now required to be borated at all times to 1750 ppm to maintain the proper post seismic [K-effective] condition. As such there is no mitigation equipment that has to operate in the Spent Fuel Pool following a seismic event.

Although the Boraflex in the fuel racks is assumed to fail in a greater than an OBE seismic event, the presence of soluble boron in the fuel pool water will compensate for the loss of Boraflex. Surveillance requirements on SFP boron will ensure that there will be boron present in the SFP and ensure that the SFP is not diluted below the minimum required boron concentration during normal operation.

As the presence of SFP soluble boron during and after a seismic event maintains [K-effective] less than 0.95 there is no effect on the consequences of any malfunctions evaluated. As there are no new accidents created and there are no changes in the probability or consequences of previously analyzed accidents there is no effect on the consequences of any accident. There is no reduction in the margin of safety as the result of the degradation of Boraflex following a greater than an OBE seismic event, because soluble boron can be used to compensate for the loss of Boraflex to maintain K-effective less than 0.95.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

In conclusion, bases on the information provided, it is determined that the proposed change does not involve an SHC.

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 amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270

NRC Deputy Director: Phillip F. McKee

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: March 26, 1997

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to incorporate additional restrictions on the operation of the main steam safety valves (MSSVs).

Basis for proposed no significant hazards consideration determination: 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 Omaha Public Power District (OPPD) proposes to revise the Fort Calhoun Station (FCS) Unit No. 1 Technical Specifications (TS) 2.1.6, ''Pressurizer and Main Steam Safety Valves,'' to incorporate additional restrictions on the Main Steam Safety Valves (MSSVs) as a result of recent engineering analyses.

FCS has two Steam Generators (SG), each with one 2 1/2-inch MSSV and four 6-inch MSSVs. The purpose of the MSSVs is to limit the secondary system pressure to less than or equal to 110% of the design pressure of 1000 lbs. per square inch absolute (psia) when passing 100% of design steam flow.

The pressure drops in the main steam lines were calculated. The total losses (line losses and valve losses) of 30.5 psid (2 1/2 inch valves) and 33.5 psid (6 inch valves) were compared to the valve blowdown which is adjusted/checked each refueling outage as part of the required surveillance test. The pressure losses are less than the 39 psid and 40 psid blowdown for the 2 1/2 inch and 6 inch valve with the lowest setpoint (respectively). Therefore, the recommendation from the Part 21 to review blowdown settings to preclude valve chatter was conducted and there is no concern at FCS. A review of existing calculations for line losses in the primary system was conducted and was determined to be 39 psid for the inlets to the primary safety valves.

Analyses were then conducted to determine the impact of the total line losses on previously analyzed accidents documented in the Updated Safety Analysis Report (USAR). The scope of the analyses was to evaluate the pressure drops in the piping run for both the primary and MSSVs to determine the impact on the peak primary and secondary system pressures. The applicable transient for peak primary system pressure is the Loss of Load, and for maximum secondary system pressure is the Loss of Feedwater. All analyses were performed using the NRC-approved CESEC-III transient analysis methodology and computer code.

The assumptions of the analyses were that the plant is operating at 1535.6 MWt, (100% power + 2% uncertainty + reactor coolant pump heat), the MSSVs lifted at +3% of their nominal setpoints, the primary safety valve setpoints were adjusted to account for line losses and lifting at +1% of their setpoints, and the pressure losses in the main steam line to the SG were added to obtain the maximum secondary system pressure within the SG. Additional cases were evaluated with a +6% primary safety valve drift since this possibility is described in the Bases to TS 2.1.6.

The results from these analyses confirm that the effective increase in MSSV set pressure caused by the piping pressure losses leading to the primary safeties and MSSVs is below the 1100 psia design limit for the secondary system, and below the 2750 psia design limit for the primary system. This is predicated on the fact that only one (1) MSSV may be inoperable per SG.

Failure of a MSSV is not an initiator of any previously analyzed accident, and therefore the proposed changes do not increase the probability of an accident previously analyzed. The proposed change to revise TS 2.1.6 to allow only one MSSV per SG to be inoperable has been shown, utilizing NRC approved methodology, to

limit the design pressure to values below the design limits. An administrative change to revise the TS setpoint value for both the primary safety valves and MSSVs from pounds absolute to pounds gauge is proposed to be consistent with the nameplate values of the valves and has no effect on any analyses. Therefore the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

There will be no physical alterations to the plant configuration, changes in operating modes, setpoints, or testing methods. The additional restrictions being incorporated into the TS on MSSV operation will ensure that the design basis limits of 110% of design pressure will be met for the primary and secondary systems for analyzed accidents when considering inlet pipe pressure drops. The possibility of valve chatter being caused by the additional pressure losses identified in the Main Steam lines and MSSVs was reviewed and is not a concern. This is due to the valve blowdown (the difference between a valve's opening pressure and closing pressure) being greater than the pressure losses. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change results in a peak primary pressure of 2649 psia (with 1% primary safety valve drift as allowed by TS 2.1.6) and peak secondary pressure of 1081 psia for the loss of load event compared to 2632 psia and 1075 psia documented in USAR Section 14.9. The proposed change results in a peak primary pressure of 2562 psia and peak secondary pressure of 1090 psia for the loss of feedwater event compared to 2487 psia and 1052 psia documented in USAR Section 14.10. The analyses confirm that the primary and secondary systems will continue to be below their respective design limits of 2750 psia and 1100 psia. Therefore, the proposed changes do not involve a significant reduction in a 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 amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: Perry D. Robinson, Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005-3502

NRC Project Director: William H. Bateman

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: May 31, 1996

Description of amendment request: This change deletes Technical Specification 4.7.2.d.2, ''Control Room Emergency Outside Air Supply System Surveillance Requirement,'' related to the detection of chlorine.

Basis for proposed no significant hazards consideration determination: 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. This proposal does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Review of the various design basis accidents identified in Chapter 15 of the Susquehanna SES [Steam Electric Station] Final Safety Analyses Report (FSAR) concluded that none of these accidents are affected by deletion of the chlorine detection surveillance requirement from Technical Specifications. With the elimination of bulk quantities of gaseous chlorine from use at Susquehanna SES the probability of control room inhabitability due to a gaseous chlorine release has actually decreased. Therefore, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. This proposal does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change involves only the deletion of the chlorine detection system Technical Specifications based upon a plant

modification to remove gaseous chlorine as a biocide from Susquehanna SES and replace it with an oxidizing biocide with non-gaseous/non-volatile properties. The release of chlorine from an off-site source is bounded by Reg. [Regulatory] Guide 1.95 in that manual isolation capability for the control room ventilation system is acceptable. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. This change does not involve a significant reduction in a margin of safety.

The proposed change would not alter the margins of safety provided in the existing FSAR analysis (Sections 2.2.3.1.3 and 6.4) for chlorine release events since the basis for the existing margin of safety, which are the Reg. Guide 1.95 requirements, are not altered by the change. As stated above, since gaseous chlorine is no longer used for open cooling water treatment at Susquehanna SES and since the biocide currently used does not pose the same personnel inhalation threat as gaseous chlorine, safety margin has actually increased. Therefore, the proposed change does not involve a significant reduction in a 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 amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037

NRC Project Director: John F. Stolz

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: June 13, 1997

Description of amendments request: The proposed amendments would change Technical Specification (TS) 3/4.9.13, ''Storage Pool Ventilation (Fuel Movement),'' by adding a note in the TSs to specifically indicate that the normal emergency power source may be inoperable in MODE 5 or 6 provided that the requirements of TS 3.8.1.2 are satisfied and extend the TS 3.9.13 completion time allowed for returning one out-of-service penetration room filtration system from 48 hours to 7 days. The Bases will also be modified to provide additional detail concerning these changes.

Basis for proposed no significant hazards consideration determination: 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 changes do not significantly increase the probability or consequences of an accident previously evaluated in the FSAR [Final Safety Analysis Report]. The proposed changes have no impact on the probability of an accident. The storage pool ventilation system will continue to ensure that radioactive material released as a result of a fuel handling accident in the spent fuel pool room will be filtered through the HEPA [high efficiency particulate air] filters and charcoal absorbers prior to discharge to the atmosphere. There is no change in the FNP [Farley Nuclear Plant] design basis as a result of this change and, as a result, does not involve a significant increase in the consequences of an accident previously evaluated.

(2) The proposed changes to the TSs do not increase the possibility of a new or different kind of accident than any accident already evaluated in the FSAR. No new limiting single failure or accident scenario has been created or identified due to the proposed changes. Safety-related systems will continue to perform as designed. The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

(3) The proposed changes do not involve a significant reduction in the margin of safety. As a result of these proposed changes, the penetration room filtration system, when it is aligned to the spent fuel pool room, will continue to require verification of operability. There is no impact in the accident analyses. These proposed changes are technically consistent with the requirements of NUREG-1431, Revision 1 which has already received the requisite review and approval of the NRC staff. Thus the proposed changes do not involve a significant reduction in 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 amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: Herbert N. Berkow

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-321, Edwin I. Hatch Nuclear Plant, Unit 1, Appling County, Georgia

Date of amendment request: April 29, 1997, as supplemented by letter dated May 28, 1997

Description of amendment request: The amendment would revise the Unit 1 reactor vessel pressure and temperature limits to reflect data collected from the material sample recovered during the March 1996 Unit 1 outage.

Basis for proposed no significant hazards consideration determination: 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. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Pressure and Temperature (P/T) limits for the reactor pressure vessel are established to the requirements of 10 CFR [Part] 50, Appendix G to ensure brittle fracture of the vessel does not occur.

This revision changes the P/T curves in the Unit 1 Technical Specifications to reflect the material capsule surveillance results from the sample removed during the [s]pring outage of 1996.

The RPV [reactor pressure vessel] surveillance capsule contained flux wires for neutron flux monitoring and Charpy V notch impact and tensile test specimens. The irradiated material properties were compared to available unirradiated properties to determine the effect of irradiation on material toughness for the base and weld materials through Charpy testing. Irradiated tensile testing results are compared with unirradiated data to determine the effect of irradiation on the stress-strain relationship of the materials.

The P/T curves are modified to reflect the results of the above examination. These curves and their operating limits were evaluated using the approved methodologies of 10 CFR [Part] 50 Appendix G and ASME [American Society of Mechanical Engineers] Code Appendix G. The new curves therefore represent the latest information available on the state of the reactor vessel materials. The P/T curves are generated for reactor vessel protection against brittle fracture, they do not affect the recirculation piping. Accordingly, the probability of occurrence of a design basis Loss of Coolant Accident (LOCA) is not increased. Likewise, no other previously evaluated accident and transients, as defined in Chapter 14 of the Final Safety Analysis Report (FSAR) are affected by this proposed change to the Unit 1 P/T curves. Additionally, this proposed revision does not affect the design, operation, or maintenance of any safety related system designed for the mitigation or prevention of previously analyzed events.

Since no previously evaluated accidents or transients are being affected by this change, their probability of occurrence is not increased and their consequences are not made worse.

2. Do the proposed changes create the possibility of a new or different type of accident from any previously evaluated?

Implementing the proposed P/T curves into the Unit 1 Technical Specifications does not alter the design or operation of any system or piece of equipment designed for the prevention or mitigation of accidents and transients. As a result, no new operating modes are introduced from which a new type accident becomes possible. Existing systems will continue to be operated per present design basis assumptions.

The proposed P/T limits were generated from the evaluation of the material capsule removed during the [s]pring Unit 1 outage of 1996. As a result, these limits include the latest available information on the reactor vessel materials. Furthermore, they will continue to be monitored per the requirements of the Technical Specifications and 10 CFR [Part] 50 Appendices G and H. For the above reasons, the changes do not create the possibility of a new type of accident.

3. Do the proposed changes involve a significant reduction in the margin of safety?

The purpose of the P/T limits is to avoid a brittle fracture of the reactor vessel. As such, material capsules are removed periodically to determine the effects of neutron irradiation on reactor vessel materials. This change to the Unit 1 P/T curves is proposed to incorporate the evaluation results of the latest capsule removed during the [s]pring Unit 1 outage of 1996. Accordingly, these curves represent the latest information available on the reactor vessel materials. Also, the curves were generated using the approved methodologies of 10 CFR [Part] 50 Appendix G.

The pressure test curve (Figure 3.4.9-1) is also being revised to reflect exposure dependencies. These curves were generated for exposures of 16, 18, 20, 24, 28, and 32 EFPY [effective full-power year]. As previously described, each of these curves were generated using approved methodologies and all reflect the results of this latest material capsule report.

The proposed change does not affect the evaluation of any FSAR Unit 1 Chapter 14 transient and accident. Furthermore, the proposed change does not affect the operation of systems or equipment important to safety.

The Limiting Condition for Operation of Specification 3.4.9 will not change. Also, no Technical Specification surveillances or surveillance frequencies are revised as a result of this Technical Specification submittal, besides the fact that the P/T surveillances will now refer to the revised curves. Procedures regarding the monitoring of the P/T limits during reactor startup, cooldown, and leakage testing will not change as a result of this proposed Technical Specification change with respect to frequency of the surveillance or the methods used to perform the surveillances. Thus, the P/T limits will continue to be surveilled as before per the same procedures and the same frequencies.

No other Technical Specifications are affected by the proposed revision. The margin of safety to any Technical Specifications safety limit therefore is not reduced.

For the above reasons the new curves do not represent a significant reduction in 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 amendment request involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Herbert N. Berkow

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: May 30, 1997

Description of amendment request: The proposed amendments would revise power sources to valves associated with low pressure coolant injection (LPCI) mode of residual heat removal (RHR) system.

Basis for proposed no significant hazards consideration determination: 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 changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The LPCI valves operate to establish and maintain adequate core cooling following a LOCA [loss-of-coolant accident]. The proposed changes do not alter the function or mode of operation of the LPCI valves. Therefore, the probability of the LOCA accident is not increased. An analysis which considered the consequences of the various transients and accidents with the proposed change in power supply of the LPCI valves indicates the consequences are not increased.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously analyzed. The change in power supply to the LPCI valves maintains the original design criteria that a power supply independent of the remaining RHR subsystem be utilized for single-failure criteria. The function of the LPCI valves and any other existing equipment is not altered. Operation of the valves in the proposed configuration was analyzed, and no new failure modes exist. An analysis of the impact on the operation and design of other systems and components indicates no new failure modes are introduced. Therefore, these changes do not contribute to a new or different type of accident.

3. The proposed changes do not involve a significant reduction in the margin of safety. The change in power supply to the LPCI valves was evaluated relative to RHR and electrical distribution system function during normal and accident conditions. The proposed change does not alter the performance of any system safety functions. The results of the SAFER-GESTR LOCA analysis reconfirm the large margins existing in fuel peak cladding temperature under the proposed configuration. Therefore, there is no significant reduction in 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 amendment request involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: Herbert N. Berkow

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: June 13, 1997

Description of amendment request: The proposed amendments would revise the Technical Specification Limiting Condition for Operation 3.4.10 Pressurizer Safety Valves. Specifically, the change would reduce the nominal set pressure by 1 percent to 2460 pounds per square inch gauge (psig) and increase the tolerance to plus or minus 2 percent.

Basis for proposed no significant hazards consideration determination: 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. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The increase in the PSV [pressurizer safety valve] tolerance from [plus or minus] 1% with a setpoint of 2485 psig to [plus or minus] 2% and reduction in the nominal setpoint from 2485 psig to 2460 psig has the net effect of reducing the minimum lift setting allowed by the TS [technical specifications] from 2460 psig to 2410 psig. The effects of this change have been evaluated for its impact on the assumed frequency of safety valve challenges and failures to reclose, and the proposed change was found to have a negligible impact. In other words, reducing the minimum lift setting does not significantly increase the probability of an inadvertent actuation of a safety valve during normal operation. Reducing the minimum lift setting does increase the potential that the PSVs may open during an event, but this change has been evaluated and does not adversely impact the consequences of any accident previously evaluated. No change to any equipment response or accident mitigation scenario has resulted, and there are no additional challenges to fission product barrier integrity. Therefore, the proposed change does not significantly increase the probability or consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The increase in the PSV tolerance from [plus or minus] 1% with a setpoint of 2485 psig to [plus or minus] 2% and reduction in the nominal setpoint from 2485 psig to 2460 psig does not create the possibility of a new or different kind of accident than any accident previously evaluated. No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of this proposed change. The proposed revision to Technical Specification 3.4.10 does not challenge the performance or integrity of any safety-related systems. Therefore, the possibility of a new or different kind of accident is not created.

3. Does the proposed change involve a significant reduction in a margin of safety.

The proposed change to Technical Specification 3.4.10 does not involve a significant reduction in a margin of safety. The modification will have no affect on the availability, operability or performance of the safety-related systems and components. The increased PSV set pressure tolerance has been reviewed with respect to the accident analysis assumptions and requirements and evaluated or analyzed, as required. These evaluations and analyses determined that all applicable acceptance criteria continue to be met, thus the proposed increase in the PSV set pressure tolerance will not result in a significant reduction in the margin of safety associated with the acceptance criteria for the accident analyses.

The Bases of the Technical Specifications rely in part on the ability of the regulatory criteria being satisfied assuming the limiting conditions for operation for various systems. Conformance to the regulatory criteria for operation with the increased PSV set pressure tolerance is demonstrated, and the regulatory limits are not exceeded. Hence, the margin of safety as defined in the Bases for the Technical Specifications is not significantly reduced.

Therefore, there is no significant reduction in any 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 amendment request involves no significant hazards consideration.

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308

NRC Project Director: Herbert N. Berkow

TU Electric Company, Docket Nos. 50-445 and 50-446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: May 16, 1997 (TXX-97119)

Brief description of amendments: The licensee has proposed revised core safety limit curves and Overtemperature N-16 reactor trip setpoints based on analyses of the core configuration for CPSES Unit 2, Cycle 4. These changes apply equally to CPSES Units 1 and 2 licenses since the Technical Specifications are combined.

Basis for proposed no significant hazards consideration determination: 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. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

A. Revision to the Unit 2 Core Safety Limits

Analyses of reactor core safety limits are required as part of reload calculations for each cycle. TU Electric has performed the analyses of the Unit 2, Cycle 4 core configuration to determine the reactor core safety limits. The methodologies and safety analysis values result in new operating curves which, in general, permit plant operation over a similar range of acceptable conditions. This change means that if a transient were to occur with the plant operating at the limits of the new curve, a different temperature and power level might be attained than if the plant were operating within the bounds of the old curves. However, since the new curves were developed using NRC approved methodologies which are wholly consistent with and do not represent a change in the Technical Specification BASES for safety limits, all applicable postulated transients will continue to be properly mitigated. As a result, there will be no significant increase in the consequences, as determined by accident analyses, of any accident previously evaluated.

B. Revision to Unit 2 Overtemperature N-16 Reactor Trip Setpoints

As a result of changes discussed, the Overtemperature reactor trip setpoint has been recalculated. These trip setpoints help ensure that the core safety limits are protected and that all applicable limits of the safety analysis are met.

Based on the calculations performed, no significant changes to the safety analysis values for Overtemperature reactor trip setpoint were required. The f(delta I) trip reset function was revised due to more top-skewed axial power distributions predicted for this cycle. The analyses performed show that, using the TU Electric methodologies, all applicable limits of the safety analysis are met. This setpoint provides a trip function which allows the mitigation of postulated accidents and has no impact on accident initiation. Therefore, the changes in safety analysis values do not involve an increase in the probability of an accident and, based on satisfying all applicable safety analysis limits, there is no significant increase in the consequences of any accident previously evaluated.

In addition, sufficient operating margin has been maintained in the overtemperature setpoint such that the risk of turbine runbacks or reactor trips due to upper plenum flow anomalies or other operational transients will be minimized, thus reducing potential challenges to the plant safety systems.

SUMMARY

The changes in the amendment request applies NRC approved methodologies to changes in safety analysis values, new core safety limits and new N-16 setpoint and parameter values to assure that all applicable safety analysis limits have been met. The potential for an operational transient to occur has not been affected and there has been no significant impact on the consequences of any accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes involve the calculation of new reactor core safety limits and overtemperature reactor trip setpoint resets. As such, the changes play an important role in the analysis of postulated accidents but none of the changes effect plant hardware or the operation of plant systems in a way that could initiate an accident. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

In reviewing and approving the methods used for safety analyses and calculations, the NRC has approved the safety analysis limits which establish the margin of safety to be maintained. While the actual impact on safety is discussed in response to question 1, the impact on margin of safety is discussed below:

A. Revision to the Unit 2 Reactor Core Safety Limits

The TU Electric reload analysis methods have been used to determine new reactor core safety limits. All applicable safety analysis limits have been met. The methods used are wholly consistent with Technical Specification BASES 2.1 which is the bases for the safety limits. In particular, the curves assure that for Unit 2, Cycle 4, the calculated DNBR is no less than the safety analysis limit and the average enthalpy at the vessel exit is less than the enthalpy of saturated liquid. The acceptance criteria remains valid and continues to be satisfied; therefore, no change in a margin of safety occurs.

B. Revision to Unit 2 Overtemperature N-16 Reactor Trip Setpoints

Because the reactor core safety limits for CPSES Unit 2, Cycle 4 are recalculated, the Reactor Trip System instrumentation setpoint values for the Overtemperature N-16 reactor trip setpoint which protect the reactor core safety limits must also be recalculated. The Overtemperature N-16 reactor trip setpoint helps prevent the core and Reactor Coolant System from exceeding their safety limits during normal operation and design basis anticipated operational occurrences. However, it was shown in these calculations that the current Unit 2 overtemperature reactor trip setpoint (presented in the current Technical Specifications and excluding the f(delta I) trip reset function) remains valid. The most relevant design basis analysis in Chapter 15 of the CPSES Final Safety Analysis Report (FSAR) which is affected by the Overtemperature reactor trip setpoint is the Uncontrolled Rod Cluster Control Assembly Bank Withdrawal at Power (FSAR Section 15.4.2). This event has been analyzed with the new safety analysis value for the Overtemperature reactor trip setpoint to demonstrate compliance with event specific acceptance criteria. Because all event acceptance criteria are satisfied, there is no degradation in a margin of safety.

The nominal Reactor Trip System instrumentation setpoints values for the Overtemperature N-16 reactor trip setpoint (Technical Specification Table 2.2-1) are determined based on a statistical combination of all of the uncertainties in the channels to arrive at a total uncertainty. The total uncertainty plus additional margin is applied in a conservative direction to the safety analysis trip setpoint value to arrive at the nominal and allowable values presented in Technical Specification Table 2.2-1. Meeting the requirements of Technical Specification Table 2.2-1 assures that the Overtemperature reactor trip setpoint assumed in the safety analyses remains valid. The CPSES Unit 2, Cycle 4 Overtemperature reactor trip setpoint is not significantly different from the previous cycle, and thus provides operational flexibility to withstand mild transients without initiating automatic protective actions. Although the value of the f(delta I) trip reset function setpoint is different, the Reactor Trip System instrumentation setpoint values for the Overtemperature N-16 reactor trip setpoint are consistent with the safety analysis assumptions which have been analytically demonstrated to be adequate to meet the applicable event acceptance criteria. Thus, there is no reduction in a margin of safety.

Using the NRC approved TU Electric methods, the reactor core safety limits are determined such that all applicable limits of the safety analyses are met. Because the applicable event acceptance criteria continue to be met, there is no significant reduction in 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 amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, N.W., Washington, DC 20036

NRC Project Director: James W. Clifford, Acting

Previously Published Notices Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Commonwealth Edison Company, Docket No. STN 50-455, Byron Station, Unit No. 2, Ogle County, Illinois Docket No. STN 50-457, Braidwood Station, Unit No. 2, Will County, Illinois

Date of amendment request: May 24, 1997

Description of amendment request: The amendments revise the technical specifications related to venting of the emergency core cooling system pumps and associated piping. The application originally included Byron, Unit 1. However, on May 31, 1997, ComEd supplemented the application to request an emergency license amendment for Byron, Unit 1. Amendment No. 90 was issued on June 1, 1997.

Date of publication of individual notice in **Federal Register:** June 10, 1997 (62 FR 31633)

Expiration date of individual notice: July 10, 1997

Local Public Document Room location: 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

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: May 16, 1997

Brief description of amendment: The proposed amendment would make an administrative change to add a supervisory position to the list of personnel who may be required to hold a senior reactor operator license. Date of publication of individual notice in **Federal Register:** June 4, 1997 (62 FR 30625)

Expiration date of individual notice: July 7, 1997

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126

Notice Of Issuance Of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application 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 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 amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. 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 rooms for the particular facilities involved.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of application for amendment: January 20, 1997, with the proposed no significant hazards consideration submitted by letter dated January 30, 1997, as supplemented February 27, April 11, May 14, and June 20 (2 letters), 1997

Brief description of amendment: The amendment authorizes Boston Edison Company (BECo) to change the UHS administrative limit from 68°F to 75 °F, and change the Updated Final Safety Analysis Report (UFSAR) to reflect the use of containment pressure to compensate for the deficiency in NPSH following a design basis accident and increase the accident analysis design UHS temperature from 65°F to 75°F. As part of this amendment, BECo has proposed to submit a Technical Specification amendment for the UHS temperature by the first quarter of 1998. In addition, within 180 days of issuance of this amendment, BECo has committed to complete the containment analysis using the ANS 5.1-1979 Decay Heat Curve with a 2-sigma uncertainty added. The staff considers BECo's commitments acceptable and has conditioned the amendment accordingly.

Date of issuance: July 3, 1997

Effective date: July 3, 1997

Amendment No.: 173

Facility Operating License No. DPR-35: Amendment revised the Updated Final Safety Analysis Report.

Date of initial notice in **Federal Register:** February 26, 1997 (62 FR 8792) The February 27, April 11, May 14, and June 20 (2 letters), 1997, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination as submitted by letter dated January 30, 1997. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: March 14, 1997, as supplemented May 16, and June 17, 1997

Brief description of amendment: The amendment approves changes to the Final Safety Analysis Report to reflect new analysis of the radiological consequences of dropping a fuel cask.

Date of issuance: June 26, 1997

Effective date: June 26, 1997

Amendment No. 73

Facility Operating License No. NPF-63. Amendment revises the Final Safety Analysis Report.

Date of initial notice in **Federal Register:** April 9, 1997 (62 FR 17226). The May 16, and June 17, 1997 supplemental information did not change the original no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 26, 1997. No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605

Entergy Operations, Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: April 11, 1997

Brief description of amendment: The amendment changes the Waterford steam Electric Station, Unit 3, Technical Specifications (TSs) by revising TS 3.6.2.2 and Surveillance Requirement 4.6.2.2 for the Containment Cooling System. Also, a Surveillance Requirement is added to verify that valves actuate on a Safety Injection Actuation Signal. To support this addition, Technical Specification Bases 3/4.3.6.2.2 is also included.

Date of issuance: July 3, 1997

Effective date: July 3, 1997, to be implemented within 60 days.

Amendment No.: 131

Facility Operating License No. NPF-38: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 22, 1997 (62 FR 19626) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: April 17, 1997

Brief description of amendment: The amendment modifies Technical Specification 3.7.14 by clarifying the actions to be taken when an area temperature exceeds its temperature limit.

Date of issuance: June 24, 1997

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 141

Facility Operating License No. NPF-49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** (62 FR 27798 May 21, 1997) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut 06385

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: April 15, 1997

Brief description of amendment: The amendment makes changes to Technical Specification (TS) Sections 4.3.3.6 and 4.6.4.1, which require that the hydrogen monitors be periodically tested. Specifically, the changes increase the testing interval of the monitor's hydrogen sensor, correct inconsistencies

between the TS surveillances, and make changes to the Bases of the surveillances.

Date of issuance: June 24, 1997

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 142

Facility Operating License No. NPF-49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1997 (62 FR 27797) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut 06385

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: April 11, 1997

Brief description of amendments: These amendments revise Technical Specification (TS) 3/4.6.2.3, ''Containment Cooling System,'' and its associated Bases section to ensure that the TSs properly test the containment fan cooling units' post-accident mode of operation.

Date of issuance: June 24, 1997

Effective date: Both units, as of the date of issuance, to be implemented within 60 days.

Amendment Nos. 197 and 180

Facility Operating License Nos. DPR-70 and DPR-75. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1997 (62 FR 27799) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 24, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079

Tennessee Valley Authority, Docket Nos. 50-327 and 50328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: March 13, 1997, as supplemented on June 26, 1997 (TS 97-01)

Brief description of amendments: The amendments change the Technical Specifications by raising the allowable U-235 enrichment, as specified in Section 5.6.1.2, of fuel stored in the new fuel pit storage racks from 4.5 to 5.0 weight percent.

Date of issuance: July 1, 1997

Effective date: July 1, 1997

Amendment Nos.: 225 and 216

Facility Operating License Nos. DPR-77 and DPR-79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register:** May 21, 1997 (62 FR 27802). The June 26, 1997 supplement provided clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in an environmental assessment dated June 16, 1997, and a Safety Evaluation dated July 1, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: August 27, 1993, as supplemented by letters dated November 9, 1993, April 26, 1996, and September 25, 1996

Brief description of amendment: The amendment revises the Technical Specifications to incorporate the revised 10 CFR Part 20, Standards for Protection Against Radiation.

Date of issuance: June 19, 1997

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 151

Facility Operating License No. DPR-28. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 4, 1995 (60 FR 507) The November 9, 1993, April 26, 1996, and September 25, 1996, submittals did not change the initial proposed no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 19, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: June 4, 1996 (TSCR 188 and 189), as supplemented August 5, September 26, October 21, November 13, November 20, and December 2, 1996, and January 16, March 20, and April 2, 1997

Brief description of amendments: These amendments revise Technical Specifications (TS) 15.1, ''Definitions;'' TS 15.2.1, ''Safety Limit, Reactor Core;'' TS 15.2.3, ''Limiting Safety System Settings, Protective Instrumentation;'' TS 15.3.1, ''Reactor Coolant System,'' Section C, ''Maximum Coolant Activity,'' and Section G, ''Operational Limitations;'' TS 15.3.4, ''Steam and Power Conversion System;'' TS 15.3.5, ''Instrumentation System;'' TS 15.4.1, ''Operational Safety Review;'' TS 15.5.3, ''Design Features-Reactor;'' and TS 15.6.9, ''Plant Reporting Requirements'' to reflect parameters associated with new steam generators in Unit 2 and changes in analyses that affect both Units 1 and 2.

Date of issuance: July 1, 1997

Effective date: July 1, 1997. The TS shall be implemented within 45 days from the date of issuance and the Final Safety Analysis Report changes shall be implemented by June 30, 1998. Implementation of these amendments includes incorporation of accident analyses submitted in support of this amendment into the Final Safety Analysis Report in sufficient detail to support future evaluations performed in accordance with 10 CFR 50.59 and as described in the licensee's applications dated June 4, 1996, as supplemented on August 5, September 26, October 21, November 13, November 20, and December 2, 1996, and January 16, March 20, and April 2, 1997, and evaluated in the staff's safety evaluation dated July 1, 1997.

Amendment Nos.: 173, 177

Facility Operating License Nos. DPR-24 and DPR-27: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 3, 1996 (61 FR 34903 and 61 FR 34904) and April 9, 1997 (62 FR 17243) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 1, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 21, 1997, as supplemented by letter dated April 15, 1997

Brief description of amendment: The amendment revises Technical Specification 6.8.5.b to provide an exception to the examination requirements of Regulatory Guide 1.14, Revision 1, ''Reactor Coolant Pump Flywheel Integrity'' and delays the inspection of the ''D'' reactor coolant pump flywheel to the Fall 1997 refueling outage. A typographical error in TS 6.8.5.c is corrected.

Date of issuance: June 24, 1997

Effective date: June 24, 1997, to be implemented within 30 days of issuance.

Amendment No.: 106

Facility Operating License No. NPF-42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 21, 1997 (62 FR 27803) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1997. No significant hazards consideration comments received: No.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Notice Of Issuance Of Amendments To Facility Operating Licenses And Final Determination Of No Significant Hazards Consideration and opportunity for a hearing (Exigent Public Announcement Or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that 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 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 amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. 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 for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By August 15, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license 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 for the particular facility involved. 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 a 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 amendment 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. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

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 20555-001, 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 20555-001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: December 11, 1996, as supplemented March 27, 1997, April 17, 1997, and June 17, 1997

Brief description of amendment: The amendment revises Technical Specifications to allow extended rod position indicator deviation limits, on-line calibration of the rod position indication and to clarify the operability requirements during calibration.

Date of issuance: June 27, 1997

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 194

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. The NRC published a public notice of the proposed amendment, issued a proposed finding of no significant hazards consideration and requested that any comments on the proposed no significant hazards consideration be provided to the staff by the close of business on June 25, 1997. The notice was published in the Peekskill Evening Star on June 20-25, 1997.

The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of New York and final no significant hazards consideration determination are contained in a Safety Evaluation dated June 27, 1997.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610

North Atlantic Energy Service Corporation, Dockets Nos. 50-443, Seabrook Station, Unit 1, Seabrook, Massachusetts

Date of amendment request: June 19, 1997

Brief description of amendment: The amendment revised Technical Specification 6.8.1.6.b. to include a reference to the NRC-approved Westinghouse Topical Report WCAP-12610-P-A, ''VANTAGE+ Fuel Assembly Reference Core Report,'' dated April 1995.

Date of issuance: June 24, 1997

Effective date: As of the date of issuance, and to be implemented before transition into Operational Mode 2 during startup from Refueling Outage 5.

Amendment No.: 52

Facility Operating License No. NPF-86: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, consultation with the States of New Hampshire and Massachusetts, and final no significant hazards considerations determination are contained in the safety evaluation dated June 24, 1997.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, New Hampshire 03833

Attorney for licensee: Lillian M. Cuoco, Esquire, Northeast Utilities Service Company, Post Office Box 270, Hartford CT 06141-0270 Acting

NRC Project Director: Patrick D. Milano

North Atlantic Energy Service Corporation, Dockets Nos. 50-443, Seabrook Station, Unit 1, Seabrook, Massachusetts

Date of amendment request: May 29, 1997

Brief description of amendment: The amendment modifies Technical Specification 5.3.1 by replacing the current term ''zircaloy'' with terminology that explicitly identifies the NRC-approved Westinghouse fuel assembly design in use at the Seabrook Station consisting of assemblies with either ZIRLO or Zircaloy-4 fuel cladding material.

Date of issuance: June 24, 1997

Effective date: As of the date of issuance, and to be implemented before transition into Operational Mode 2 during startup from Refueling Outage 5.

Amendment No.: 53

Facility Operating License No. NPF-86: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes. The NRC published a public notice of the proposed amendment, issued a proposed finding of no significant hazards consideration, and requested that any comments on the proposed no significant hazards consideration be provided to the staff by the close of business on June 10, 1997. The notice was published in Foster's Daily Democrat and in the Portsmouth Herald on June 4, 1997. Public comments were received, and they have been addressed in the staff's safety evaluation.

The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the States of New Hampshire and Massachusetts, and final no significant hazards determination are contained in a safety evaluation dated June 24, 1997.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, New Hampshire 03833

Attorney for licensee: Lillian M. Cuoco, Esquire, Northeast Utilities Service Company, Post Office Box 270, Hartford CT 06141-0270 Acting

NRC Project Director: Patrick D. Milano

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: March 22, 1997, as supplemented by letters dated April 2, April 3, April 9, April 15, and May 14, 1997. Additional information was also received by telefax on May 19, 1997.

Brief description of amendment: The amendment revises Surveillance Requirement (SR) 3.3.1.1.15, Reactor Protection System (RPS) Response Time functions 3 and 4 and SR 3.3.6.1.7, Primary Containment Isolation System Response Time, functions 1.a, 1.b, and 1.c, adding a note to indicate that the sensor is excluded from response time testing when verifying that the response time is within limits. The amendment also revises SR 3.3.5.1.7, Emergency Core Cooling System (ECCS) Response Time by relocating the requirements to SR 3.5.1.8, ECCS Operating, and adding a note to SR 3.5.1.8 to indicate that no actuation instrumentation response time measurement is required. Additionally, SR 3.5.1.8 requires that the SR be met in MODES 1, 2, and 3, whereas the previous SR 3.3.5.1.7 was required to be met in MODES 1, 2, 3, 4, and 5.

Date of Issuance: June 11, 1997

Effective date: June 11, 1997

Amendment No.: 150

Facility Operating License No. NPF-21. The amendment revised the Technical Specifications. Press release issued requesting comments as to proposed no significant hazards consideration: Yes. April 11, 1997. Tri-City Herald (Washington). Comments received: No. The Commission's related evaluation of the amendments, finding of exigent circumstances, consultation with the State of Washington and final determination of no significant hazards consideration are contained in a Safety Evaluation dated June 11, 1997.

Attorney for licensee: Perry D. Robinson, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

NRC Project Director: William H. Bateman

Dated at Rockville, Maryland, this 9th day of July 1997.

For the Nuclear Regulatory Commission

Elinor G. Adensam,

Deputy Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation

[Doc. 97-18513 Filed 7-15-97; 8:45 am]

BILLING CODE 7590-01-F

PENSION BENEFIT GUARANTY CORPORATION

Agency Information Collection Activities; OMB Approval Received; Disclosure of Premium-Related Information

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice announces the Office of Management and Budget's approval of a collection of information contained in the Pension Benefit Guaranty Corporation's final rule amending its premium payment regulation.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: On July 9, 1997, the PBGC published in the **Federal Register** (62 FR 36663) a final rule amending its premium payment regulation to provide for submission to the PBGC of plan records that are necessary to support premium filings. This rule contains information collection requirements. On July 11, 1997, OMB approved the collection of information requirements with respect to this final rule under OMB control number 1212–0009 (expires February 28, 1998). 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.

Issued in Washington, D.C. this 11th day of July, 1997.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97–18720 Filed 7–15–97; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Form 2–E and Rule 609, SEC File No. 270–222, OMB Control No. 3235–0233; Rule 6c–7, SEC File No. 270–269, OMB Control No. 3235–0276; and Rule 11a–2, SEC File No. 270–267, OMB Control No. 3235–0272.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities And Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Form 2–E is used, pursuant to Rule 609 of Regulation E under the Securities Act of 1933, by small business investment companies or business development companies engaged in limited offerings of securities to report semi-annually the progress of an offering, including the number of shares sold. The form solicits information such as the dates an offering has commenced and completed, the number of shares sold and still being offered, amounts received in the offering, and expenses and underwriting discounts incurred in the offering. This information assists the Commission staff in determining whether the issuer has stayed within the limits of an exemptive offering.

Form 2–E must be filed semi-annually during an offering and as a final report at the completion of the offering. Less frequent filing would not allow the Commission to monitor the progress of the limited offering in order to ensure that the issuer was not attempting to avoid the normal registration provisions of the securities laws.

There has been approximately one filing on form 2–E under rule 609 of regulation E during each of the last 2 years. On average, approximately one respondent spend four hours collecting information, preparing, and filing a form 2–E for a total amount reporting and recordkeeping burden of four hours.

Rule 6c–7 under the Investment Company Act of 1940 (''1940 Act'') provides exemption from certain provisions of Sections 22(e) and 27 of the 1940 Act for registered separate accounts offering variable annuity contracts to certain employees of Texas institutions of higher education participating in the Texas Optional Retirement Program.

There are approximately 183 registrants governed by Rule 6c–7, with an estimated compliance time of 30 minutes per registrant for a total of 92 annual burden hours.

Rule 11a–2 permits certain registered insurance company separate accounts, subject to certain conditions, to make offers to exchange their securities for other investment company securities without obtaining prior Commission approval.

There are approximately 550 registrants governed by Rule 11a–2, with an estimated compliance time of 15 minutes per registrant for a total of 138 annual burden hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Exchange Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: July 9, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18692 Filed 7–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Extension: Rule 19b–4 and Form 19b–4; SEC File No. 270–38; OMB Control No. 3235–0045.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget request for extension of the previously approved collection of information discussed below.

The information is collected pursuant to Rule 19b–4 of the Securities Exchange Act of 1934 (''Act''), entitled ''Filings with Respect to Proposed Rule Changes by Self-Regulatory Organizations.''

Rule 19b–4, as amended by the Securities Act Amendments of 1975, requires each self-regulatory organization to file with the Commission copies of any proposed amendment to its constitution, articles of incorporation, bylaws, rules or similar instrument or any interpretation of these instruments. The Commission is required to publish notice of such filing, and either approve the proposal or institute proceedings to determine whether the proposal should be disapproved.

The collection of information is designed to provide the Commission with the information necessary to determine whether, as required by the Act, the rule proposal is consistent with the Act and the rules thereunder. The information is used to determine whether the proposal should be approved or proceedings should be instituted to determine whether disapproval is appropriate.

The respondents to the collection of information are self-regulatory organizations, which generally are securities exchanges.

An estimated 25 respondents file approximately 20 filings per year, totaling an average burden of 17,500 burden hours.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 7, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18691 Filed 7–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–22742; 811–6291]

Dean Witter Premier Income Trust; Notice of Application

July 9, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Dean Witter Premier Income Trust.

RELEVANT ACT SECTION: Order requested under section 8(f) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on June 16, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 4, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, Two World Trade Center, New York, N.Y. 10048.

FOR FURTHER INFORMATION CONTACT: Joseph B. McDonald, Jr., Senior Counsel, at (202) 942–0533, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified management investment company organized as a Massachusetts business trust under the laws of the Commonwealth of Massachusetts. On March 29, 1991, applicant registered under the Act and filed a registration statement under the Securities Act of 1933 to register its shares. The registration statement became effective on May 30, 1991, and applicant commenced its initial public offering of shares the following day.

2. On January 23, 1997, applicant's board of trustees approved a plan of liquidation and dissolution (''Liquidation Plan''). The Liquidation Plan provided for the liquidation of applicant and the distribution of applicant's remaining assets to its securityholders. In approving the Liquidation Plan, the trustees considered a number of factors, including applicant's shrinking asset base and the inefficiencies, higher costs and disadvantageous economies of scale attendant with decreased assets. Based on consideration of all the factors deemed relevant by it, the board of trustees determined that the adoption of the Liquidation Plan would be in the best interests of applicant and its securityhoulders.

3. On or about February 21, 1997, proxy materials soliciting approval of the liquidation were sent to applicant's securityholders. Pursuant to applicant's Declaration of Trust, as amended, applicant's securityholders approved the Liquidation Plan at a special meeting held on May 1, 1997.

4. As of May 9, 1997, applicant had total net assets of $12,694,788.40, comprising 1,449,722.565 shares, with a per share net asset value of $8.756702. On May 12, 1997, applicant's securityholders were paid a final liquidation distribution of $8.756702 per share equal to the securityholders' proportionate interest in the remaining assets of applicant.

5. Approximately $16,000 of expenses, including the costs of printing and mailing the proxy statement and any additional material relating to the shareholder meeting at which the liquidation of applicant was approved and any expenses relating to deregistering applicant as an investment company and dissolving applicant, were borne by the applicant. Any additional costs relating to soliciting proxies were paid by Dean Witter InterCapital Inc., applicant's investment adviser.

6. As of the date of the application, applicant had no securityholders, debts, liabilities, or assets and was not a party to any litigation or administrative proceeding. Applicant is not engaged, nor dose it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

7. Applicant intends to file Articles of Dissolution with the Secretary of State of The Commonwealth of Massachusetts.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18609 Filed 7–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 81–925]

Application and Opportunity for Hearing: OMLX, the London Securities and Derivatives Exchange Limited

July 9, 1997.

Notice is Hereby Given that OMLX, the London Securities and Derivatives Exchange Limited (''Applicant'') has filed with the Securities and Exchange Commission (''Commission'') an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the ''Exchange Act'') for an order exempting Applicant from the registration provisions of Section 12(g) and the provisions of Sections 14(e) and 15(d) of the Exchange Act.

For a detailed statement of the information presented, all persons are referred to said application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

Notice is Further Given that any interested person not later than August 15, 1997 may submit to the Commission in writing its views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such a request, and the issues of fact and law raised by the application which it desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18604 Filed 7–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Ponder Industries, Inc., Common Stock, $.01 Par Value) File No. 1–10685

July 10, 1997.

Ponder Industries, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration on the BSE include the following:

The Company's Security has been traded on the NASDAQ SmallCap Market since January 29, 1996.

The Company has elected to delist from the BSE because, to the Company's knowledge, no trades of the Security have been made on the BSE in the past year. In addition, the Company has determined to delist rather than to file an application for the listing of additional shares as was required by the BSE by the close of trading on June 20, 1997. The Company believes it cannot justify the economic expense of

maintaining dual listings on both the NASDAQ SmallCap and the BSE.

The Exchange has informed the Company by letter dated June 24, 1997, that it has no objection to the withdrawal of the Security from listing on the BSE.

Any interested person may, on or before July 31, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–18693 Filed 7–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22743; No 811–8744]

Variable Account Three

July 9, 1997.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under the Investment Company Act of 1940 (''1940 Act'').

APPLICANT: Variable Annuity Account Three.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on November 8, 1996 and amended on June 9, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving the Applicant with a copy of the request, in person or by mail. Hearing requests must be received by the SEC by 5:30 p.m., on August 4, 1997, and should be accompanied by proof of service on the Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Any person may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, C/O Anchor National Life Insurance Company, 1 SunAmerica Center, Los Angeles, California 90067–6022.

FOR FURTHER INFORMATION CONTACT: Joyce Merrick Pickholz, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission.

Applicant's Representations

1. The Applicant, a unit investment trust, is a segregated asset account of Anchor National Life Insurance Company (''Anchor National''). On August 31, 1994, the Applicant filed a notification of registration as an investment company on Form N–8A, and a registration statement on Form N–4 (File No. 33–83476) to register under the Securities Act of 1933 interests in certain variable annuity contracts (the ''Pacific Contrasts'') issued by Anchor National through the Applicant. The registration statement was declared effective on April 28, 1995.

2. The Applicant filed post-effective amendments to its registration statement on Form N–4 in December 1995 and, on January 2, 1996, the Applicant began offering the Pacifica Contracts to the public under a selling agreement between Anchor National and First Interstate Bancorp (''First Interstate''). First Interstate also served as the advisor to the mutual fund portfolios offered as investment options under the Contracts.

3. In April 1996, First Interstate merged with and into Wells Fargo and Company (''Wells Fargo''). Wells Fargo did not wish to offer its mutual funds as investment options for the Contracts and Contract sales were discontinued. No Contracts were sold after May 13, 1996 and, by September 27, 1996, all of the owners of Pacifica Contracts had voluntarily redeemed their Contracts or transferred the value of their Contracts to another annuity or investment product.

4. The Board of Directors of Anchor National authorized the dissolution of Applicant, pursuant to Arizona Insurance Law, on September 30, 1996.

5. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant. No distributions were made to securityholders of Applicant in connection with Applicant's dissolution and all securityholders of Applicant redeemed or transferred their Contract values prior to the Applicant's dissolution.

6. No assets have been retained by the Applicant, no debts of the Applicant remain outstanding, the Applicant is not a party to any litigation or administrative proceeding and there were no securityholders of Applicant as of the date of the filing of this application.

7. Applicant is not engaged in, and does not propose to engage in, any business activities other than those necessary for the winding-up of its affairs. For the Commission, by the Division of Investment Management pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18608 Filed 7–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of July 14, 1997.

A closed meeting will be held on Tuesday, July 15, 1997, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 15, 1997, at 10:00 a.m., will be:

Institution and settlement of administrative proceedings of an enforcement nature.

Report of investigation.

Formal order of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: July 14, 1997.

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38822; File No. SR–NASD–97–38]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') Relating to the Application of the NASD Corporate Financing Requirements To Exchange Offers, Mergers/Acquisitions, and Other Similar Transactions

July 8, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] notice is hereby given that on May 23, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On June 19, 1997, the NASD filed Amendment No. 1 to its proposal.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend Rules 2710 and 2720 of the Conduct Rules of the Association to clarify their applicability to exchange offers, merger and acquisition transactions, and other similar transactions. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Rule 2710. Corporate Financing Rule—Underwriting Terms and Arrangements

(a) Definitions

* * * * *

(b) Filing Requirements

* * * * *

(7) Offerings Exempt from Filing.

Notwithstanding the provisions of subparagraph (1) above, documents and information related to the following public offerings need not be filed with the Association for review, unless subject to the provisions of Rule 2720. However, it shall be deemed a violation of this Rule or Rule 2810, for a member to participate in any way in such public offerings if the underwriting or other arrangements in connection with the offering are not in compliance with this Rule or Rule 2810, as applicable:

* * * * *

(A)–(C)—No change.

(D) securities offered pursuant to a redemption standby ''firm commitment'' underwriting arrangement registered with the Securities and Exchange Commission on Forms S–3, F–3 or F–10 (only with respect to Canadian issuers); [and]

(E) financing instrument-backed securities which are rated by a nationally recognized statistical rating organization in one of its four (4) highest generic rating categories*; and*

(F) exchange offers of securities where:

(i) the securities to be issued or the securities of the company being acquired are designated as a Nasdaq National Market security or listed on the New York Stock Exchange or American Stock Exchange; or

(ii) the company issuing securities qualifies to register securities with the Commission on registration statement Forms S–3, F–3, or F–10, pursuant to the standards for those Forms as set forth in subparagraphs (c) (i) and (ii) of this paragraph.

(8) Exempt Offerings.

Notwithstanding the provisions of subparagraph (1) above, the following offerings are exempt from this Rule, Rule 2720, and Rule 2810. Documents and information relating to the following offerings need not be filed for review:

(A)–(F)—No change.

(G) tender offers made pursuant to Regulation 14D adopted under the Securities Exchange Act of 1934, as amended; [and]

(H) securities issued pursuant to a competitively bid underwriting arrangement meeting the requirements of the Public Utility Holding Company Act of 1935, as amended[.]*;*

(I) securities of a subsidiary or other affiliate distributed by a company in a spin-off or reverse spin-off or similar transaction to its existing securityholders exclusively as a dividend or other distribution; and

(J) securities registered with the Commission in connection with a merger or acquisition transaction or other similar business combination, expect for offerings required to be filed pursuant to subparagraph (9)(I) below.

(9) Offerings Required to be Filed.

Documents and information relating to all other public offerings including, but not limited to, the following must be filed with the NASD for review:

(A)–(F)—No change.

(G) securities offered pursuant to Regulation A or Regulation B adopted under the Securities Act of 1933, as amended; [and]

(H) *exchange offers that are exempt from registration with the Commission under Sections 3(a)(4), 3(a)(9), 3(a)(11) of the Securities Act of 1933 (if a member's participation involves active solicitation activities) or registered with the Commission (if a member is acting as dealer-manager) (collectively ''exchange offers''), except for exchange offers exempt from filing pursuant to subparagraph (7)(F) above that are not subject to filing by subparagraph (9)(I) below;*

(I) any change offer, merger and acquisition transaction, or other similar corporate reorganization involving an issuance of securities that results in the direct or indirect public ownership of the member; and

(J) any offerings of a similar nature that are not exempt under paragraphs (7) or (8) above.

* * * * *

(c) Underwriting Compensation and Arrangements

* * * * *

(6) Unreasonable Terms and Arrangements.

(A) No member or person associated with a member shall participate in any manner in a public offering of securities after any arrangement proposed in connection with the public offering, or the terms and conditions relating thereto, has been determined to be unfair or unreasonable pursuant to this Rule or inconsistent with any By-Law or any Rule or regulation of the NASD.

(B) Without limiting the foregoing, the following terms and arrangements, when proposed in connection with the

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[1] 15 U.S.C. § 78s(b)(1).

[2] In Amendment No. 1, the NASD amended Rule 2710(b)(7)(F)(i) to replace the phrase ''listed on The Nasdaq National Market, the New York Stock Exchange, or American Stock Exchange'' with ''designated as a Nasdaq National Market security or listed on the New York Stock Exchange or American Stock Exchange.''

distribution of a public offering of securities, shall be unfair and unreasonable:

* * * * *

(v) any ''tail fee'' arrangement granted to the underwriter and related persons that has a duration of more than two (2) years from the date the member's services are terminated, in the event that the offering is not completed in accordance with the agreement between the issuer and the underwriter and the issuer subsequently consummates a similar transaction, expect that a member may demonstrate on the basis of information satisfactory to the NASD that an arrangement of more than two (2) years is not unfair or unreasonable under the circumstances.

Subparagraphs (v)–(xiii) are renumber (vi)–(xiv).

* * * * *

Rule 2720. Distribution of Securities of Members and Affiliates—Conflicts of Interest

(a) General

(1) No member or person associated with a member shall participate in the distribution of a public offering of debt or equity securities issued or to be issued by the member, the parent of the member, or an affiliate of the member and no member or parent of a member shall issue securities except in accordance with this Schedule.

(2) No member or person associated with a member shall participate in the distribution of a public offering of debt or equity securities issued or to be issued by a company if the member and/or its associated persons, parent or affiliates have a conflict of interest with the company, as defined herein, except in accordance with this Schedule.

(3) In the case of an exchange offer, merger and acquisition transaction, or similar corporate reorganization, this Rule shall only apply if the offering is described in:

(a) Rule 2710(b)(9)(H) and the issuance of securities is by a member or the parent of a member; or

(b) Rule 2710(b)(9)(I).

* * * * *

(c) Participation in Distribution of Securities of Member or Affiliate

(1) and (2)—No change.

(3) If a member proposes to underwrite, participate as a member of the underwriting syndicate or selling group, or otherwise assist in the distribution of a public offering of its own or an affiliate's securities, or of securities of a company with which it or its associated persons, parent or affiliates have a conflict of interest, one or more of the following three criteria shall be met:

(A) The price at which an equity issue or the yield at which a debt issue is to be distributed to the public is established at a price no higher or yield no lower than that recommended by a qualified independent underwriter which shall also participate in the preparation of the registration statement and the prospectus, offering circular, or similar document and which shall exercise the usual standards of ''due diligence'' in respect thereto; provided, however, that:

(i) An offering of securities by a member which has not been actively engaged in the investment banking or securities business, in its present form or as a predecessor broker/dealer, for at least the five years immediately preceding the filing of the registration statement shall be managed by a qualified independent underwriter; and

(ii) The provision of this paragraph which requires that the price or yield of the securities be established based on the recommendation of a qualified independent underwriter shall not apply to an offering of equity or debt securities if:

a. The securities (except for the securities of a broker/dealer or its parent) are issued in an exchange offer or other transaction relating to a recapitalization or restructuring of a company; and

b. The member that is affiliated with the issuer or with which the member or its associated persons, parent or affiliates have a conflict of interest is not obligated to and does not provide a recommendation with respect to the price, yield, or exchange value of the transaction; or

(iii) In any exchange offer, merger and acquisition transaction, or similar corporate reorganization subject to this Rule under subparagraph (a)(3) above, the provision of this paragraph which requires that the price or yield of the securities be established based on the recommendation of a qualified independent underwriter shall not apply and, instead, the exchange value of the securities being offered in the transaction shall not be less than that recommended by a qualified independent underwriter; or (B) and (C)—No change.

* * * * *

(o) Predominance of Rule 2720

If the provisions of this Rule are inconsistent with any other provisions of the Association's By-Laws or Rules, or of any interpretation thereof, the provisions of this Rule shall prevail, *except to the extent that subparagraph (b)(8) of Rule 2710 provides an exemption from this Rule for certain offerings.*

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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statement.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 2710 of the Conduct Rules of the NASD (''Corporate Financing Rule'') requires that members file with the Corporate Financing Department of the NASD public offerings of securities for review of the proposed underwriting terms and arrangements, which terms and arrangements must comply with that rule. Rule 2720 of the Conduct Rules (''Conflicts Rule'') establishes standards in addition to those in Rule 2710 to address the conflicts-of-interest that occur in connection with a public offering of the securities of a member, the parent of a member, an affiliate of a member, or other issuer with whom the member has a conflict-of-interest. For an offering to be subject to filing under the Corporate Financing and Conflicts Rules, a member must be considered to be ''participating'' in the offering and the offering must be one that is subject to the filing requirements. Paragraph (a)(5) of Rule 2710 defines ''participation or participating in a public offering'' to include participation in the preparation of the offering or other documents, participation in the distribution of the offering on an underwritten, non-underwritten, or any other basis, furnishing of customer and/or broker lists for solicitation, or participation in any advisory or consulting capacity to the issuer related to the offering, but not the preparation of an appraisal in a savings and loan conversion or a bank offering or the preparation of a fairness opinion pursuant to SEC Rule 13e–3.

With respect to offerings subject to compliance with the Rules, the Corporate Financing and Conflict Rules

apply to most ''public offerings'' of securities, which is defined in Rule 2720(b)(14) to include, among other things, ''offerings made pursuant to a merger or acquisition.'' Neither the Corporate Financing Rule nor the Conflicts Rule currently identifies the types of mergers and acquisitions subject to filing and compliance with those rules. The NASD has, therefore, determined to amend Rules 2710 and 2720 to clarify the application of the requirements of the Corporate Financing and Conflicts Rules to exchange offers, mergers and acquisitions, and similar corporate reorganizations and make other related amendments. In view of the increasing amount of merger and acquisition activity, the NASD believes that the proposed amendments to Rules 2710 and 2720 will provide certainty and eliminate confusion regarding their application to such transactions.

With respect to the time-sensitive nature of many mergers and acquisitions, exchange offers, and similar corporate reorganizations that would become subject to filing as a result of approval of the proposed rule change, the NASD previously announced in Notice to Members 95–73 (September 1995) (''NTM 95–73'') a policy to expedite the review of such offerings by the Corporate Financing Department.[3] In general, it is anticipated that a comment letter will be issued by the Corporate Financing Department of the NASD within 48 hours of receipt of the filing of the documents related to such a transaction, so long as the documentation and related information submitted meet the requirements set forth in subparagraphs (b) (5) and (6) of Rule 2710 and the appropriate filing fee is included.

Summary of Proposed Rule Change

The NASD is proposing to amend the Corporate Financing and Conflicts Rules to clarify their application to exchange offers, merger and acquisition transactions, and other similar corporate reorganizations and make other related changes. The amendments limit the application of the rules to narrow situations where pre-offering review under the Corporate Financing Rule or the application of the Conflicts Rule is believed necessary to protect investors. Thus, in general, the proposed rule change would require that an exchange offer be filed with the Corporate Financing Department for review only when a member is participating in solicitation activities related to an offer involving unlisted securities or securities that are exempt from SEC registration. However, filing of an exchange offer (where a member is participating in solicitation activities) will be required if the offering is subject to the Conflicts Rule because the offering is of securities of a member or its parent or the offer will result in the direct or indirect public ownership of a member. In addition, exchange offers, merger and acquisition transactions, and other similar corporate reorganizations will be subject to the Conflicts Rule, and required to be filed for review, if there is an issuance of securities that results in the direct or indirect public ownership of a member.

Description of Proposed Rule Change to Rule 2710

The filing requirements of the Corporate Financing Rule subject an offering to compliance with that rule and, if the offering is of securities issued by a member, the parent of a member, an affiliate of a member, or an issuer with which the member has a conflict-or-interest (as that latter term is defined in Rule 2720), to compliance with the Conflicts Rule. Paragraph (b)(9) of Rule 2710 is intended to provide clarification of certain types of public offerings required to be filed with the Corporate Financing Department of the NASD for review. Paragraph (b)(9) is proposed to be amended to add new subparagraph (H) that would require the filing of exchange offers exempt from registration under Sections 3(a)(4), 3(a)(9), and 3(a)(11) of the Securities Act of 1933 (''Securities Act''), where the member engages in active solicitation, and exchange offers registered with the Commission if a member acts as a dealer manager.[4] Active solicitation occurs when a member directly solicits or contacts securityholders, acts as a dealer manager, performs tasks that are performed by investor relations firms. (*i.e.*, contacts securityholders to determine the action they intend to take), contacts securityholders to determine whether they have received the offering materials, answers unsolicited contacts, and participates in meetings with securityholders or their advisors before or after an exchange offer begins.[5] In contrast, active solicitation does not encompass the delivery of a ''fairness opinion,'' advice as to the structure and terms of the exchange offer, assistance in the preparation of the offering documents to be sent to securityholders, nor any other functions that do not involve direct solicitation or direct contact with securityholders.

The NASD is not extending the filing requirement to other public exchange offers exempt from registration because such offerings are either subject to the oversight of a bankruptcy court or of another Federal review authority, such as the Comptroller of the Currency or the Federal Deposit Insurance Corporation.[6]

With respect to exchange offers registered on Forms S–4 or F–4, filing is expressly limited to those distributions where the member is engaged by the company to act as dealer manager and solicits consents on behalf of the company to the proposed reorganization and to otherwise facilitate the exchange of securities. In such exchange offers, the member generally acts as a financial advisor to help structure the transaction and will receive a fee, as well as distribution-related compensation for services rendered.

To the extent an exchange offer exempt under Sections 3(a)(4), (9), and (11) of the Securities Act or registered with the SEC does not fall within the filing requirement in new subparagraph (b)(9)(H) to Rule 2710 because the member is not engaging in solicitation activities or is not acting as dealer manager, respectively, the exchange offer is considered exempt from compliance with the Corporate Financing and Conflicts Rules because the member is not considered to be ''participating in the offering.''

The NASD, however, is also proposing to add new subparagraph (b)(7)(F) to Rule 2710 to exempt from filing exchange offers where the securities to be issued or the securities of the company to be acquired are designated as a Nasdaq National Market security or listed on the New York Stock Exchange (''NYSE'') or American Stock Exchange (''AMEX'') or where the

[3] A copy of NTM 95–73 was submitted as Exhibit 2 to the NASD's proposal and is available for inspection and copying in the Commission's Public Reference Room.

[4] The term ''exchange offer'' is intended to refer to transactions where one security is issued in exchange for another security of the issuer or another entity, and is distinguished from mergers, acquisitions and other corporate reorganizations (except if accomplished through an exchange offer) registered on a Form S–4 or F–4.

[5] Activities by a broker/dealer that would not come within the concept of ''soliciting'' for purposes of Section 3(a)(9) may none-the-less come within the concept of ''solicitation'' for purposes of the requirement to file an offering with NASD Regulation for review under Rules 2710 and 2720. *See* applicable SEC no-action letters on Section 3(a)(9). Further, the application of the filing requirements of Rule 2710 does not depend upon whether remuneration is paid to the member. Thus, regardless of whether a member is paid for soliciting the exchange, an exchange offer would be subject to filing if the member engages in solicitation activities as described in this rule filing.

[6] *See* 15 U.S.C. §§ 3(a)(5), 3(a)(6), 3(a)(10), and 3(a)(12).

company issuing securities qualifies to register securities on SEC Registration Forms S–3 or F–10. It is believed that the listing standards of the three markets requiring independent directors of the Board of Directors will ensure that the independent directors of the acquiror or target will evaluate the offer and that sufficient information will be distributed to shareholders and to the markets, so that investors can make a decision regarding whether to sell or hold the securities they hold or will receive.

The exemption for companies qualified to register securities on SEC registration Forms S–3, F–3, or F–10 applies to those companies that meet the standards for the Forms in subparagraphs (C)(i) and (ii) of paragraph (b)(7) of Rule 2710 in order to restrict the exemption to domestic companies that meet the standards for Forms S–3 and F–3 prior to October 21, 1992 and to Canadian-incorporated foreign private issuers that meet the standards for Form F–10 approved in Securities Exchange Act Release No. 6902 (June 21, 1991).[7] This provision would require, in general, that a domestic company have a three-year history as a public reporting company, and be in compliance with the current year's periodic reporting requirements of the Act (with respect to the timely filing of Form 10–Qs and 10–Ks). In addition, the minimum required market value of a company's common stock must be as follows: Form S–3, $150 million (or $100 million market value of voting stock and three million shares annual trading volume); and Form F–3, $300 million held world-wide. For Form F–10, Canadian private issuers must have (CN) $360 aggregate value of voting stock and a public float of (CN) $754 million.

Paragraph (b)(7) of the Corporate Financing Rule, which includes the two filing exemptions for exchange offers discussed above, lists those public offerings not required to be filed for review with the Corporate Financing Department. However, the underwriting terms and arrangements of such exempt offerings must be in compliance with the requirements of Rule 2710 or 2810, as applicable. Moreover, any offering exempt from filing under paragraph (b)(7) must nonetheless be filed if the offering is subject to Rule 2720, the Conflicts Rule, and is subject to review by the Corporate Financing Department for compliance with Rules 2710 and 2720.[8]

Paragraph (b)(9) of the Corporate Financing Rule is also proposed to be amended to add new subparagraph (I) to require the filing of any exchange offer, merger or acquisition transaction, and similar corporate reorganization that involves an issuance of securities that results in the direct or indirect public ownership of a member.[9] Such offerings would be subject to compliance with Rule 2710 and Rule 2720.[10] The NASD has long held the view that pre-offering review is vital to protect investors when the member and the issuer are in a control relationship that is addressed through the application of Rule 2720. The NASD has previously clarified in Notice to Members 88–100 (December 1988) that mergers or acquisitions involving an issuer and a member or its parent that result in the direct or indirect public ownership of a member are subject to compliance with Rule 2720, regardless of whether the merger or acquisition occurs subsequent to the issuer's initial public offering.[11]

Paragraph (b)(8) of Rule 2710 lists those offerings that, although within the definition of ''public offering,'' are exempted from compliance with Rules 2710 and 2720. The NASD is proposing to add new subparagraphs (I) and (J) to paragraph (b)(8) to provide an exemption from filing and compliance with Rules 2710 and 2720 for:

1. Spin-off and reverse spin-off transactions involving a subsidiary or affiliate of the issuer, where the securities are issued as a dividend or distribution to current shareholders; and

2. Securities registered with the SEC in connection with a merger, acquisition, or other similar business combination, except if the offering would be filed under subparagraph (b)(9)(I), described above, because it involves a transaction that results in the direct or indirect public ownership of a member.

Spin-off transactions to existing securityholders as a dividend or other distribution do not involve an investment decision by shareholders and, consequently, any member acting as a financial advisor to the parent company is not generally involved in any public solicitation in connection with the transaction.[12] Merger transactions and similar business combinations registered with the SEC generally only involve a member in providing financial advice to the Board of Directors of the acquiror or target, that may include an obligation that the member issue a fairness opinion regarding the acquisition price.

In addition, the NASD is proposing to add new subparagraph (c)(6)(B)(v) to Rule 2710 to provide that it is an unreasonable term and arrangement for a member to receive a right to receive a ''tail fee'' arrangement that has a duration of more than two years from the date the member's services are terminated, in the event an offering is not completed and the issuer subsequently consummates a similar transaction. Such arrangements are currently only provided in connection with exchange offers. It is believed that the real benefit derived by a company that grants a ''tail fee'' arrangement is the creativity of the strategic advice given by the member for the particular transaction that may include, among other things, assisting the company in defining objectives, performing valuation analyses, formulating restructuring alternatives, and structuring the offering. In particular, in the case of an exchange offer, a member providing financial advice will generally have provided considerable ongoing financial advisory services to the company.

The proposed ''tail fee'' prohibition also, however, would permit a member to demonstrate on the basis of information satisfactory to the NASD that an arrangement of more than two years is not unfair or unreasonable under the circumstances. The ability of the staff of the Corporate Financing Department to grant exceptions upon request is intended to be used where the

[7] *See* Notice to Member 93–88 (December 1993), which includes a copy of Forms S–3 and F–3 as those Forms existed prior to October 21, 1992 and Form F–10 as approved by the SEC on June 21, 1991.

[8] *See infra* note 10.

[9] This latter filing requirement does not, it is important to note, require the filing of exchange offers, mergers, acquisitions, and corporate reorganizations involving an offering of securities of an affiliate of a member other than a parent or of an issuer that otherwise has a conflict-of-interest with a member.

[10] Paragraph (n) of Rule 2720 provides that all offerings of securities included within the scope of that Rule are also subject to the provisions of Rule 2710, even though an exemption from filing may be available under Rule 2720.

[11] In the notice, the Association expressed its special concerns regarding the merger of blank check companies in the penny stock market with privately held holding companies of members, indirectly creating a publicly-held NASD member without having to comply with Rule 2720.

[12] It should be noted, however, that where a spin-off that is followed by a traditional public offering by the spun-off company to raise capital, the company's initial public offering would be subject to the Corporate Financing Rule's filing requirements and to compliance with Rule 2720. The same analysis would require the filing of any public offering to raise capital that follows a merger, acquisition, exchange offer or other corporate reorganization that would be exempt from filing under Rule 2710 or exempt from compliance with Rules 2710 and 2720. In the latter case, the offering may nonetheless fall within another exemption from filing, such as the filing exemptions provided by subparagraphs (b)(7) (A), (C), or (D) of Rule 2710.

member can demonstrate that the creativity of the strategic advice provided by the member has a potential benefit to the company for more than two years. In the case of exchange offers exempt from filing but subject to compliance with the Rule under subparagraph (b)(7)(F), where the ''tail fee'' arrangement is proposed to have a duration of longer than two years, a member would be required to request an opinion of the staff as to whether the arrangement is permissible under the Rule. In the case of any other offering exempt from filing under subparagraph (b)(7), a member is required to request an opinion of the staff as to whether it has an opinion of ''no objections'' as to any proposed ''tail fee'' arrangement.

As set forth above, although ''tail fee'' arrangements are currently granted only in connection with exchange offers, the provision is written to regulate such an arrangement in connection with any type of public offering subject to compliance with the Corporate Financing Rule. Where a ''tail fee'' arrangement is proposed in connection with public offerings that are not exchange offers, the NASD staff will consider whether such an arrangement is justified by the services provided by the member to the issuer. Where the member does not appear to have provided the type of substantial structuring and/or advisory services to the issuer similar to those that are described above, other than those services traditionally provided in connection with a distribution of a public offering, a proposed ''tail fee'' arrangement will be considered to be unfair and unreasonable on the basis that the arrangement would violate Rule 2110 (the Association's basic ethical rule) and Rule 2430 since the member is proposing to be paid for services that the member has not provided to the issuer. This position is consistent with subparagraph (c)(6)(B)(iv) of Rule 2710, which prohibits a member from receiving compensation in connection with an offering of securities that is not completed, except for compensation received in connection with a transaction (*i.e.*, a merger transaction) that occurs in lieu of the proposed offering as a result of the member's efforts and the reimbursement of the member's reasonable out-of-pocket accountable expenses.

In addition, the NASD has considered whether other types of fees and expense reimbursement arrangements that are typically negotiated for and received in connection with exchange offers proposed to be subject to compliance with Rule 2710 are inconsistent with or prohibited by subparagraphs (c)(6)(B)(iii) and (iv) of the Corporate Financing Rule. Subparagraph (c)(6)(B)(iii) of Rule 2710 currently prohibits as unfair and unreasonable any payment of commissions or reimbursement of expenses directly or indirectly to the underwriter and related persons prior to commencement of the public sale of the securities being offered, with certain limited exceptions. As set forth above, subparagraph (c)(6)(B)(iv) of Rule 2710 currently prohibits as unfair and unreasonable the payment of any compensation by an issuer to a member or person associated with a member in connection with an offering of securities which is not completed according to the terms of agreement between the issuer and underwriter, except those negotiated and paid in connection with a transaction that occurs in lieu of the proposed offering as a result of the efforts of the underwriter and related persons and provided, however, that the reimbursement of out-of-pocket accountable expenses actually incurred by the member or person associated with a member is not presumed to be unfair or unreasonable under normal circumstances. The NASD has determined that it is not inconsistent with the Corporate Financing Rule for a member acting as financial advisor in an exchange offering to receive a ''time and efforts'' or similar fee for the services it renders in connection with an exchange offer that is not completed, where the member does not receive the agreed-upon success fee. In addition, it is deemed not inconsistent with the Corporate Financing Rule for a member to receive reimbursement of certain expenses, including, but not limited to, travel costs, document production, and legal fees of the financial advisor, whether or not the transaction is consummated. In NTM 95–73, publishing the original version of the proposed rule change for comment, the Association stated that these and similar types of reimbursement arrangements in exchange offers are not prohibited by the Corporate Financing Rule because such arrangements are not viewed as directly connected to the issuance of securities.

Description of Proposed Rule Change to Rule 2720

The NASD is proposing to amend the Conflicts Rule to conform the scope section of the Rule to the amendments to the filing requirements of Rule 2710 and to clarify the responsibilities of a qualified independent underwriter in an exchange offer subject to compliance with Rule 2720. Paragraph (a) of Rule 2720 is proposed to be amended to add new subparagraph (3) to provide that in the case of an exchange offer, merger and acquisition transaction, or similar corporate reorganization, compliance with Rule 2720 is required only if the offering comes within subparagraph (b)(9)(H) of Rule 2710, where the issuance of securities is by a member or the parent of a member or if the offering comes within subparagraph (b)(9)(I). As set forth above, proposed subparagraph (b)(9)(H) would require the filing of exchange offers exempt under Section 3(a)(4), 3(a)(9), and 3(a)(11) of the Securities Act, if the member's participation involves active solicitation activities, and of exchange offers registered with the SEC, if the member is acting as dealer manager. Thus, the exemption from filing for such exchange offers provided by proposed subparagraph (b)(7)(F), where the securities are designated as a Nasdaq National Market security or listed on the NYSE or AMEX or the issuer qualifies to register securities on Forms S–3, F–3 or F–10, is not available if the exchange offer is by a member or parent of a member.[13] As further set forth above, proposed subparagraph (b)(9)(I) would require the filing of any exchange offer, merger and acquisition transaction, or similar corporate reorganization involving an issuance of securities that results in the direct or indirect public ownership of a member.[14]

The NASD is also proposing to amend Rule 2720 to clarify the obligations of a qualified independent underwriter[15] that would be required by subparagraph (c)(3) of Rule 2720 to perform due diligence with respect to the offering document and provide a recommendation with respect to the exchange value of an exchange offer, merger and acquisition transaction, or similar corporate reorganization. Currently, the Conflicts Rule requires

[13] *See supra* note 9.

[14] This filing requirement is consistent with the position announced in notice to members 88–100 (December 1988) and paragraph (i) of Rule 2720 which states: ''* * * if an issuer proposes to engage in any offering which results in the public ownership of a member * * * the offering shall be subject to the provisions of this Rule to the same extent as if the transaction had occurred prior to the filing of the offering.''

[15] A member must meet a number of requirements in order to be a qualified independent underwriter under subparagraph (b)(15) of Rule 2720, including the requirement that the member ''has agreed in acting as a qualified independent underwriter to undertake the legal responsibilities and liabilities of an underwriter under the Securities Act of 1933, specifically including those inherent in Section 11 thereof.'' Participation of a qualified independent underwriter is not required by Rule 2720 if the offering is of equity securities that meet the test of having a ''bona fide independent market'' or is of debt that is rated investment grade.

that the price at which an equity issue or the yield at which a debt issue is to be distributed to the public be established at a price no higher or yield no lower than that recommended by a qualified independent underwriter (who shall also participate in the preparation of the registration statement and shall exercise the usual standards of ''due diligence'' in respect thereto). The NASD is proposing to amend subparagraph (c)(3)(A) of Rule 2720 by adding a new exception to state that in any exchange offer, merger and acquisition transaction or corporate reorganization subject to Rule 2720, the provision which requires that the price or yield of the securities be established based on the recommendation of a qualified independent underwriter shall not apply and, instead, the exchange value of the securities being offered in the transaction shall not be less than that recommended by a qualified independent underwriter. Thus, the proposed new provision would clarify that the obligation of the qualified independent underwriter is to ensure that the recipient of the exchange offer, which is the party intended to be protected by the participation of a qualified independent underwriter, shall not receive fewer of the securities being issued in exchange for each security held by the recipient than is recommended by the qualified independent underwriter.

Finally, in order to make clear that the exemptions in subparagraph (b)(8) of Rule 2710 (that include exemptions for offerings of securities issued in a spin-off or in a merger registered with the SEC on Forms S–4 or F–4) are also exempt from Rule 2720, paragraph (o) of Rule 2720 is proposed to be amended to reference the exemptions from Rule 2720 that are provided in subparagraph (b)(8) of Rule 2710.

Implementation of the Proposed Rule Change

The NASD has considered the impact of the proposed rule change on pending transactions that would be required to be filed with the Corporate Financing Department for review as a result of the application of Rule 2710 or Rule 2720 or would be subject to compliance with Rule 2710 even though exempt from filing. In order to provide timely notice to the membership of the SEC's approval of the proposed rule change, the NASD is proposing to make the proposed rule change effective on a date that is 30 calendar days after the issuance of a Notice to Members announcing SEC approval of the proposed rule change. The Notice to Members will be issued within 45 calendar days of SEC approval. Thus, proposed exchange offers, mergers, acquisitions, and similar transactions that have not commenced at the time the proposed rule change becomes effective will be required to be filed for review with the Corporate Financing Department, if subject to filing under Rule 2710 or Rule 2720. Further, such transactions, although exempt from filing under subparagraph (b)(7) of Rule 2710, will be required to be made in compliance with the proposed restrictions on ''tail fee'' arrangements and other provisions of the Corporate Financing Rule. The proposed restrictions on ''tail fee'' arrangements will not be applicable to any outstanding ''tail fee'' arrangements for an exchange offer, merger, acquisition, or similar transaction that has commenced prior to effectiveness of the proposed rule change.

2. Statutory Basis

The NASD believes that the proposal to establish filing requirements for the review of exchange offers, mergers and acquisitions, and other corporate reorganizations under Rules 2710 and 2720, to limit ''tail fee'' arrangements to two years, and to provide clarification as to the obligations of a qualified independent underwriter in exchange offers is consistent with the provisions of Section 15A(b)(6) of the Act [16] in that the proposed rule change promotes just and equitable principles of trade and protects investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in NTM 95–73.[17] Two comments were received in response thereto.[18] The amendments published for comment would require filing when members act as dealer/managers of merger transactions or exchange offers registered with the SEC on Form S–4 or are engaged in solicitation activities in connection with unregistered exchange offerings or the transaction involves mergers/exchange offerings that are subject to Rule 2720. Under the proposal, exchange offers would be exempt from the filing requirements if the issuer of the securities is qualified to register on the SEC's short-form registration statements, *i.e.*, Forms S–3, F–3 or F–10, or the companies' securities held or to be received in connection with the exchange offer by the securityholder are listed on the Nasdaq National Market or the NYSE or AMEX. The Notice also proposed that ''tail fee'' arrangements in exchange offers should be limited to a two-year period from the termination of a member's services, provided that the NASD may permit longer periods in certain circumstances on a case-by-case basis. No amendments were proposed to Rule 2720.

The first commentor questioned the rationale for applying Rule 2720 to a transaction where a company is seeking to acquire the securities of a target company and the member with which it is affiliated is either soliciting securityholders of the target company or merely acting as a financial advisor to the acquiring company. The commentor was unable to determine the exact role that a qualified independent underwriter would have in such a transaction and whether the qualified independent underwriter should be required to recommend a price at which the equity issue or debt offering could be distributed to the public. The commentor claimed that it would be extremely difficult for a qualified independent underwriter to make such a recommendation.

The other commentor stated that the proposal was drafted too broadly and would require the filing of any merger and acquisition transaction by a member that provides financial advice to an affiliated issuer in the transaction, even if the member does not solicit proxies or otherwise have any direct contact with investors. The commentor recommended that the proposed amendments to the Corporate Financing Rule be revised to make clear that members are required to file exchange offers for review only if the member engages in ''solicitation activities'' and the exchange offer does not qualify for any of the exemptions from filing set forth in the Rule.

To address these comments, language was added to proposed subparagraph (b)(9)(H) of Rule 2710 to clarify that an exchange offer under Sections 3(a)(4), 3(a)(9), and 3(a)(11) of the Securities Act are subject to filing only if the member's participation involves active solicitation

[16] 15 U.S.C. § 78*o*-3.

[17] NTM 95–73, *supra* note 3.

[18] Copies of the comment letters received in response thereto were submitted as Exhibit 3 to the NASD's proposal and are available for inspection and copying in the Commission's Public Reference Room.

activities and an exchange offer (not a merger transaction) registered with the SEC is subject to filing only if there is a member acting as a dealer manager, thereby clarifying that filing is not required where the member's role in the transaction is limited to providing financial advice. In addition, as recommended by the second commentor, the provision was amended to clarify that filing is not required if the exchange offer comes within the exemption from filing in subparagraph (b)(7)(F) for listed securities and securities of an issuer that qualify to register on Forms S–3, F–3, or F–10. Consistent with this latter change, proposed subparagraph (b)(8)(J) of Rule 2710 that would exempt from the Rule mergers (not exchange offers) registered with the SEC, was also amended to clarify that such a merger is nonetheless subject to filing if the merger involves the securities of a member or the parent of a member (as provided in subparagraph (b)(9)(I)).

Also consistent with the request of the second commentor for greater clarity in the operation of the filing requirements, new subparagraph (a)(3) was added to Rule 2720 to clarify that any exchange offer, merger and acquisition transaction, or similar corporate reorganization exempt from registration under Sections 3(a)(4), 3(a)(9), and 3(a)(11) where the member is actively soliciting securityholders or registered with the SEC where a member is acting as dealer manager, will be required to be filed with the Corporate Financing Department and is subject to compliance with the requirements of the Rule if the issuance of securities is by a member or parent of a member. In addition, by reference to subparagraph (b)(9)(I) of Rule 2710, the new subparagraph of the Conflicts Rule provides that any exchange offer, merger or acquisition transaction, or similar corporate reorganization involving an issuance of securities that results in the direct or indirect public ownership of a member will be required to be filed under Rule 2720. In order to make clear, moreover, that the exemption in subparagraph (b)(8) of Rule 2710 for offerings of securities issued in a spin-off or in a merger registered with the SEC are also exempt from Rule 2720, paragraph (o) of Rule 2720 is proposed to be amended to reference the exemptions from Rule 2720 that are provided in Rule 2710.

Finally, to address the concerns of the first commentor regarding the role of the qualified independent underwriter in an exchange offer, merger and acquisition transaction, or similar corporate reorganization subject to the Conflicts Rule, subparagraph (c) of Rule 2720 is proposed to be amended to add a provision that requires that the exchange value of the securities being offered in the transaction not be less than that recommended by the qualified independent underwriter.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 Room. 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–NASD–97–38 and should be submitted by August 6, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18605 Filed 7–15–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38831; File No. SR–NASD–97–28]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 2 to a Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Procedures for Limitations on Operations, Suspensions, Cancellations, Bars, Denials of Access, Eligibility Proceedings and Exemptions

July 11, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on July 10, 1997, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') Amendment No. 2 to the proposed rule change, as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization.[3] The Commission is publishing this notice to solicit comments on Amendment No. 2 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend the proposed rule change filed in SR–NASD–97–28. The Amendment contains revisions to the proposed Rule 9400 and 9500 Series of the Code of Procedure of the NASD and a proposed Rule 9600 Series setting forth procedures for applying for exemptions. As amended, the proposed Rule 9400–9500 Rule Series sets forth procedures for limitations on operations, suspensions, cancellations, bars, denials of access to NASD services, and eligibility proceedings. As noted in the Original Proposal, the NASD proposes to rescind the Rule 9500 and 9600 Series. The Association is requesting permanent approval of the proposed rule change as set forth in this

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed rule change, including Amendment No. 1, was previously noticed in the **Federal Register.** See Exchange Act Release No. 38545 (April 24, 1997), 62 FR 25226 (May 8, 1997) (the ''Original Proposal''). Two comment letters were received on the Original Proposal. See letter from Faith Colish, Attorney, Faith Colish P.C., to Jonathan G. Katz, Secretary, Commission, dated June 9, 1997; letter from George S. Frazza, Chair, Section of Business Law and Barry F. McNeil, Chair, Section of Litigation, American Bar Association, to Jonathan G. Katz, Secretary, Commission, date June 17, 1997.

Amendment. Attached as Exhibit A is the amended text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections, A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. Introduction: The NASD is amending the Original Proposal relating to the Rule 9400 and 9500 Series to request permanent approval of the Rule 9400 and 9500 Series as proposed in this amendment, consolidate and reorganize certain procedures, provide additional procedural rights and specificity for each proceeding, and conform the proposed Rule 9400 and 9500 Series to the proposed Rule 9200 and 9300 Series. Further, the NASD is proposing a new Rule 9600 Series that would require members to apply to the staff in the first instance for an exemption under various rules and provide a right of appeal to the National Business Conduct Committee.

The Original Proposal requested temporary approval for five separate procedures for: (1) Regulating the activities of members experiencing financial or operating difficulty (proposed Rule 9410); (2) approval of a change in business operations that will result in a change in exemptive status under SEC Rule 15c3–3 (proposed rule 9420); (3) summary suspension (proposed Rule 9510); (4) non-summary suspension, cancellation, and bar (proposed Rule 9520); and (5) eligibility proceedings (proposed Rule 9530). The Original Proposal also indicated that the NASD would comprehensively review the Rule 9400 and 9500 Series and consider submitting a revision to its proposal based on that review.

As a result of its review, the NASD now proposes to amend its Original Proposal to reduce the number of separate proceedings from five to three, and seeks permanent approval of these three procedures. First, the NASD is proposing that the Rule 9410 Series for limitations on operations remain as a separate rule. Second, the NASD is proposing to eliminate the Rule 9420 Series as a separate rule series and instead require a member that wishes to change its exemptive status under SEC Rule 15c3–3 to apply for a change to its membership agreement if such agreement covers the member's exemptive status, or file a notice and application for approval of a material change in the member's business operations if the membership agreement does not specifically address the member's exemptive status. Procedures for applying for a change to a membership agreement or for approval of a material change in business operations are set forth in the proposed rule 1010 Series. The NASD will inform the membership of this change in procedure in a notice to members. Third, the NASD proposes to consolidate the Exchange Act summary suspension proceedings (proposed Rule 9510), non-summary suspension, cancellation, and bar proceedings (proposed Rule 9520), and new denial of access procedures in the revised Rule 9510 Series. Finally, eligibility proceedings remain in a separate rule series and are renumbered as the Rule 9520 Series.

The NASD also proposes to amend the Rule 9400 and Rule 9500 Series to provide members, associated persons, and others with enhanced procedural protections in the conduct of these proceedings and to expedite the hearing and review processes, especially under the proposed Rule 9510 Series. The amendments to the proposed rules include a variety of new provisions regarding the time in which a hearing requested by a member must be held (proposed Rule 9413(c) and 9514(d)); the disclosure of documents by NASD staff to the member prior to hearing (proposed Rules 9413(d), 9514(e) and 9523(a)); and the rights of parties at a hearing (proposed Rules 9413(e), 9514(f) and 9523(a)). Some of the more significant proposed changes are discussed below.

b. Proposed Rule 9410 Series: The original proposal did not provide for timely notice to the member of the date, time, and location of the hearing. As amended, proposed Rule 9413(c) now provides that the Department of Member Regulation must provide written notice of such information to the member at least five business days prior to the hearing.

Similarly, no provision was made in the Original Proposal for disclosure to the member, prior to the hearing, of the Department of Member Regulation's documents. The NASD now proposes that not less than five business days prior to the hearing, the member shall receive all documents considered by the Department of Member Regulation in imposing the limitations on the member's business activities, except any document that meets the criteria of Rule 9251(b)(1) (A), (B), or (C). That Rule describes certain documents that are privileged, constitute attorney work product, or otherwise relate to confidential investigatory or examination techniques. As a matter of practice, the NASD does not turn over such documents in any of its proceedings. As noted in the original proposal, proposed Rule 9251 is based on SEC Rule of Practice 230, 17 C.F.R. 201.230. The proposed rule also provides for the exchange of proposed exhibit and witness lists (proposed Rule 9413(d)).

The NASD also proposes to amend the Rule 9410 Series to set forth the contents of the record (proposed Rule 9413(f)); designate the obligations of the custodian of the record (proposed Rules 9413(g) and 9414(a)(4)); and a requirement that the Department issue a written decision (proposed Rule 9413(i)). If a decision imposes limitations, the decision must state the grounds for the limitations and the conditions for terminating such limitations (proposed Rule 9413(i)).

The appeal and review procedures for the Rule 9410 Series are largely unchanged from the original proposal. Amendment No. 2 adds a new provision that additional relevant and material evidence may be considered by the Subcommittee of the National Business Conduct Committee (proposed Rule 9414(b)(4)).

In the original proposal, proposed Rule 9417(b), Enforcement of Sanctions, did not provide the time in which a hearing must be held if requested by a member. The NASD proposes to provide that the hearing must be held within ten days after service of the Department of Member Regulation's order imposing sanctions. The NASD also proposes to amend proposed Rule 9417 to provide that a request for hearing shall not stay the effectiveness of the order imposing sanctions.

Proposed Rule 9418 clarifies that if additional limitations are imposed, the member may apply for relief by filing a written application for hearing under rule 9413, and that Rules 9413 through 9417 apply to such a request.

c. Proposed Rule 9510 Series: The original proposal proposed separate rules for summary suspension as authorized by Section 15A(h)(3) of the Exchange Act (proposed Rule 9510) and non-summary suspension, cancellation, and bar proceedings (proposed Rule 9520). The NASD now proposes to consolidate these procedures under the proposed Rule 9510 Series and add new denial of access procedures. The proposed amendments make clear, however, the different bases for summary and non-summary procedures (proposed Rule 9511).

The proposed amendments are intended to expedite these proceedings by providing that computation of time under the Rule 9510 Series at all times includes intermediate Saturdays, Sundays, and holidays. In contrast, proposed Rule 9138 includes such days unless the period is ten days or less. In addition, to conform with proposed Rule 9143 and the proposed amendment to the Rule 9410 Series, *ex parte* rules apply when NASD staff has knowledge that a member, associated person, or other person intends to request a hearing under proposed Rule 9514.

Although the procedures for hearing and review have been consolidated, the different procedures for the initiation of summary and non-summary proceedings (proposed Rules 9512 and 9513) remain largely unchanged from the original proposal.

To expedite these proceedings, the request for hearing must be filed within seven days after service of the notice initiating the proceeding (proposed Rule 9514(a)). As amended, proposed Rule 9514(b) also provides for the designation of a department or office of the NASD to act as a party in the proceeding and for the appointment of a Hearing Panel.

To conform with the proposed Rule 9410 Series, the proposed Rule 9510 Series provides for the time in which the hearing must be held; written notice of the location, date, and time of the hearing; transmission of the NASD's documents; and exchange of proposed exhibit and witness lists prior to the hearing (proposed Rule 9514 (d) and (e)). With respect to the transmission of the NASD's documents, the NASD does not anticipate that a notice of summary suspension will be based solely on documents that meet the exclusion criteria of Rule 9251(b)(1)(A)-(C). In all cases, the notice of summary suspension must include the factual basis for the NASD's action and those facts may be derived from documents that meet the criteria of Rule 9251(b)(1)(A)-(C). Provisions to proposed Rule 9413 also define the contents of the record and designate a custodian of the record (proposed Rule 9514(f)(4) and (5)). The provision defining the contents of the decision issued by the hearing panel (proposed Rule 9514(g)(3)) has been amended to conform with proposed Rule 9268, which describes the initial decision in a disciplinary proceeding.

The NASD also has added a procedure for reinstatement after a non-summary suspension or limitation. This procedure is similar to the procedure set forth in proposed Rule 8225. A member or person who is subject to a summary suspension, limitation, or prohibition or a non-summary prohibition under the proposed Rule 9510 Series could not use this reinstatement procedure; such member or person would have to reapply for membership, registration, or access under other Rules of the NASD.

The NASD also has specifically provided for the imposition of costs in denial of access proceedings, which are not otherwise covered by Rule 8330.

Finally, certain existing cross-references to the Rule 9700 Series in other NASD rules must be changed to reflect that the Rule 9510 Series will now provide procedures for denials of access. That is, the reference to the Rule 9700 Series in NASD Rules 4730 and 5360 will be replaced with a reference to the Rule 9510 Series. The NASD proposes to eliminate the references to the Rule 9700 Series in Rule 5265 because procedures for resolving matters arising under this rule are provided for under the Uniform Practice Code, as set forth in the Rule 11000 Series.

d. Proposed Rule 9520 Series: The rules for eligibility proceedings are now renumbered as the proposed Rule 9520 Series. The length of time for a member to file a written application for relief is extended from seven to ten days (proposed Rule 9522(a)). The Amendment also provides for notice of the location, date, and time of the hearing and the transmission of the NASD's documents and exchange of exhibit and witness lists prior to hearing (proposed Rule 9523(a)). The Amendment also provides for the content of the record and the designation of the custodian of the record (proposed Rule 9523(a)(6) and (7)).

In keeping with other procedures in the proposed Rule 9000 Series, the NASD is amending proposed Rule 9522 to provide that applications for relief and notices of withdrawal of such applications be filed with the adjudicator, the National Business Conduct Committee, rather than the Department of Member Regulation, which acts as a Party in the proceeding. In addition, because departments and offices other than the Department of Member Regulation may be involved in issuing a notice of disqualification (*e.g.*, the Membership Department, which maintains the Central Registration Depository), the NASD is amending proposed Rule 9522 to provide that ''Association staff'' rather than ''the Department of Member Regulation'' may issue a notice of disqualification.

e. Proposed Rule 9600 Series: As part of the NASD's settlement with the Commission, the NASD agreed to provide autonomy and independence to the regulatory staff of the NASD and its subsidiaries such that the staff: (i) Has sole discretion as to what matters to investigate and prosecute; (ii) has sole discretion to handle all other regulatory matters; (iii) prepares rule proposals, rule interpretations, and other policy matters with any consultations with interested NASD constituencies made in a fair and evenhanded manner; and (iv) is generally insulated from the commercial interests of its members and the Nasdaq market.

As part of the implementation of the requirement in the settlement to provide autonomy and independence to the regulatory staff in certain matters, the NASD is proposing a new Rule 9600 Series that would require members to apply to the staff in the first instance for an exemption under various rules and provide a right of appeal to the National Business Conduct Committee.

The proposed rule change is also consistent with amendments recently filed with the Commission which, among other things, propose to revise the Rules of the NASD to create greater authority for NASD Regulation staff regarding applications for membership and the investigation of complaints, and to provide enhanced procedural rights and safeguards for new applicants and those subject to a complaint.

The proposed Rule 9600 Series would require a member seeking an exemption from certain NASD rules to file a written application with the Office of General Counsel of NASD Regulation. Presently, under various rules, certain quasi-adjudicative or exemptive authority has been granted to various standing committees.

The proposed rules provide that any written application for an exemption must contain the member's name and address, the name of a person associated with the member who will serve as the primary contact for the application, the rule from which the member is seeking an exemption, and a detailed statement of the grounds for granting the exemption. If the member does not want the application or the decision on the

application to be publicly available in whole or in part, the member also must include in its application a detailed statement, including supporting facts, showing good cause for treating the application or decision as confidential in whole or in part.

The proposed rules would require NASD Regulation staff, after considering an application, to issue a written decision setting forth its findings and conclusions to be served on the applicant pursuant to Rules 9132 and 9134. After the decision is served on the applicant, the application and decision will be made publicly available unless NASD Regulation staff determines that the applicant has shown good cause for treating the application or decision as confidential in whole or in part.

The proposed rules permit an applicant to appeal the decision by filing a written notice of appeal within 15 calendar days after service of a decision issued under proposed Rule 9620. The notice of appeal must contain a brief statement of the findings and conclusions as to which exception is taken. The National Business Conduct Committee may order oral argument. If the applicant does not want the National Business Conduct Committee's decision on appeal to be publicly available in whole or in part, the applicant must include in its notice of appeal a detailed statement, including supporting facts, showing good cause for treating the decision as confidential in whole or in part. The notice of appeal must be signed by the applicant. Where the failure to promptly review a decision to deny a request for exemption would unduly or unfairly harm the applicant, the National Business Conduct Committee shall provide expedited review. An applicant may withdraw its notice of appeal at any time by filing a written notice of withdrawal of appeal with the National Business Conduct Committee.

The proposed rules require the National Business Conduct Committee, following the filing of a notice of appeal, to designate a Subcommittee to hear an oral argument, if ordered, consider any new evidence that the applicant can show good cause for not including in its application, and recommend to the National Business Conduct Committee a disposition of all matters on appeal.

The proposed rules require the National Business Conduct Committee, after considering all matters on appeal and the Subcommittee's recommendation, to affirm, modify, or reverse the decision issued under the proposed Rule 9620. The National Business Conduct Committee must issue a written decision setting forth its findings and conclusions and serve the decision on the applicant. The decision must be served pursuant to Rules 9132 and 9134. The decision will be effective upon service and constitutes final action of the NASD.

The proposed rules also make conforming changes to those particular rules under which exemptions are currently granted, clarifying that the authority for granting such exemptions rests with NASD Regulation staff in the first instance. Currently, this includes rules relating to registration requirements, categories of principal registration, qualification examinations and waiver requirements, customer account statements, margin accounts, underwriting terms and arrangements for corporate financing matters, conflicts of interest involving distributions of securities of members and affiliates, direct participation programs, position limits for index warrants, exercise limits for index warrants, position limits for options, position limits for index options, exercise limits for options, securities categorized as ''failed to receive'' and ''failed to deliver,'' short sales, customer account transfer contracts, clearance of corporate debt securities, free-riding and withholding, and Municipal Securities Rulemaking Board Rule G–37.

In addition, the proposed rules create new authority under Rule 2210 to permit the Advertising Regulation Department to grant exemptions from the pre-filing requirements of paragraph (c) of that Rule in order to reflect existing practice. The need for such authority under Rule 2210 arises when, for example, members are the subject of a buyout or reorganization, or form a subsidiary firm, and the successor entity is substantially similar to the predecessor entity, retains the same control persons, and continues to produce the same securities products that were previously filed with the Department. In such situations, the dangers toward which the pre-filing requirements are directed have already been eliminated.

The proposed amendments do not affect certain existing functions of committees when the interests represented are fundamentally different, or when the issues presented are highly technical and do not require a highly formal process (*See* Rules 11110 and 2340(d), which will continue to authorize certain functions for the Financial Responsibility and Operations Committees, and Rules 10102, 10104, and 10301(b), which will continue to authorize certain functions for the National Arbitration and Mediation Committee).

f. Rule 9800 Series: The Rule 9800 Series contains procedures for committee review of staff decisions regarding corporate financing and direct participation program matters. The deletion of the Rule 9800 Series is consistent with the changes proposed herein to Rules 2710 (Corporate Financing Rule), 2720 (Distributions of Securities of Members and Affiliates) and 2810 (Direct Participation Programs) to subject corporate financing and direct participation program matters to the new procedures for granting exemptions.

2. Statutory Basis

The NASD believes the proposed rule change is consistent with Section 15A(b) (6)–(8) of the Act, 15 U.S.C. § 78o–3(b) (6)–(8). The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which require that the NASD adopt and amend its rules to promote just and equitable principles of fair trade, and generally provide for the protection of investors and the public interest, in that the proposed rule change preserves the independence of NASD Regulation staff regarding procedures for exemptions, promotes fairness by creating procedural regularity and predictability intended to optimize evenhanded results and minimize disparate results, and clarifies and streamlines the process for granting exemptions by articulating the application and decision process and by clearly defining appeal rights. Section 15A(b)(7) mandates that a national securities association establish rules providing that ''its members and persons associated with its members shall be appropriately disciplined for violation of any provision of this title, the rules or regulations thereunder, the rules of the Municipal Securities Rulemaking Board, or the rules of the association, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction.'' Section 15A(b)(8) mandates that a national securities association establish rules providing for ''a fair procedure for the disciplining of members and persons associated with members, the denial of membership to any person seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation by the association of any person with respect to access to services offered by the association or a member thereof.'' The NASD believes the proposed rule

changes will further the goals of Sections 15A(b) (6), (7), and (8).

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The NASD has neither solicited nor received written comments.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer periods to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written statements 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. File Number SR–NASD–97–28 should be included on the subject line if E-mail is used to submit a comment letter. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

All submissions should refer to File Number SR–NASD–97–28, Amendment No. 2, and should be submitted by August 6, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

Exhibit A

Proposed new language is in italics; proposed deletions are in brackets.

9400. Limitation[s and Approval] Procedures Under Rules 3130[,] and 3131[, and 3140]

9410. Procedures for Regulating Activities of a Member Experiencing Financial or Operational Difficulties

9411. Purpose

The Rule 9410 Series sets forth procedures for regulating the activities of a member that is experiencing the financial or operational difficulties specified in Rule 3130 or 3131.

9412. Notice of Limitations

The Department of Member Regulation [(hereinafter ''Department'' in the Rule 9410 Series)] may issue a notice directing a member to limit its business activities if the Department *of Member Regulation* has reason to believe that any condition specified in Rule 3130 or 3131 exists. The notice shall specify the grounds on which *such* action is being taken, the nature of the limitations to be imposed, the effective date of the limitations, [and] a fitting sanction that will be imposed if the member fails to comply with the limitation set forth in the notice*, and the conditions for terminating such limitations.* The effective date of the limitations shall be at least seven days after the date of service of the notice. The notice also shall inform the member that it may request a hearing before the Department *of Member Regulation* under Rule 9413. The Department *of Member Regulation* shall serve the notice [pursuant to Rules 9131 and 9134] *by facsimile or overnight commercial courier.*

9413. Department *of Member Regulation* Consideration

(a) Request for Hearing

A member aggrieved by a notice issued under Rule 9412 may file a written request for a hearing before the Department *of Member Regulation*. The request shall state the specific grounds for withdrawing or modifying the limitations specified in the notice. The request shall be filed pursuant to Rules 9135, 9136, and 9137 within five days after service of the notice under Rule 9412.

[(b) Hearing]

[If a member requests a hearing under paragraph (a), the Department shall conduct a hearing within 14 days after service of the notice under Rule 9412. The member shall be entitled to be heard in person, to be represented by an attorney, and to submit any relevant evidence. The hearing shall be recorded and a transcript prepared by a court reporter. The member may purchase a copy of the transcript from the court reporter. Any corrections to the transcript shall be submitted within three days after the hearing or within three days after receipt of the transcript, whichever is later.]

(b) Stay

A request for hearing shall stay the notice of limitations served under Rule 9412 unless the National Business Conduct Committee orders otherwise.

(c) Time of Hearing

If a member requests a hearing under paragraph (a), the Department of Member Regulation shall conduct a hearing within 14 days after service of the notice under Rule 9412. Not less than five business days before the hearing, the Department of Member Regulation shall provide written notice to the member of the location, date, and time of the hearing by facsimile or overnight commercial courier.

(d) Transmission of Documents

(1) Not less than five business days before the hearing, the Department of Member Regulation shall provide to the member by facsimile or overnight commercial courier all documents that were considered in imposing the limitations on business activities set forth in the notice served under Rule 9412, unless a document meets the criteria of Rule 9251(b)(1) (A), (B), or (C). A document that meets such criteria shall not constitute part of the record, but shall be retained by the Association until the date upon which the Association serves a final decision or, if applicable, upon conclusion of any review by the Commission or the federal courts.

(2) Not less than five business days before the hearing, the Department of Member Regulation and the member shall exchange proposed exhibit and witness lists. The exhibit and witness

[4] 17 CFR 200.30–3(a)(12).

lists shall be served by facsimile or by overnight commercial courier.

(e) Hearing and Rights of Member

The member shall be entitled to be heard in person, to be represented by an attorney, and to submit any relevant evidence. The hearing shall be recorded and a transcript prepared by a court reporter. The member may purchase a copy of the transcript from the court reporter at prescribed rates. A witness may purchase a copy of the transcript of his or her own testimony from the court reporter at prescribed rates. Proposed corrections to the transcript may be submitted by affidavit to the Department of Member Regulation within a reasonable time determined by the Department of Member Regulation. Upon notice to the participants in the hearing, the Department of Member Regulation may order corrections to the transcript as requested or sua sponte.

(f) Record

The record shall consist of:

(1) the notice issued pursuant to Rule 9412;

(2) all documents transmitted to the member under Rule 9413(d);

(3) the request for hearing filed pursuant to Rule 9413(a);

(4) any other submissions by the member and the Department of Member Regulation at the hearing;

(5) any evidence considered at the hearing; and

(6) the transcript of the hearing and any corrections thereto.

(g) Custodian of the Record

The custodian of the record shall be the Department of Member Regulation.

(h) Evidence Not Admitted

Evidence that is proffered but not admitted during the hearing shall not be part of the record, but shall be retained by the custodian of the record until the date when the Association's decision becomes final or, if applicable, upon the conclusion of any review by the Commission or the federal courts.

[(c)]*(i)* Decision

Within seven days after the hearing, the Department *of Member Regulation* shall issue a *written* decision approving, modifying, or withdrawing the limitations specified in the notice. If the decision imposes limitations, the decision shall *state the grounds for the limitations, the conditions for terminating such limitations, and* provide for a fitting sanction to be imposed under Rule [9417] *9416* if the member fails to comply with the limitations. The Department *of Member Regulation* shall promptly serve the decision [pursuant to Rules 9132 and 9134. The decision] *by facsimile or overnight commercial courier. The limitations imposed* shall become effective upon service *of the decision.*

[(d)] *(j)* Failure To Request Hearing

If a member does not request a hearing under paragraph (a), the limitations specified in the notice shall become effective on the date specified in the notice. Unless the National Business Conduct Committee calls the notice for review under Rule 9414*(a)(2),* the limitations specified in the notice shall remain in effect until the Department *of Member Regulation reduces or* removes [or modifies] the limitations pursuant to Rule 9418*(b).*

9414. National Business Conduct Committee Review

(a) Initiation of a Review

(1) Application by Member

A member aggrieved by a decision issued under Rule 9413 may file a written application for review by the National Business Conduct Committee. The application shall state the specific grounds for the review and whether oral argument is requested. The application shall be filed pursuant to Rules 9135, 9136, and 9137 within seven days after service of the decision. The member may withdraw its application for review at any time by filing a written notice with the National Business Conduct Committee pursuant to Rules 9135, 9136, and 9137.

(2) Motion of National Business Conduct Committee

A decision issued under Rule 9413 shall be subject to a call for review by any member of the National Business Conduct Committee or the Review Subcommittee described in Rule 9312(a)(1) within 30 days after service of the decision. If a member that receives a notice under Rule 9412 does not request a hearing under Rule 9413, the notice shall be subject to a call for review by any member of the National Business Conduct Committee or the Review Subcommittee[,] within 30 days after the effective date of the notice. If the National Business Conduct Committee or the Review Subcommittee calls a decision or notice for review, a written notice of review shall be served promptly on the member pursuant to Rules 9132 and 9134. The notice of review shall state the specific grounds for the review and whether an oral argument is ordered. If a decision is called for review by a member of the National Business Conduct Committee or the Review Subcommittee, [the decision shall be reviewed by] the National Business Conduct Committee *shall review the decision.*

(3) Stay

Unless otherwise ordered by the National Business Conduct Committee, the initiation of a review under this paragraph shall stay the decision of the Department *of Member Regulation* or an uncontested notice until a decision constituting final action of the Association is issued.

(4) Transmission of the Record

If a review is initiated under this paragraph, the Department of Member Regulation shall assemble and prepare an index of the record, transmit the record and index to the National Business Conduct Committee, certify to the National Business Conduct Committee that the record is complete, and serve a copy of the record and index on the member.

[(4)] *(5)* Ex Parte Communications

The prohibitions against ex parte communications in Rule 9143 shall become effective under the Rule 9410 Series when Association staff has knowledge that a member intends to file a written application for review or that the National Business Conduct Committee intends to review a decision on its own motion under this Rule.

(b) Subcommittee Consideration

(1) Appointment of Subcommittee

The National Business Conduct Committee shall appoint a Subcommittee to participate in the review. The Subcommittee shall be composed of two or more members. One member shall be a member of the National Business Conduct Committee, and the remaining member or members shall be current or former Directors of the NASD Regulation Board or former Governors of the NASD Board.

(2) Oral Argument

If oral argument is *timely* requested by the member, oral argument shall be held before the Subcommittee within 14 days after service of the decision under Rule 9413. If oral argument is ordered by the Subcommittee, oral argument shall be held before the Subcommittee within [seven] *14* days after service of the order *under paragraph (a)(2).* The member shall be entitled to be represented by an attorney. The oral argument shall be recorded and a transcript prepared by a court reporter.

The member may purchase a copy of the transcript from the court reporter *at prescribed rates.* [Any corrections to the

transcript shall be submitted within three days after the oral argument or within three days after receipt of the transcript, whichever is later.] *A witness may purchase a copy of the transcript of his or her own testimony from the court reporter at prescribed rates. Proposed corrections to the transcript may be submitted by affidavit to the Subcommittee within a reasonable time determined by the Subcommittee. Upon notice to the participants in the hearing, the Subcommittee may order corrections to the transcript as requested or sua sponte.*

(3) Review on Record

[If oral argument is not requested or ordered, the] *The* Subcommittee shall conduct its review on the basis of the record [and], any written submissions by the [Parties.] *member and the Department of Member Regulation, and the decision issued pursuant to Rule 9413(i). If oral argument is requested or ordered, the Subcommittee also may consider any submissions or additional arguments by the member and the Department of Member Regulation.*

(4) Additional Evidence

The Subcommittee may consider *any* additional *relevant and material* evidence if the member shows good cause for not previously submitting such evidence. *If additional evidence is accepted by the Subcommittee, the evidence shall be included in the record. Proffered evidence that is not accepted into the record by the Subcommittee shall be retained until the date when the Association's decision becomes final, or, if applicable, upon the conclusion of any review by the Commission or the federal courts.*

(5) Recommendation

The Subcommittee shall present a recommended decision in writing to the National Business Conduct Committee and all other Directors not later than seven days before the meeting of the National Business Conduct Committee at which the proceeding shall be considered.

(c) Decision

(1) Decision of National Business Conduct Committee, Including Remand

After considering all matters presented in the review and the written recommended decision of the Subcommittee, the National Business Conduct Committee may affirm, modify, or reverse the [Department's] *Department of Member Regulation's* decision or remand the proceeding with instructions. The National Business Conduct Committee shall prepare a proposed written decision pursuant to subparagraph (2).

(2) Contents of Decision

The decision shall include:

(A) a description of the [Department's] *Department of Member Regulation's* decision, including its rationale;

(B) a description of the principal issues regarding the imposition of limitations raised in the review and a statement supporting the disposition of such issues;

(C) a summary of the evidence on each issue;

(D) a statement of whether the [Department's] *Department of Member Regulation's* decision is affirmed, modified, or reversed, and a rationale therefor; and

(E) if any limitations are imposed[,]*:* *(i)* a description of the limitations and a statement describing a fitting sanction that will be imposed under Rule 9417 if the member fails to comply with any of the limitations*; and*

(ii) the conditions for terminating the limitations.

(3) Issuance of Decision After Expiration of Call for Review Period

The National Business Conduct Committee shall provide its proposed written decision to the NASD Regulation Board, and, if the proceeding is not called for review by the NASD Regulation Board, to the NASD Board. The NASD Regulation Board may call the proceeding for review pursuant to Rule 9415. The NASD Board may call the proceeding for review pursuant to Rule 9416. If neither the NASD Regulation Board nor the NASD Board calls the proceeding for review, the proposed written decision of the National Business Conduct Committee shall become final, and the National Business Conduct Committee shall serve its written decision *on the member and the Department of Member Regulation* pursuant to Rules 9132 and 9134. *The decision shall be effective upon service.* The decision shall constitute the final action of the Association, unless the National Business Conduct Committee remands the proceeding.

9415. Discretionary Review by the NASD Regulation Board

(a) Call for Review by Director

A Director may call a proceeding for review by the NASD Regulation Board if the call for review is made within the period prescribed in paragraph (b).

(b) Seven Day Period; Waiver

After receiving the proposed written decision of the National Business Conduct Committee pursuant to Rule 9414, a Director shall have not less than seven days to determine if the proceeding should be called for review. A Director shall call a proceeding for review by notifying the General Counsel of NASD Regulation. By a unanimous vote of the NASD Regulation Board, the NASD Regulation Board may shorten the period to less than seven days. By an affirmative vote of the majority of the NASD Regulation Board then in office, the NASD Regulation Board may, during the seven day period, vote to extend the period to more than seven days.

(c) Review at Next Meeting

If a Director calls a proceeding for review within the period prescribed by paragraph (b), the NASD Regulation Board shall review the proceeding not later than the next meeting of the NASD Regulation Board. The NASD Regulation Board may order the filing of briefs in connection with its review proceedings pursuant to this Rule.

(d) Decision of NASD Regulation Board, Including Remand

After review, the NASD Regulation Board may affirm, modify, or reverse the proposed written decision of the National Business Conduct Committee or remand the proceeding with instructions. The NASD Regulation Board shall prepare a proposed written decision that includes all of the elements described in Rule 9414(c)(2).

(e) Issuance of Decision After Expiration of Call for Review Period

The NASD Regulation Board shall provide its proposed written decision to the NASD Board. The NASD Board may call the proceeding for review pursuant to Rule 9416. If the NASD Board does not call the proceeding for review, the proposed written decision of the NASD Regulation Board shall become final, and the NASD Regulation Board shall serve its written decision *on the member and the Department of Member Regulation* pursuant to Rules 9132 and 9134. *The decision shall be effective upon service.* The decision shall constitute the final action of the Association, unless the NASD Regulation Board remands the proceeding.

9416. Discretionary Review by the NASD Board

(a) Call for Review by Governor

A Governor may call a proceeding for review by the NASD Board if the call for review is made within the period prescribed in paragraph (b).

(b) Seven Day Period; Waiver

(1) Proceeding Called for Review by NASD Regulation Board

If the NASD Regulation Board reviewed the proceeding under Rule 9415, a Governor shall make his or her call for review not later than the next meeting of the NASD Board that is at least seven days after the date on which the NASD Board receives the proposed written decision of the NASD Regulation Board.

(2) Proceeding Not Called for Review by NASD Regulation Board

If no Director of the NASD Regulation Board called the proceeding for review under Rule 9415, a Governor shall make his or her call for review not later than the next meeting of the NASD Board that is at least seven days after the date on which the NASD Board receives the proposed written decision of the National Business Conduct Committee.

(3) Waiver

By a unanimous vote of the NASD Board, the NASD Board may shorten the period in subparagraph (1) or (2) to less than seven days. By an affirmative vote of the majority of the NASD Board then in office, the NASD Board may, during the seven day period in subparagraph (1) or (2), vote to extend the period in subparagraph (1) or (2) to more than seven days.

(c) Review at Next Meeting

If a Governor calls a proceeding for review within the period prescribed in paragraph (b), the NASD Board shall review the proceeding not later than the next meeting of the NASD Board. The NASD Board may order the filing of briefs in connection with its review proceedings pursuant to this Rule.

(d) Decision of NASD Board, Including Remand

After review, the NASD Board may affirm, modify, or reverse: (1) the proposed written decision of the NASD Regulation Board, or (2) if the NASD Regulation Board did not call [a] *the* proceeding for review under Rule 9415, the proposed written decision of the National Business Conduct Committee, Alternatively, the NASD Board may remand the proceeding with instructions. The NASD Board shall prepare a written decision that includes all of the elements described in Rule 9414(c)(2).

(e) Issuance of Decision

The NASD Board shall issue and serve its written decision *on the member and the Department of Member Regulation* pursuant to Rules 9132 and 9134. *The decision shall be effective upon service.* The decision shall constitute the final action of the Association, unless the NASD Board remands the proceeding.

9417. Enforcement of Sanctions

(a) Order

If the Department *of Member Regulation* determines that a member has failed to comply with any limitations imposed by a decision [under Rule 9413, 9414, 9415, or 9416,] or an effective notice under [Rule 9413(d),] *the Rule 9410 Series that has not been stayed,* the Department *of Member Regulation* shall issue an order [to be served pursuant to Rules 9132 and 9134] imposing the sanctions set forth in the decision or notice and specifying the effective date and time of such sanctions. *The Department of Member Regulation shall serve the order on the member by facsimile or overnight commercial courier.*

(b) Hearing

(1) A member aggrieved by an order issued under paragraph (a) may file a written request for a hearing before the Department *of Member Regulation.* The request shall be filed pursuant to Rules 9135, 9136, and 9137 within [four days] *seven days (including intermediate Saturdays, Sundays, and Federal holidays)* after service of the order. *The hearing shall be held within ten days after service of the order under paragraph (a).*

(2) The member shall be entitled to be heard in person, to be represented by an attorney, and to submit any relevant evidence.

(3) The hearing shall be recorded and a transcript prepared by a court reporter. The member may purchase a copy of the transcript from the court reporter *at prescribed rates.* [Any corrections to the transcript shall be submitted within two days after the hearing or within two days after receipt of the transcript, whichever is later.] *A witness may purchase a copy of the transcript of his or her own testimony from the court reporter at prescribed rates. Proposed corrections to the transcript may be submitted by affidavit to the Department of Member Regulation within a reasonable time determined by the Department of Member Regulation. Upon notice to the participants in the hearing, the Department of Member Regulation may order corrections to the transcript as requested or sua sponte.*

(c) No Stay of Sanctions

Unless otherwise ordered by the National Business Conduct Committee, a request for a hearing pursuant to this Rule shall not stay the effectiveness of the order issued under paragraph(a).

[(c)] *(d)* Decision

Within four days after the hearing, the Department *of Member Regulation* shall affirm, modify, or reverse the order issued under paragraph (a). The Department *of Member Regulation* shall serve the decision on the member pursuant to Rules 9132 and 9134. The decision shall become effective upon service and shall constitute final action of the Association.

9418. Additional Limitations; [Modification] *Reduction* or Removal of Limitations

(a) Additional Limitations

If a member continues to experience financial or operational difficulty specified in Rule 3130 or 3131, notwithstanding an effective notice or decision under the Rule 9410 Series, the Department *of Member Regulation* may impose additional limitations by issuing a notice under Rule 9412. *The notice shall state that the member may apply for relief from the additional limitations by filing a written application for a hearing under Rule 9413 and that the procedures in Rules 9413 through 9417 shall be applicable. An application for a hearing also shall include a detailed statement of the member's objections to the additional limitations.*

(b) [Modification] *Reduction or Removal* of Limitations

If the Department *of Member Regulation* determines that any limitations previously imposed under the Rule 9410 Series should be [modified] *reduced* or removed, the Department *of Member Regulation* shall serve a written notice on the member pursuant to Rules 9132 and 9134.

9419. Application to Commission for Review; Other Action Not Foreclosed

(a) [Any person aggrieved by final action pursuant to the Rule 9410 Series may apply for review by the Commission under] *The right to have any action taken by the Association pursuant to this Rule Series reviewed by the Commission is governed by* Section 19 of the Act. The filing of an application for review shall not stay the effectiveness of [final] *the* action *taken* by the Association, unless the Commission otherwise orders.

(b) Action by the Association under the Rule 9410 Series shall not foreclose action by the Association under any other Rule.

[9420. Approval of Change in Business Operations That Will Result in a Change in Exemptive Status under SEC Rule 15c3–3]

[9421. Purpose]

[The Rule 9420 Series sets forth procedures for Rule 3140, which requires the Association's approval of a change in a member's business activities that will result in a change in the member's exemptive status under SEC Rule 15c3–3.]

[9422. Department of Member Regulation Consideration]

[(a) Application]

[A member shall apply for approval of a change in its business operation that will result in a change in its exemptive status under SEC Rule 15c3–3 by filing a written application with the Department of Member Regulation (hereinafter ''Department'' in the 9420 Rule Series) at the district office in the district in which it has its principal place of business. The application shall address the criteria set forth in Rule 3140 and shall be filed pursuant to Rules 9135, 9136, and 9137.]

[(b) Decision]

[Within 21 days after receipt of the application, the Department shall issue a decision approving or denying the application in whole or in part. If the decision denies the application in whole or in part, the decision shall set forth the specific grounds for such action. The decision shall provide a fitting sanction to be imposed in accordance with Rule 9426 if the member fails to comply with any limitations imposed. The Department shall serve the decision pursuant to Rules 9132 and 9134.]

[9423. National Business Conduct Committee Review]

[(a) Initiation of Review]

[(1) Application by Member]

[A member aggrieved by a decision issued under Rule 9422 may file a written application for review by the National Business Conduct Committee. The application shall state the specific grounds for the review and whether oral argument is requested. The application shall be filed pursuant to Rules 9135, 9136, and 9137 within seven days after service of the decision. The member may withdraw its application at any time by filing a written notice with the National Business Conduct Committee pursuant to Rules 9135, 9136, and 9137.]

[(2) Motion of National Business Conduct Committee]

[A decision issued under Rule 9422 shall be subject to a call for review by any member of the National Business Conduct Committee or the Review Subcommittee described in Rule 9312(a)(1) within 30 days after service of the decision. If the National Business Conduct Committee or the Review Subcommittee calls a decision for review, a written notice of review shall be served promptly on the member pursuant to Rules 9132 and 9134. The written notice of review shall state the specific grounds for the review and whether oral argument is ordered. If a decision is called for review by any member of the National Business Conduct Committee or the Review Subcommittee, the decision shall be reviewed by the National Business Conduct committee.]

[(3) No Stay of Action]

[Unless otherwise ordered by the National Business Conduct Committee, the initiation of a review under this paragraph shall not stay the decision of the Department.]

[(4) Ex Parte Communications]

[The prohibitions against ex parte communications in Rule 9143 shall become effective under the Rule 9420 Series when Association staff has knowledge that a member intends to file a written application for review or that the National Business Conduct Committee intends to review a decision on its own motion under this Rule.]

[(b) Subcommittee Consideration]

[(1) Appointment of Subcommittee]

[The National Business Conduct Committee shall appoint a Subcommittee to participate in the review. The Subcommittee shall be composed of two or more members. One member shall be a member of the National Business Conduct Committee, and the remaining member or members shall be current or former Directors of the NASD Regulation Board or former Governors of the NASD Board.]

[(2) Oral Argument]

[If oral argument is requested by the member, oral argument shall be held before the Subcommittee within 14 days after service of the decision under Rule 9422. If oral argument is ordered by the Subcommittee, oral argument shall be held before the Subcommittee within seven days after service of the order. The oral argument shall be recorded and a transcript prepared by a court reporter. The member may purchase a copy of the transcript from the court reporter. Any corrections to the transcript shall be submitted within three days after the oral argument or within three days after receipt of the transcript, whichever is later.]

[(3) Review on Record]

[If oral argument is not requested or ordered, the Subcommittee shall conduct its review on the basis of the record and any written submissions by the Parties.]

[(4) Additional Evidence]

[The Subcommittee may consider additional evidence if the member shows good cause for not previously submitting such evidence.]

[(5) Recommendation]

[The Subcommittee shall present a recommended decision in writing to the National Business Conduct Committee and all other Directors not later than seven days before the meeting of the National Business Conduct Committee at which the proceeding shall be considered.]

[(c) Decision]

[(1) Decision of National Business Conduct Committee, Including Remand.

After considering all matters presented in the review and the written recommended decision of the Subcommittee, the National Business Conduct Committee may affirm, modify, or reverse the Department's decision or remand the proceeding with instructions. The National Business Conduct Committee shall prepare a proposed written decision pursuant to subparagraph (2).]

[(2) Contents of Decision]

[The decision shall include:

(A) a description of the Department's decision, including its rationale;

(B) a description of the principal issues regarding the change in the member's exemptive status raised in the review and a statement supporting the disposition of such issues;

(C) a summary of the evidence on each issue;

(D) a statement of whether the Department's decision is affirmed, modified, or reversed, and a rationale therefor; and

(E) if any limitations are imposed, a description of the limitations and a statement describing a fitting sanction that will be imposed under Rule 9426 if the member fails to comply with any of the limitations.]

[(3) Issuance of Decision After Expiration of Call for Review Period]

[The National Business Conduct Committee shall provide its proposed written decision to the NASD Regulation Board, and, if the proceeding is not called for review by the NASD Regulation Board, to the NASD Board. The NASD Regulation Board may call the proceeding for review pursuant to Rule 9424. The NASD Board may call the proceeding for review pursuant to Rule 9425. If neither the NASD Regulation Board nor the NASD Board calls the proceeding for review, the proposed written decision of the National Business Conduct Committee shall become final, and the National Business Conduct Committee shall serve its written decision pursuant to Rules 9132 and 9134. The decision shall constitute the final action of the Association, unless the National Business Conduct Committee remands the proceeding.]

[9424. Discretionary Review by the NASD Regulation Board]

[(a) Call for Review by Director]

[A Director may call a proceeding for review by the NASD Regulation Board if the call for review is made within the period prescribed in paragraph (b).]

[(b) Seven Day Period; Waiver]

[After receiving the proposed written decision of the National Business Conduct Committee pursuant to Rule 9423, a Director shall have not less than seven days to determine if the proceeding should be called for review. A Director shall call a proceeding for review by notifying the General Counsel of NASD Regulation. By a unanimous vote of the NASD Regulation Board, the NASD Regulation Board may shorten the period to less than seven days. By an affirmative vote of the majority of the NASD Regulation Board then in office, the NASD Regulation Board may, during the seven day period, vote to extend the period to more than seven days.]

[(c) Review at Next Meeting]

[If a Director calls a proceeding for review within the period prescribed by paragraph (b), the NASD Regulation Board shall review the proceeding not later than the next meeting of the NASD Regulation Board. The NASD Regulation Board may order the filing of briefs in connection with its review proceedings pursuant to this Rule.]

[(d) Decision of NASD Regulation Board, Including Remand]

[After review, the NASD Regulation Board may affirm, modify, or reverse the proposed written decision of the National Business Conduct Committee or remand the proceeding with instructions. The NASD Regulation Board shall prepare a proposed written decision that includes all of the elements described in Rule 9423(c)(2).]

[(e) Issuance of Decision After Expiration of Call for Review Period]

[The NASD Regulation Board shall provide its proposed written decision to the NASD Board. The NASD Board may call the proceeding for review pursuant to Rule 9425. If the NASD Board does not call the proceeding for review, the proposed written decision of the NASD Regulation Board shall become final, and the NASD Regulation Board shall serve its written decision pursuant to Rules 9132 and 9134. The decision shall constitute the final action of the Association, unless the NASD Regulation Board remands the proceeding.]

[9425. Discretionary Review by NASD Board]

[(a) Call for Review by Governor]

[A Governor may call a proceeding for review by the NASD Board if the call for review is made within the period prescribed in paragraph (b).]

[(b) Seven Day Period; Waiver]

[(1) Proceeding Called for Review by NASD Regulation Board]

[If the NASD Regulation Board reviewed the proceeding under Rule 9424, a Governor shall make his or her call for review not later than the next meeting of the NASD Board that is at least seven days after the date on which the NASD Board receives the proposed written decision of the NASD Regulation Board.]

[(2) Proceeding Not Called for Review by NASD Regulation Board]

[If no Director of the NASD Regulation Board called the proceeding for review under Rule 9424, a Governor shall make his or her call for review not later than the next meeting of the NASD Board that is at least seven days after the date on which the NASD Board receives the proposed written decision of the National Business Conduct Committee.]

[(3) Waiver]

[By a unanimous vote of the NASD Board, the NASD Board may shorten the period in subparagraph (1) or (2) to less than seven days. By an affirmative vote of the majority of the NASD Board then in office, the NASD Board may, during the seven day period in subparagraph (1) or (2), vote to extend the period in subparagraph (1) or (2) to more than seven days.]

[(c) Review at Next Meeting]

[If a Governor calls a proceeding for review within the period prescribed in paragraph (b), the NASD Board shall review the proceeding not later than the next meeting of the NASD Board. The NASD Board may order the filing of briefs in connection with its review proceedings pursuant to this Rule.]

[(d) Decision of NASD Board, Including Remand]

[After review, the NASD Board may affirm, modify, or reverse: (1) the proposed written decision of the NASD Regulation Board, or (2) if the NASD Regulation Board did not call a proceeding for review under Rule 9424, the proposed written decision of the National Business Conduct Committee. Alternatively, the NASD Board may remand the proceeding with instructions. The NASD Board shall prepare a written decision that includes all of the elements described in Rule 9423(c)(2).]

[(e) Issuance of Decision]

[The NASD Board shall issue and serve its written decision pursuant to Rules 9132 and 9134. The decision shall constitute the final action of the Association, unless the NASD Board remands the proceeding.]

[9426. Enforcement of Sanctions]

[(a) Order]

[If the Department determines that a member has failed to comply with limitations imposed by a decision under Rule 9422, 9423, 9424, or 9425, the Department shall issue an order to be served pursuant to Rules 9132 and 9134 imposing the sanctions set forth in the decision and specifying the effective date and time of such sanctions.]

[(b) Hearing]

[A member aggrieved by an order issued under paragraph (a) may file a written request for a hearing before the Department. The request shall be filed pursuant to Rule 9135, 9136, and 9137 within four days after service of the order. The member shall be entitled to be heard in person, to be represented by an attorney, and to submit any relevant evidence. The hearing shall be recorded and a transcript prepared by a court reporter. The member may purchase a copy of the transcript from the court reporter. Any corrections to the transcript shall be submitted within two days after the hearing or within two days after receipt of the transcript, whichever is later.]

[(c) Decision]

[Within four days after the hearing, the Department shall affirm, modify, or reverse the order issued under paragraph (a). The Department shall serve the decision on the member pursuant to Rule 9132 and 9134. The decision shall become effective upon service and shall constitute final action of the Association.]

[9427. Application to Commission for Review]

[Any person aggrieved by final action pursuant to the Rule 9420 Series may apply for review by the Commission under Section 19 of the Act. The filing of an application for review shall not stay the effectiveness of final action by the Association, unless the Commission otherwise orders.]

9500. Suspension, Cancellation, Bar, *Denial of Access,* and Eligibility Procedures

[9510. Procedures for Summary Suspension by NASD]

[9511. Purpose]

[Section 15A(h)(3) of the Act authorizes a registered securities association to summarily: (1) Suspend a member or person associated with a member who has been and is expelled or suspended from any self-regulatory organization or barred or suspended from being associated with a member of any self-regulatory organization, (2) suspend a member who is in such financial or operating difficulty that the association determines and so notifies the Commission that the member cannot be permitted to continue to do business as a member with safety to investors, creditors, other members, or the association, or (3) limit or prohibit any person with respect to access to services offered by the association if (1) or (2) applies to such person or, in the case of a person who is not a member, if the association determines that such person does not meet the qualification requirements or other prerequisites for such access and such person cannot be permitted to continue to have such access with safety to investors, creditors, members, or the association.

Summary suspension procedures for the grounds listed in Section 15A(h)(3) of the Act are set forth in the Rule 9510 Series. Other procedures for suspending the membership of a member, suspending the registration of an associated person, or suspending a person from association with any member are found in Rules 8220, 8320, and 9520.]

[9512. Notice]

[(a) Authorization]

[The NASD Board may authorize the President of NASD Regulation or Nasdaq to issue a written notice that:

(1) Summarily suspends a member or person associated with a member who has been and is expelled or suspended from any self-regulatory organization or barred or suspended from being associated with a member of any self-regulatory organization;

(2) Summarily suspends a member who is in such financial or operating difficulty that the Association determines and so notifies the Commission that the member cannot be permitted to continue to do business as a member with safety to investors, creditors, other members, or the Association; or

(3) Limits or prohibits any person with respect to access to services offered by the Association if subparagraph (1) or (2) applies to such person or, in the case of a person who is not a member, if the NASD Board determines that such person does not meet the qualification requirements or other prerequisites for such access and such person cannot be permitted to continue to have such access with safety to investors, creditors, members, or the Association.]

[(b) Contents and Service of Notice]

[A notice issued under this Rule shall state the specific grounds for the summary suspension and state that the member or associated person may file a written request for a hearing under Rule 9513. The notice shall be served by facsimile or pursuant to Rules 9131 and 9134. A copy of a notice served on a person who is associated with a member shall be served on such member pursuant to Rule 9134.]

[(c) Effective Date]

[A summary suspension shall be effective on the date and time specified in the notice.]

[9513. Hearing and Decision]

[(a) Request]

[(1) Request by Member or Associated Person]

[A member or associated person subject to a summary suspension may file a written request for a hearing with the NASD Board. The request shall state the specific grounds for reversing the summary suspension. The request shall be filed pursuant to Rules 9135, 9136, and 9137 within ten days after service of the notice under Rule 9512. The member or associated person may withdraw its request for a hearing by filing a written notice with the NASD Board pursuant to Rules 9135, 9136, and 9137.]

[(2) Failure To File Request]

[If the member or associated person subject to a summary suspension does not file a written request for a hearing under subparagraph (1), the notice of summary suspension shall constitute final action by the Association.]

[(3) No Stay of Summary Suspension]

[A request for a hearing shall not stay the effectiveness of a summary suspension under Rule 9512.]

[(b) Hearing Panel Consideration]

[(1) Appointment of Hearing Panel]

[If a member or associated person subject to a summary suspension files a written request for a hearing, a hearing shall be held before a Hearing Panel within 15 days after service of the notice under Rule 9512. The Hearing Panel shall be composed of two or more members. One member shall be a Governor of the NASD Board, and the remaining member or members shall be current or former members of the NASD Regulation Board, the Nasdaq Board, or the NASD Board.]

[(2) Rights of Member or Associated Person]

[A member or associated person subject to a summary suspension shall be entitled to be heard in person, to be represented by an attorney, and to submit any relevant evidence.]

[(3) Witnesses]

[A person who is subject to the jurisdiction of the Association shall testify under oath or affirmation. The oath or affirmation shall be administered by a court reporter.]

[(4) Recordation of Hearing]

[The hearing shall be recorded and a transcript prepared by a court reporter. The member or associated person may purchase a copy of the transcript from the court reporter. Any corrections to the transcript shall be submitted within three days after the hearing or within three days after receipt of the transcript, whichever is later.]

[(c) Decision]

[(1) Decision of the Hearing Panel]

[The Hearing Panel shall affirm, modify, or reverse the summary suspension. The Hearing Panel shall prepare a proposed written decision pursuant to subparagraph (2).]

[(2) Contents of Decision]

[The decision shall include a statement describing the investigative or other origin of the proceeding, the grounds for issuing the notice under Rule 9512, and a rationale for the disposition of the proceeding, and, if a suspension continues to be imposed, the specific grounds for imposing such sanction and the terms of the suspension.]

[(3) Issuance of Decision After Expiration of Call for Review Period]

[The Hearing Panel shall provide its proposed written decision to the NASD Board. The NASD Board may call the proceeding for review pursuant to Rule 9514. If the NASD Board does not call the proceeding for review, the proposed written decision of the Hearing Panel shall become final, and the Hearing Panel shall serve its written decision pursuant to Rules 9132 and 9134. The decision shall constitute final action of the Association.]

[9514. Discretionary Review by the NASD Board]

[(a) Call for Review by Governor]

[A Governor may call a proceeding for review by the NASD Board if the call for review is made within the period prescribed by paragraph (b).]

[(b) Seven Day Period; Waiver]

[After receiving the proposed written decision of the Hearing Panel pursuant to Rule 9513, a Governor shall have not less than seven days to determine if the decision should be called for review. A Governor shall call the proceeding for review by notifying the General Counsel of the NASD. By a unanimous vote of the NASD Board, the NASD Board may shorten the period to less than seven days. By an affirmative vote of the majority of the NASD Board then in office, the NASD Board may, during the seven day period, vote to extend the period in to more than seven days.]

[(c) Review at Next Meeting]

[If a Governor calls a proceeding for review within the period prescribed by paragraph (b), the NASD Board shall review the decision not later than the next meeting of the NASD Board. The NASD Board may order the filing of briefs in connection with its review proceedings pursuant to this Rule.]

[(d) Decision of the NASD Board, Including Remand]

[After review, the NASD Board may affirm, modify, or reverse the proposed written decision of the Hearing Panel. Alternatively, the NASD Board may remand the proceeding with instructions. The NASD Board shall prepare a written decision that includes all of the elements of Rule 9513(c)(2).]

[(e) Issuance of Decision]

[The NASD Board shall issue and serve its decision pursuant to Rules 9132 and 9134. The decision shall constitute the final action of the Association, unless the NASD Board remands the proceeding.]

[9515. Application to Commission for Review]

[Any person aggrieved by final action pursuant to the Rule 9510 Series may apply for review by the Commission under Section 19 of the Act. The filing of an application for review by the Commission shall not stay the effectiveness of final action by the Association, unless the Commission otherwise orders.]

[9516. Other Action Not Foreclosed]

[Action by the Association under the Rule 9510 Series shall not foreclose action by the Association under any other Rule.]

9510. Procedures for Summary and Non-Summary Suspension, Cancellation, Bar, Limitation, or Prohibition

9511. Purpose and Computation of Time

(a) Purpose

(1) The purpose of the Rule 9510 Series is to set forth procedures for certain suspensions, cancellations, bars, and limitations and prohibitions on access to the Association's services authorized by the Act and the NASD By-Laws. Pursuant to Section 15A(h)(3) of the Act, the Association may summarily:

(A) suspend a member or associated person who has been and is expelled or suspended from any self-regulatory organization or barred or suspended from being associated with a member of any self-regulatory organization;

(B) suspend a member who is in such financial or operating difficulty that the Association determines and so notifies the Commission that the member cannot be permitted to continue to do business as a member with safety to investors, creditors, other members, or the Association; or

(C) limit or prohibit any person with respect to access to services offered by the Association if subparagraph (A) or (B) applies to such person, or in the case of a person who is not a member, if the Association determines that such person does not meet the qualification requirements or other prerequisites for such access and such person cannot be permitted to continue to have such access with safety to investors, creditors, members, or the Association.

(2) The Association also may take the following actions, after notice and opportunity for hearing:

(A) cancel the membership of a member that becomes ineligible for continuance in membership, or that continues to be associated with an ineligible person, or suspend or bar a person from continuing to be associated with a member because such person is or becomes ineligible for association under Article II, Section 3 of the NASD By-Laws;

(B) suspend or cancel the membership of a member or the registration of a person for failure to pay fees, dues, assessments, or other charges; failure to submit a required report or information related to such payment; or failure to comply with arbitration award or a settlement agreement related to an arbitration or mediation under Article V, Section 2 of the NASD By-Laws;

(C) cancel the membership of a member for failure to file or submit on request any report, document, or other information required to be filed with or requested by the Association under Article VI, Section 2 of the NASD By-Laws; and

(D) limit or prohibit any member, associated person, or other person with respect to access to services offered by the Association or a member thereof if the Association determines that such person does not meet the qualification requirements or other prerequisites for such access or such person cannot be permitted to continue to have such access with safety to investors, creditors, members, or the Association.

(3) Other procedures for suspending the membership of a member, suspending the registration of an associated person, or suspending a person from association with any member are found in the Rule 8220 Series and Rule 8320. Procedures for listing qualification matters are found in the Rule 9700 Series; the Rule 9510 Series does not apply to listing qualification matters.

(b) Computation of Time

For purposes of the 9510 Rule Series, time shall be computed as set forth in Rule 9138, except that intermediate Saturdays, Sundays, and holidays shall be included in the computation.

9512. Initiation of Proceedings for Summary Suspension, Limitation, or Prohibition

(a) Authorization

(1) The NASD Board may authorize the President of NASD Regulation to issue on a case-by-case basis a written notice that:

(A) summarily suspends a member or associated person who has been and is expelled or suspended from any self-regulatory organization or barred or suspended from being associated with a member of any self-regulatory organization; or

(B) summarily suspends a member who is in such financial or operating difficulty that the Association determines and so notifies the Commission that the member cannot be permitted to continue to do business as a member with safety to investors, creditors, other members, or the Association.

(2) The NASD Board may authorize the President of NASD Regulation or the President of Nasdaq to issue on a case-by-case basis a written notice that summarily limits or prohibits any person with respect to access to services offered by the Association if paragraph (a)(1) applies to such person or, in the case of a person who is not a member, if the NASD Board determines that such person does not meet the qualification requirements or other prerequisites for such access and such person cannot be permitted to continue to have such access with safety to investors, creditors, members, or the Association.

(b) Contents and Service of Notice

A notice issued under this subsection shall state the specific grounds and include the factual basis for the summary suspension, limitation, or prohibition and state that the member, associated person, or other person may file a written request for a hearing under Rule 9514. The notice shall be served by facsimile or overnight commercial courier.

(c) Effective Date

A summary suspension, limitation, or prohibition shall be effective upon service of the notice under paragraph (b).

9513. Initiation of Proceeding for Non-Summary Suspension, Cancellation, Bar, Limitation, or Prohibition

(a) Notice

Association staff shall initiate a proceeding authorized under Section 3 of Article II, Section 2 of Article V, or Section 2 of Article VI of the NASD By-Laws, or Rule 9511(a)(2)(D), by issuing a written notice to the member, associated person, or other person. The notice shall specify the grounds for and effective date of the cancellation, suspension, bar, limitation, or prohibition and shall state that the member, associated person, or other person may file a written request for a hearing under Rule 9514. The notice shall be served by facsimile or overnight commercial courier.

(b) Effective Date

For any cancellation, suspension, or bar under Section 3 of Article II of the NASD By-Laws, the effective date shall be at least seven days after service of the notice on the member or associated person. For any cancellation or suspension under Section 2 of Article V or Section 2 of Article VI of the NASD By-Laws, the effective date shall be at least 15 days after service of the notice on the member or associated person. For any limitation or prohibition on access to services offered by the Association or a member thereof pursuant to Rule 9511(a)(2)(D), the effective date shall be upon receipt of the notice with respect to services to which the member, associated person, or other person does not have access and shall be at least seven days after service of the notice with respect to services to which the member, associated person, or other person already has access.

9514. Hearing and Decision

(a) Request

(1) Request by Member, Associated Person, or Other Person

A member, associated person, or other person who is subject to a notice issued under Rule 9512(a) or 9513(a) may file a written request for a hearing with the Association. The request shall state either the specific grounds for reversing the summary suspension, limitation, or prohibition or for opposing the cancellation, suspension, bar, limitation, or prohibition. The request shall be filed pursuant to Rules 9135, 9136, and 9137 within seven days after service of the notice under Rule 9512 or 9513. The member, associated person, or other person may withdraw its request for a hearing at any time by filing a written notice with the Association pursuant to Rules 9135, 9136, and 9137.

(2) Failure To File Request

If the member, associated person, or other person subject to the notice issued under Rule 9512(a) or 9513(a) does not file a written request for a hearing under subparagraph (1), the notice shall constitute final action by the Association.

(3) Ex Parte Communications

The prohibition against ex parte communications in Rule 9143 shall become effective under the Rule 9510 Series when Association staff has knowledge that a member, associated person, or other person intends to request a hearing under this paragraph.

(b) Designation of Party for the Association and Appointment of Hearing Panel

If a member, associated person, or other person subject to a notice under Rule 9512 or 9513 files a written request for a hearing, an appropriate department or office of the Association shall be designated as a Party in the proceeding, and a Hearing Panel shall be appointed.

(1) If the President of NASD Regulation or NASD Regulation staff issued the notice initiating the proceeding under Rule 9512(a) or 9513(a), the President of NASD Regulation shall designate an appropriate NASD Regulation department or office as a Party, and the NASD Regulation Board shall appoint a Hearing Panel. The Hearing Panel shall be composed of two or more members. One member shall be a Director of NASD Regulation, and the remaining member or members shall be a current or former Director of NASD Regulation or a former Governor of the NASD. The President of NASD Regulation may not serve on the Hearing Panel.

(2) If the President of Nasdaq or Nasdaq staff issued the notice under Rule 9512(a) or 9513(a), the President of Nasdaq shall designate an appropriate Nasdaq department or office as a Party, and the Nasdaq Board shall appoint a Hearing Panel. The Hearing Panel shall be composed of two or more members. One member shall be a Director of Nasdaq, and the remaining member or members shall be a current or former Director of Nasdaq or a former Governor of the NASD. The President of Nasdaq may not serve on the Hearing Panel.

(c) Stays

(1) Summary Suspension, Limitation, or Prohibition

Unless the NASD Board orders otherwise, a request for a hearing shall not stay the effectiveness of a summary suspension, limitation, or prohibition under Rule 9512.

(2) Non-Summary Cancellation, Suspension, Bar, Limitation, or Prohibition

Unless the NASD Board orders otherwise, a request for a hearing shall stay the notice issued under Rule 9513, except that a request for a hearing shall not stay a notice of a limitation or prohibition on services offered by the Association or a member thereof with respect to services to which a member, associated person, or other person does not have access.

(d) Time of Hearing

(1) Summary Suspension

If a member, associated person, or other person who is subject to a notice issued under Rule 9512(a) files a written request for a hearing, a hearing shall be held within seven days after the filing of the request for hearing. Not less than five days before the hearing, the Hearing Panel shall provide written notice to the Parties of the location, date, and time of the hearing by facsimile or overnight commercial courier.

(2) Non-Summary Suspension, Cancellation, Bar, Limitation or Prohibition

If a member, associated person, or other person who is subject to a notice issued under Rule 9513(a) files a written request for a hearing, a hearing shall be held within 21 days after the filing of the request for hearing. The Hearing Panel may, during the initial 21 day period, extend the time in which the hearing shall be held by an additional 21 days on its own motion or at the request of a Party. Not less than five days before the hearing, the Hearing Panel shall provide written notice to the Parties of the location, date, and time of the hearing by facsimile or overnight commercial courier.

(e) Transmission of Documents

(1) Not less than five days before the hearing, the Association shall provide to the member, associated person, or other person who requested the hearing, by facsimile or overnight commercial courier, all documents that were considered in issuing the notice under Rule 9512 or 9513, unless a document meets the criteria of Rule 9251(b)(1) (A), (B), or (C). A document that meets such criteria shall not constitute part of the record, but shall be retained by the Association until the date upon which the Association serves a final decision or, if applicable, upon the conclusion of any review by the Commission or the federal courts.

(2) Not less than five days before the hearing, the Parties shall exchange proposed exhibit and witness lists. The exhibit and witness lists shall be served by facsimile or by overnight commercial courier.

(f) Hearing Panel Consideration

(1) Rights of Parties

The Parties shall be entitled to be heard in person, to be represented by an attorney, and to submit any relevant evidence.

(2) Witnesses

A person who is subject to the jurisdiction of the Association shall testify under oath or affirmation. The oath or affirmation shall be administered by a court reporter.

(3) Recordation of Hearing

The hearing shall be recorded and a transcript prepared by a court reporter. The member, associated person, or other person may purchase a copy of the transcript from the court reporter at prescribed rates. A witness may purchase a copy of the transcript of his or her own testimony from the court reporter at prescribed rates. Proposed corrections to the transcript may be submitted by affidavit to the Hearing Panel within a reasonable time determined by the Hearing Panel. Upon notice to the participants in the hearing, the Hearing Panel may order corrections to the transcript as requested or sua sponte.

(4) Record

The record shall consist of: (1) The notice issued under Rule 9512 or 9513; (2) all documents transmitted by the Association under Rule 9514(e)(1); (3) the request for hearing; (4) any other submissions by the Parties; (5) any evidence considered at the hearing; and (6) the transcript of the hearing and any corrections thereto.

(5) Custodian of the Record

If the President of NASD Regulation or NASD Regulation staff initiated the proceeding under Rule 9512 or 9513, the Office of the General Counsel of NASD Regulation shall be the custodian of the record. If the President of Nasdaq or Nasdaq staff initiated the proceeding under Rule 9512 or 9513, the Office of the General Counsel of Nasdaq shall be the custodian of the record.

(6) Evidence Not Admitted

Evidence that is proffered but not admitted during the hearing shall not be part of the record, but shall be retained by the custodian of the record until the date when the Association's decision becomes final or, if applicable, upon the conclusion of any review by the Commission or the federal courts.

(g) Decision of the Hearing Panel

(1) Summary Suspension, Limitation, or Prohibition

Based on its review of the record, the Hearing Panel shall affirm, modify, or reverse the summary suspension, limitation, or prohibition. The Hearing Panel shall prepare a proposed written decision pursuant to subparagraph (3).

(2) Non-Summary Suspension, Cancellation, Bar, Limitation, or Prohibition

Based on its review if the record, the Hearing Panel shall decide whether a cancellation, suspension, bar, limitation, or prohibition shall be imposed or continue to be imposed. The Hearing panel shall prepare a proposed written decision pursuant to subparagraph (3).

(3) Contents of Decision

The decision shall include:

(A) A statement setting forth the specific statute, rule, or NASD by-law that authorized the proceeding;

(B) A statement describing the investigative or other origin of the proceeding;

(C) The grounds for issuing the notice under Rule 9512 or 9513;

(D) A statement of findings of fact with respect to any act or practice that was alleged to have been committed or omitted by the member, associated person, or other person;

(E) A statement in support of the disposition of the principal issues raised in the proceedings; and

(F) If a summary suspension, limitation, or prohibition continues to be imposed, the specific grounds for imposing such suspension, limitation, or prohibition, and the terms of the suspension, limitation, or prohibition, or, if a non-summary suspension, cancellation, bar, limitation, or prohibition is to be imposed or continue to be imposed, the effective date, time, and terms of the suspension, cancellation, bar, limitation, or prohibition.

(4) Issuance of Decision After Expiration of Call for Review Period

The Hearing Panel shall provide its proposed written decision to the NASD Board. The NASD Board may call the proceeding for review pursuant to Rule 9515. If the NASD Board does not call the proceeding for review, the proposed written decision of the Hearing Panel shall become final, and the Hearing Panel shall serve its written decision on the Parties pursuant to Rules 9132 and

9134. The decision shall be effective upon service and shall constitute the final action of the Association.

9515. Discretionary Review by the NASD Board

(a) Call for Review by Governor

A Governor may call a proceeding for review by the NASD Board if the call for review is made within the period prescribed by paragraph (b).

(b) Seven Day Period; Waiver

A Governor shall make his or her call for review not later than the next meeting of the NASD Board that is at least seven days after the date on which the NASD Board receives the proposed written decision of the Hearing Panel. By a unanimous vote of the NASD Board, the NASD Board may shorten this period. By an affirmative vote of the majority of the NASD Board then in office, the NASD Board may, during the period, vote to extend the period.

(c) Review at Next Meeting

If a Governor calls a proceeding for review within the period prescribed by paragraph (b), the NASD Board shall review the decision not later than the next meeting of the NASD Board. The NASD Board may order the filing of briefs in connection with its review proceedings pursuant to this Rule.

(d) Decision of the NASD Board, Including Remand

After review, the NASD Board may affirm, modify, or reverse the proposed written decision of the Hearing Panel. Alternatively, the NASD Board may remand the proceeding with instructions. The NASD Board shall prepare a written decision that includes all of the elements of Rule 9514(g)(3).

(e) Issuance of Decision

The NASD Board shall issue and serve its written decision on the Parties pursuant to Rules 9132 and 9134. The decision shall be effective upon service. The decision shall constitute the final action of the Association, unless the NASD Board remands the proceeding.

9516. Reinstatement

A member, associated person, or other person who has been suspended or limited by a final action of the Association after a non-summary proceeding under the Rule 9510 Series may file a written request for reinstatement on the ground of full compliance with the conditions of the suspension or limitation. The request shall be filed with the department or office of the Association that acted as a Party in the proceeding. The head of the department or office shall serve its response on the member or person via facsimile or overnight commercial courier within five days after receipt of the request. If the head of the department or office denies the request, the member or person may file a written request for relief with NASD Board. The NASD Board shall respond to the request in writing within 14 days after receipt of the request. The NASD Board shall serve its response by facsimile or overnight commercial courier.

9517. Copies of Notices and Decisions to Members

A copy of a notice initiating a proceeding, a notice of a hearing, or any other notice or decision that is served on a person associated with a member under the Rule 9510 Series shall be served simultaneously on such member by the same method of service provided for in the applicable rule.

9518. Application to Commission for Review

The right to have any action pursuant to this Rule Series reviewed by the Commission is governed by Section 19 of the Act. The filing of an application for review by the Commission shall not stay the effectiveness of final action by the Association, unless the Commission otherwise orders.

9519. Other Action Not Foreclosed; Costs

(a) Action by the Association under the Rule 9510 Series shall not foreclose action by the Association under any other Rule.

(b) The Association may impose on a member, associated person, or other person such costs of a denial of access proceeding as the Association deems fair and appropriate under the circumstances. Costs relating to other proceedings under the Rule 9510 Series may be imposed under Rule 8330.

[9520. Non-Summary Suspension, Cancellation, and Bar Procedures]

[9521. Purpose]

[(a) The rule 9520 Series sets forth procedures for the Association to:

(1) Cancel the membership of a member that becomes ineligible for continuance in membership, or that continues to be associated with an ineligible person, or suspend or bar a person from continuing to be associated with a member because such person is or becomes ineligible for association under Article III, Section 3 of the NASD By-Laws;

(2) Suspend or cancel the membership of a member or the registration of a person for failure to pay fees, dues, assessments, or other charges; failure to submit a required report or information related to such payment; or failure to comply with an arbitration award or a settlement agreement related to an arbitration or mediation under Article VI, Section 3 of the NASD By-Laws; and

(3) Cancel the membership of a member for failure to file or submit on request any report, document, or other information required to be filed with or requested by the Association under Article VII, Section 2 of the NASD By-Laws.]

[(b) Procedures for summarily suspending a member or associated person on grounds set forth in Section 15A(h)(2) of the Act are found in the Rule 9510 Series. Other procedures for suspending a member or associated person for failure to submit required information or failure to pay fines, monetary sanctions, or costs are found in Rules 8220 and 8320, respectively.]

[9522. Initiation of Proceeding]

[(a) Notice]

[Association of staff shall initiate a proceeding authorized under Section 3 of Article III, Section 3 of Article VI, or Section 2 of Article VII of the NASD By-Laws by sending a written notice to the member or associated person. The notice shall specify the grounds for and effective date of the cancellation, suspension, or bar and shall state that the member or associated person may file a written request for a hearing. The notice shall be served by facsimile or pursuant to Rule 9131 and 9134.]

[(b) Copy of Notice to Member]

[A copy of a notice served on a person associated with a member shall be served on such member pursuant to Rule 9134.]

[(c) Effective Date]

[For any cancellation, suspension, or bar under Section 3 of Article III of the NASD By-Laws, the effective date shall be at least seven days after service of the notice on the member or associated person. For any cancellation or suspension under Section 3 of Article VI or Section 2 of Article VII of the NASD By-Laws, the effective date shall be at least 15 days after service of the notice on the member or associated person.]

[9523. Hearing Panel Consideration]

[(a) Request for Hearing]

[A member or associated person who receives a notice under Rule 9522(a) may file a written request for a hearing with the NASD Regulation Board. The request shall be filed pursuant to Rules 9135, 9136, and 9137 before the

effective date set forth in the notice. The request shall state the grounds for opposing the cancellation, suspension, or bar. The member or associated person may withdraw its request at any time by filing a written notice with the NASD Regulation Board pursuant to Rules 9135, 9136, and 9137.]

[(b) Stay of Action]

[Unless otherwise ordered by the NASD Regulation Board, a request for a hearing under paragraph (a) shall stay the notice issued under Rule 9522.]

[(c) Appointment of Hearing Panel]

[If a member or associated person files a request for a hearing, the NASD Regulation Board shall appoint a Hearing Panel to conduct a hearing. The Hearing Panel shall be composed of two or more current or former Directors of the NASD Regulation Board.]

[(d) Rights of Member]

[The member or associated person shall be entitled to be heard in person, to be represented by an attorney, and to submit any relevant evidence.]

[(e) Witnesses]

[A person who is subject to the jurisdiction of the Association shall testify under oath or affirmation. The oath or affirmation shall be administered by a court reporter.]

[(f) Recordation of Hearing]

[The hearing shall be recorded and a transcript prepared by a court reporter. The member or associated person may purchase a copy of the transcript from the court reporter. Any corrections to the transcript shall be submitted within three days after the hearing or within three days after receipt of the transcript, whichever is later.]

[(g) Decision]

[(1) Decision of Hearing Panel]

[The Hearing Panel shall decide whether a cancellation, suspension, or bar shall be imposed. The Hearing Panel shall prepare a proposed written decision pursuant to subparagraph (2).]

[(2) Contents of Decision]

[The decision shall include:]

(A) An identification of the article of the NASD By-Laws that authorizes the proceedings;

(B) A statement describing the origin of the proceeding;

(C) A statement of the nature of the ineligibility or the failure to take action that is at issue;

(D) A statement of findings of fact and conclusions as to any violations of the By-Laws;

(E) A rationale for the disposition of the proceeding; and,

(F) If a suspension, cancellation, or bar is imposed, the effective date and time and the terms of the sanction.]

[(3) Issuance of Decision After Expiration of Call for Review Period]

[The Hearing Panel shall provide its proposed written decision to the NASD Board. The NASD Board may call the proceeding for review pursuant to Rule 9524. If the NASD Board does not call the proceeding for review, the proposed written decision of the Hearing Panel shall become final, and the Hearing Panel shall serve its written decision pursuant to Rules 9132 and 9134. The decision shall constitute final action of the Association.]

[9524. Discretionary Review by NASD Board]

[(a) Call for Review by Governor]

[A Governor may call a proceeding for review by the NASD Board if the call for review is made within the period described by paragraph (b).]

[(b) Seven Day Period; Waiver]

[After receiving the proposed written decision of the Hearing Panel pursuant to Rule 9523, a Governor shall have not less than seven days to determine if the decision should be called for review. A Governor shall call a proceeding for review by notifying the General Counsel of the NASD. By a unanimous vote of the NASD Board, the NASD Board may shorten the period to less than seven days. By an affirmative vote of the majority of the NASD Board then in office, the NASD Board may, during the seven day period, vote to extend the period to more than seven days.]

[(c) Review at Next Meeting]

[If a Governor calls a proceeding for review within the period prescribed by paragraph (b), the NASD Board shall review the proceeding not later than the next meeting of the NASD Board. The NASD Board may order the filing of briefs in connection with its review proceedings pursuant to this Rule.]

[(d) Decision and Final Action of the Association]

[After review, the NASD Board may affirm, modify, or reverse the decision of the Hearing Panel or remand the proceeding with instructions. The NASD Board shall prepare a written decision that includes all of the elements of Rule 9523(g)(2).]

[(e) Issuance of Decision After Expiration of Call for Review Period]

[The NASD Board shall issue and serve its decision pursuant to Rules 9132 and 9134. The decision shall constitute final action of the Association, unless the NASD Board remands the proceeding.]

[9525. Application to Commission for Review]

[Any person aggrieved by final action pursuant to the Rule 9520 Series may apply for review by the Commission under Section 19 of the Act. The filing of an application for review shall not stay the effectiveness of final action by the Association, unless the Commission otherwise orders.]

[9526. Other Action Not Foreclosed]

[Action by the Association under the Rule 9520 Series shall not foreclose action by the Association under any other Rule.]

[9530] *9520.* Eligibility Proceedings

[9531] *9521.* Purpose

The Rule [9530] *9520* Series sets forth procedures for a person to become *or remain* associated with a member, notwithstanding the existence of a statutory disqualification as defined in Section 3(a)(39) of the Act and for a current member or person associated with [any] *a* member to obtain relief from the eligibility or qualification requirements of the NASD By-Laws and the Rules of the Association. Such actions hereinafter are referred to as ''eligibility proceedings.''

[9532] *9522.* Initiation of Eligibility Proceedings

(a) Notice of Disqualification or Ineligibility

(1) Issuance

If [the Department of Member Regulation (hereinafter ''Department'' in the Rule 9530 Series)] *Association staff* has reason to believe that a statutory disqualification exists or that a member or person associated with a member otherwise fails to meet the eligibility requirements of the Association, [the Department] *Association staff* shall issue a written notice to the member or associated person. The notice shall specify the grounds for such disqualification or ineligibility.

(2) Notice to Member

A notice issued to a member that is subject to a statutory disqualification or is otherwise ineligible for membership shall state that the member may apply for relief by filing a written application for relief with the [Department] *National*

Business Conduct Committee within [seven] *ten* days after service of the notice.

(3) Notice to Associated Person

A notice issued to an associated person who is subject to a statutory disqualification or is otherwise ineligible for association shall state that [the member with which the person is or may become associated] *a member* may apply for relief on behalf of itself and such person by filing a written application for relief with the [Department] *National Business Conduct Committee* within [seven] *ten* days after service of the notice.

(4) Service

A notice issued under this section shall be served by facsimile or pursuant to Rules 9131 and 9134.

(b) Application by Member

A member shall file a written application for relief from the eligibility requirements of the Association with the [Department] *National Business Conduct Committee* if the member:

(1) Determines that it is subject to a statutory disqualification or otherwise is no longer eligible for membership;

(2) Determines that a person associated with it is subject to a statutory disqualification or otherwise is no longer eligible for association with the member; or

(3) Wishes to sponsor the association of a person who is subject to a statutory disqualification or otherwise is ineligible for association with a member.

(c) Form of Application for Relief

A written application for relief shall be submitted on Form MC400 and shall include a detailed statement demonstrating why the requested relief should be granted.

(d) Withdrawal of Application

A member may withdraw its application for relief at any time by filing a written notice with the [Department] *National Business Conduct Committee* pursuant to Rules 9135, 9136, and 9137.

(e) Ex Parte Communications

The prohibitions against ex parte communications set forth in Rule 9143 shall become effective under the Rule [9530] *9520* Series when [the Department of Member Regulation] *Association staff* has initiated the eligibility proceeding and Association staff has knowledge that a member intends to file *a* written application for relief with the [Department] *National Business Conduct Committee.*

[9533] *9523.* National Business Conduct Committee Consideration

(a) Hearing Panel Consideration

(1) Appointment of Hearing Panel

If a member files an application for relief, the National Business Conduct Committee shall appoint a Hearing Panel composed of two or more members, who shall be current or former Directors of the NASD Regulation Board or former Governors of the NASD Board. The Hearing Panel shall conduct a hearing and recommend a decision on the request for relief.

(2) Notice of Hearing

Not less than fourteen days before the hearing, the member shall be notified via facsimile or commercial courier of the location, time, and date of the hearing.

(3) Transmission of Documents

(i) If Association staff initiated the eligibility proceeding by issuing a notice under Rule 9522(a), Association staff shall provide to the member and its current or prospective associated person all documents that were relied on in issuing the notice. Such documents shall be served on the member and its current or prospective associated person by facsimile or commercial courier not less than ten days before the hearing.

(ii) Not less than ten days before the hearing, the Department of Member Regulation, who shall act as a Party in the eligibility proceeding, and the member and its current or prospective associated person shall exchange proposed exhibit and witness lists. The exhibit and witness lists shall be served by facsimile or commercial courier.

[(2)] *(4)* Rights of Member, *Current or Prospective Associated Person, and Department of Member Regulation*

The member, [and] its current or prospective associated person, [as applicable,] *and the Department of Member Regulation* shall be entitled to be heard in person, to be represented by an attorney, and to submit any relevant evidence.

[(3)] *(5)* Recordation of Hearing

The hearing shall be recorded and a transcript prepared by a court reporter. The member *and the current or prospective associated person* may purchase a copy of the transcript from the court reporter *at prescribed rates.* [Any corrections to the transcript shall be submitted within three days after the hearing or within three days after receipt of the transcript, whichever is later.] *A witness may purchase a copy of the transcript of his or her own testimony from the court reporter at prescribed rates. Proposed corrections to the transcript may be submitted by affidavit to the Hearing Panel within a reasonable time determined by the Hearing Panel. Upon notice to the participants in the hearing, the Hearing Panel may order corrections to the transcript as requested or sua sponte.*

(6) Record

The record shall consist of: (1) The notice issued pursuant to Rule 9522(a), if applicable; (2) all documents relied upon in issuing the notice under Rule 9522(a), if applicable; (3) the application for relief filed pursuant to Rule 9522(b); (4) any other submissions by the member, the current or prospective associated person, and the Department of Member Regulation; (5) any evidence considered at the hearing; and (6) the transcript of the hearing and any corrections thereto.

(7) Custodian of the Record

The custodian of the record shall be the Office of General Counsel of NASD Regulation.

(8) Evidence Not Admitted

Evidence that is proffered but not admitted during the hearing shall not be part of the record, but shall be retained by the custodian of the record until the date when Association's decision becomes final or, if applicable, upon the conclusion of any review by the Commission or the federal courts.

[(4)] *(9)* Recommendation

[The] *On the basis of the record, the* Hearing Panel shall present a recommended decision in writing on the request for relief to the Statutory Disqualification Committee. After considering the *record and* recommendation of the Hearing Panel, the Statutory Disqualification Committee shall present its recommended decision in writing to the National Business Conduct Committee and all other Directors not later than seven days before the meeting of the National Business Conduct Committee at which the eligibility proceeding shall be considered.

(b) Decision

(1) Decision of the National Business Conduct Committee

After considering all matters presented in the request for relief, the Statutory Disqualification Committee's recommended decision, the public interest, and the protection of investors, the National Business Conduct Committee may grant or deny the request for relief, and, if relief is

granted, impose conditions on the member and its current or prospective associated person. Alternatively, the National Business Conduct Committee may remand the eligibility proceeding. The National Business Conduct Committee shall prepare a proposed written decision pursuant to subparagraph (2).

(2) Contents of Decision

The decision shall include:

(A) A description of the origin of the eligibility proceeding and the nature of *the* disqualification;

(B) A description of the prospective business or employment requested to be engaged in; and

(C) A statement in support of the disposition of the request for relief, which, if granted, includes any of the applicable elements under SEC Rule 19h–1(e) and a description of any conditions that are imposed on the member and current or prospective associated person.

(3) Issuance of Decision After Expiration of Call for Review Period

The National Business Conduct Committee shall provide its proposed written decision to the NASD Regulation Board, and, if the eligibility proceeding is not called for review by the NASD Regulation Board, to the NASD Board. The NASD Regulation Board may call the eligibility proceeding for review pursuant to Rule [9534] *9524.* The NASD Board may call the eligibility proceeding for review pursuant to Rule [9535] *9525.* If neither the NASD Regulation Board nor the NASD Board calls the eligibility proceeding for review, the proposed written decision of the National Business Conduct Committee shall become final, and the National Business Conduct Committee shall serve its written decision *on the member, the current or prospective associated person, and Department of Member Regulation* pursuant to Rules 9132 and 9134. *The decision shall be effective upon service.* The decision shall constitute final action of the Association, unless the National Business Conduct Committee remands the eligibility proceeding.

[9534] *9524.* Discretionary Review by the NASD Regulation Board

(a) Call for Review by Director

A Director may call an eligibility proceeding for review by the NASD Regulation Board[,] if the call for review is made within the period prescribed in paragraph (b).

(b) Seven Day Period; Waiver

After receiving the proposed written decision of the National Business Conduct Committee pursuant to Rule [9533] *9523,* a Director shall have not less than seven days to determine if the eligibility proceeding should be called for review. A Director shall call an eligibility proceeding for review by notifying the General Counsel of NASD Regulation. By a unanimous vote of the NASD Regulation Board, the NASD Regulation Board may shorten the period to less than seven days. By an affirmative vote of the majority of the NASD Regulation Board then in office, the NASD Regulation Board may, during the seven day period, vote to extend the period to more than seven days.

(c) Review at Next Meeting

If a Director calls the eligibility proceeding for review within the period prescribed by paragraph (b), the NASD Regulation Board shall review the eligibility proceeding not later than the next meeting of the NASD Regulation Board. The NASD Regulation Board may order the filing of briefs in connection with its review proceedings pursuant to this Rule.

(d) Decision of NASD Regulation Board, Including Remand

After review, the NASD Regulation Board may affirm, modify, or reverse the proposed written decision of the National Business Conduct Committee. Alternatively, the NASD Regulation Board may remand the eligibility proceeding with instructions. The NASD Regulation Board shall prepare a proposed written decision that includes all of the elements described in Rule [9533(b)(2)] *9523(b)(2).*

(e) Issuance of Decision After Expiration of Call for Review Period

The NASD Regulation Board shall provide its proposed written decision to the NASD Board. The NASD Board may call the eligibility proceeding for review pursuant to Rule [9535] *9525.* If the NASD Board does not call the eligibility proceeding for review, the proposed written decision of the NASD Regulation Board shall become final, and the NASD Regulation Board shall serve its written decision *on the member, the current or prospective associated person, and Department of Member Regulation* pursuant to Rules 9132 and 9134. *The decision shall be effective upon service.* The decision shall constitute the final action of the Association, unless the NASD Regulation Board remands the eligibility proceeding.

[9535] *9525.* Discretionary Review by the NASD Board

(a) Call for Review by Governor

A Governor may call an eligibility proceeding for review by the NASD Board if the call for review is made within the period prescribed in paragraph (b).

(b) Seven Day Period; Waiver

(1) Eligibility Proceeding Called for Review by NASD Regulation Board

If the NASD Regulation Board reviewed the eligibility proceeding under Rule [9534] *9524,* a Governor shall make his or her call for review not later than the next meeting of the NASD Board that is at least seven days after the date on which the NASD Board receives the proposed written decision of the NASD Regulation Board.

(2) Eligibility Proceeding Not Called for Review by NASD Regulation Board

If no Director of the NASD Regulation Board called the eligibility proceeding for review under Rule [9534] *9524,* a Governor shall make his or her call for review no later than the next meeting of the NASD Board that is at least seven days after the date on which the NASD Board receives the proposed written decision of the National Business Conduct Committee.

(3) Waiver

By a unanimous vote of the NASD Board, the NASD Board may shorten the period in subparagraph (1) or (2) to less than seven days. By an affirmative vote of the majority of the NASD Board then in office, the NASD Board may, during the seven day period in subparagraph (1) or (2), vote to extend the period in subparagraph (1) to (2) to more than seven days.

(c) Review at Next Meeting

If a Governor calls [a] *an* eligibility proceeding for review within the period prescribed in paragraph (b), the NASD Board shall review the eligibility proceeding not later than the next meeting of the NASD Board. The NASD Board may order the filing of briefs in connection with its review proceedings pursuant to this Rule.

(d) Decision of NASD Board, Including Remand

After review, the NASD Board may affirm, modify, or reverse: (1) The proposed written decision of the NASD Regulation Board, or (2) if the NASD Regulation Board did not call an eligibility proceeding for review under Rule [9534] *9524,* the proposed written decision of the National Business

Conduct Committee. Alternatively, the NASD Board may remand the eligibility proceeding with instructions. The NASD Board shall prepare a written decision that includes all of the elements described in Rule [9533(b)(2)] *9523(b)(2).*

(e) Issuance of Decision

The NASD Board shall issue and serve its written decision *on the member, the current or prospective associated person, and Department of Member Regulation* pursuant to Rules 9132 and 9134. *The decision shall be effective upon service.* The decision shall constitute the final action of the Association, unless the NASD Board remands the proceeding.

[9536] *9526.* Aplication to Commission for Review

[Any person aggrieved by final] *The right to have any* action *taken* pursuant to [the] *this* Rule [9530] Series [may apply for review] *reviewed* by the Commission [under] *is governed by* Section 19 of the Act. The filing of an application for review shall not stay the effectiveness of final action by the Association, unless the Commission otherwise orders.

9600. Procedures for Exemptions

9610. Application

(a) File With General Counsel

A member seeking an exemption from Rule 1021, 1022, 1070, 2210, 2340, 2520, 2710, 2720, 2810, 2850, 2851, 2860. Interpretive Material 2860–1, 3210, 3350, 11870, or 11900, Interpretive Material 2110–1, or Municipal Securities Rulemaking Board Rule G–37 shall file a written application with the Office of General Counsel of NASD Regulation.

(b) Content

An application filed pursuant to this Rule shall contain the member's name and address, the name of a person associated with the member who will serve as the primary contact for the application, the Rule from which the member is seeking an exemption, and a detailed statement of the grounds for granting the exemption. If the member does not want the application or the decision on the application to be publicly available in whole or in part, the member also shall include in its application a detailed statement, including supporting facts, showing good cause for treating the application or decision as confidential in whole or in part.

(c) Applicant

A member that files an application under this Rule is referred to as ''Applicant'' hereinafter in the Rule 9600 Series.

9620. Decision

After considering an application, NASD Regulation staff shall issue a written decision setting forth its findings and conclusions. The decision shall be served on the Applicant pursuant to Rules 9132 and 9134. After the decision is served on the Applicant, the application and decision shall be publicly available unless NASD Regulation staff determines that the Applicant has shown good cause for treating the application or decision as confidential in whole or in part.

9630. Appeal

(a) Notice

An Applicant may file a written notice of appeal within 15 calendar days after service of a decision issued under Rule 9620. The notice of appeal shall contain a brief statement of the findings and conclusions as to which exception is taken. The National Business Conduct Committee may order oral argument. If the Applicant does not want the National Business Conduct Committee's decision on the appeal to be publicly available in whole or in part, the Applicant also shall include in its notice of appeal a detailed statement, including supporting facts, showing good cause for treating the decision as confidential in whole or in part. The notice of appeal shall be signed by the Applicant.

(b) Expedited Review

Where the failure to promptly review a decision to deny a request for exemption would unduly or unfairly harm the applicant, the National Business Conduct Committee shall provide expedited review.

(c) Withdrawal of Appeal

An Applicant may withdraw its notice of appeal at any time by filing a written notice of withdrawal of appeal with the National Business Conduct Committee.

(d) Appointment of Subcommittee

Following the filing of a notice of appeal, the National Business Conduct Committee shall designate a Subcommittee to hear an oral argument, if ordered, consider any new evidence that the Applicant can show good cause for not including in its application, and recommend to the National Business Conduct Committee a disposition of all matters on appeal.

(e) Decision

After considering all matters on appeal and the Subcommittee's recommendation, the National Business Conduct Committee shall affirm, modify, or reverse the decision issued under Rule 9620. The National Business Conduct Committee shall issue a written decision setting forth its findings and conclusions and serve the decision on the Applicant. The decision shall be served pursuant to Rules 9132 and 9134. The decision shall be effective upon service and shall constitute final action of the Association.

* * * * *

Conforming Rule Changes

Rule 1021. Registration Requirements

(e)(2) *Pursuant to the Rule 9600 Series,* the [President of the] Association[, upon written request,] may waive the provisions of subparagraph (1)[, above,] in situations [which] that indicate conclusively that only one person associated with an applicant for membership should be required to register as a principal.

1022. Categories of Principal Registration

(b)(4) *Pursuant to the Rule 9600 Series, the Association may exempt* a member[,] or an applicant for membership in the Association[, may upon written request, be exempted by the President of the Association, or his delegate,] from the requirement to have a Limited Principal—Financial and Operations if:

(A) It has been expressly exempted by the Commission from SEC Rule 15c3–1(b)(1)(iii);

(B) It is subject to the provisions of SEC Rule 15c3–1(a)(2) or to Section 402.2(c) of the rules of the Treasury Department.

1070. Qualification Examinations and Waiver of Requirements

(e) *Pursuant to the Rule 9600 Series,* the [President of the] Association may, in exceptional cases and where good cause is shown, waive the applicable Qualification Examination [upon written request by the member,] and accept other standards as evidence of an applicant's qualifications for registration. Advanced age, physical infirmity or experience in fields ancillary to the investment banking or securities business will not individually of themselves constitute sufficient grounds to waive a Qualification Examination.

2210. Communications With the Public

(c) Filing Requirements and Review Procedures

(8) Exemptions. Pursuant to the Rule 9600 Series, the Association may exempt a member or person associated with a member from the pre-filing requirements of this paragraph for good cause shown.

2340. Customer Account Statements

(d) *Pursuant to the Rule 9600 Series,* the Association[, acting through its Operations Committee] may[, pursuant to a written request for good cause shown,] exempt any member from the provisions of this Rule *for good cause shown.*

2520. Margin Accounts

(c)(5)(C) Joint Accounts in Which the Carrying Organization or a Partner or Stockholder Therein Has an Interest

In the case of a joint account carried by a member in which such member, or any partner, or stockholder (other than a holder of freely transferable stock only) of such member participates with others, each participant other than the carrying member shall maintain an equity with respect to such interest pursuant to the margin provisions of this paragraph as if such interest were in a separate account.

Pursuant to the Rule 9600 Series, [T]*the* Association [will consider requests for exemption from the] *may grant an exemption from the* provisions of [this] paragraph (c)(5)(C)[, provided] *if the account is:*

(i) [The account is] confined exclusively to transactions and positions in exempted securities;

(ii) [The account is] maintained as a Market Functions Account conforming to the conditions of Section 220.12(e) (Odd-lot dealers) of Regulation T of the Board of Governors of the Federal Reserve System; or

(iii) [The account is] maintained as a Market Functions Account conforming to the conditions of Section 220.12(c) (Underwritings and Distributions) of Regulation T of the Board of Governors of the Federal Reserve System and each other participant margins his share of such account on such basis as the Association may prescribe.

2710. Corporate Financing Rule—Underwriting Terms and Arrangements

(d) Exemptions. Pursuant to the Rule 9600 Series, the Association may exempt a member or person associated with a member from the provisions of this Rule for good cause shown.

2720. Distribution of Securities of Members and Affiliates—Conflicts of Interest

(p) Requests for Exemption from Rule 2720

Pursuant to the Rule 9600 Series, [T]*the Association* [Corporate Financing Committee of the Board of Governors, upon written request,] may in exceptional and unusual circumstances, taking into consideration all relevant factors, exempt a member unconditionally or on specified terms from any or all of the provisions of this Rule which it deems appropriate. [Unless waived by the party requesting an exemption, a hearing shall be held upon a request before the Corporate Financing Committee, or a Subcommittee thereof designated for that purpose.]

2810. Direct Participation Programs

(c) Exemptions. Pursuant to the Rule 9600 Series, the Association may exempt a member or person associated with a member from the provisions of this Rule for good cause shown.

2850. Position Limits

(a) Except with the prior written approval of the Association *pursuant to the Rule 9600 Series for good cause shown* in each instance, no member shall effect for any account in which such member has an interest, or for the account of any partner, officer, director or employee thereof, or for the account of any customer, a purchase or sale transaction in an index warrant listed on Nasdaq or on a national securities exchange if the member has reason to believe that as a result of such transaction the member, or partner, officer, director or employee thereof, or customer would, acting alone or in concert with others, directly or indirectly, hold or control an aggregate position in an index warrant position on the same side of the market, combining such index warrant position with positions in index warrants overlying the same index on the same side of the market, in excess of the position limits established by the Association, in the case of Nasdaq-listed index warrants, or on the exchange on which the warrant is listed.

2851. Exercise Limits

(a) Except with the prior written approval of the Association *pursuant to the Rule 9600 Series for good cause shown,* in each instance, no member or person associated with a member shall exercise, for any account in which such member or person associated with a member has an interest, or for the account of any partner, officer, director or employee thereof, or for the account of any customer, a long position in any index warrant if as a result thereof such member or partner, officer, director or employee thereof or customer, acting alone or in concert with others, directly or indirectly;

(1) Has or will have exercised within any five (5) consecutive business days a number of index warrants overlying the same index in excess for the limits for index warrant positions contained in Rule 2850; or

(2) Has or will have exceeded the applicable exercise limit fixed from time to time by an exchange for an index warrant not dealt in on Nasdaq.

(b) The Association, *pursuant to the Rule 9600 Series for good cause shown,* may institute other limitations concerning the exercise of index warrants from time to time [by action of the Association]. Reasonable notice shall be given of each new limitation fixed by the Association. These exercise limitations are separate and distinct from any other exercise limitations imposed by the issuers of index warrants.

2860. Options

(b) Requirements

(3) Position Limits

(A) Stock Options—Except in highly unusual circumstances, and with the prior written approval of the Association *pursuant to the Rule 9600 Series for good cause shown* in each instance, no member shall effect for any account in which such member has an interest, or for the account of any partner, officer, director or employee thereof, or for the account of any customer, an opening transaction through Nasdaq, the over-the-counter market or on any exchange in a stock option contract of any class of stock options if the member has reason to believe that as a result of such transaction the member or partner, officer, director or employee thereof, or customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate position in excess of:

(i) 4,500 option contracts of the put class and the call class on the same side of the market covering the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options; or

(ii) 7,500 options contracts of the put class and the call class on the same side of the market covering the same

underlying security, providing that the 7,500 contract position limit shall only be available for option contracts on securities which underlie or qualify to underlie Nasdaq or exchange-traded options qualifying under applicable rules for a position limit of 7,500 option contracts; or

(iii) 10,500 option contracts of the put class and the call class on the same side of the market covering the same underlying security providing that the 10,500 contract position limit shall only be available for option contracts on securities which underlie or qualify to underlie Nasdaq or exchange-traded options qualifying under applicable rules for a position limit of 10,500 option contracts; or

(iv) 20,000 options contracts of the put and the call class on the same side of the market covering the same underlying security, providing that the 20,000 contract position limit shall only be available for option contracts on securities which underlie or qualify to underlie Nasdaq or exchange-traded options qualifying under applicable rules for a position limit of 20,000 option contracts; or

(v) 25,000 options contracts of the put and the call class on the same side of the market covering the same underlying security, providing that the 25,000 contract position limit shall only be available for option contracts on securities which underlie or qualify to underlie Nasdaq or exchange-traded options qualifying under applicable rules for a position limit of 25,000 option contracts; or

(vi) Such other number of stock options contracts as may be fixed from time to time by the Association as the position limit for one or more classes or series of options provided that reasonable notice shall be given of each new position limit fixed by the Association.

(vii) Equity Option Hedge Exemption.

a. The following positions, where each option contract is ''hedged'' by 100 shares of stock or securities readily convertible into or economically equivalent to such stock, or, in the case of an adjusted option contract, the same number of shares represented by the adjusted contract, shall be exempted from established limits contained in (i) through (vi) above:

1. Long call and short stock;
2. Short call and long stock;
3. Long put and long stock;
4. Short put and short stock.

b. Except as provided under the OTC Collar Exemption contained in paragraph (b)(3)(A)(viii), in no event may the maximum allowable position, inclusive of options contracts hedged pursuant to the equity option position limit hedge exemption in subparagraph a. above, exceed three times the applicable position limit established in paragraph (b)(3)(A) (i)–(v).

c. The Equity Option Hedge Exemption is a pilot program authorized by the Commission through December 31, 1997.

(viii) OTC Collar Aggregation Exemption

a. For purposes of this paragraph (b), the term OTC collar shall mean a conventional equity option position comprised of short (long) calls and long (short) puts overlying the same security that hedge a corresponding long (short) position in that security.

b. Notwithstanding the aggregation provisions for short (long) call positions and long (short) put positions contained in subparagraphs (i) through (v) above, the conventional options positions involved in a particular OTC collar transaction established pursuant to the position limit hedge exemption in subparagraph (vii) need not be aggregated for position limit purposes, provided the following conditions are satisfied:

1. The conventional options can only be exercised if they are in-the-money;
2. Neither conventional option can be sold, assigned, or transferred by the holder without the prior written consent of the writer;
3. The conventional options must be European-style (i.e., only exercisable upon expiration) and expire on the same date;
4. The strike price of the short call can never be less than the strike price of the long put; and
5. Neither side of any particular OTC collar transaction can be in-the-money when that particular OTC collar is established.
6. The size of the conventional options in excess of the applicable basic position limit for the options established pursuant to subparagraph (A) (i)–(v) above must be hedged on a one-to-one basis with the requisite long or short stock position for the duration of the collar, although the same long or short stock position can be used to hedge both legs of the collar.

c. For multiple OTC collars on the same security meeting the conditions set forth in subparagraph b. above, all of the short (long) call options that are part of such collars must be aggregated and all of the long (short) put options that are part of such collars must be aggregated, but the short (long) calls need not be aggregated with the long (short) puts.

d. Except as provided above in subparagraph b. and c., in no event may a member fail to aggregate any conventional or standardized options contract of the put class and the call class overlying the same equity security on the same side of the market with conventional option positions established in connection with an OTC collar.

e. Nothing in this subparagraph (vii) changes the applicable position limit for a particular equity security.

IM–2860–1. Position Limits

(B) Index Options

(i) Except in highly unusual curcumstances, and with the prior written approval of the Association *Pursuant to the Rule 9600 Series for good cause shown* in each instance, no members shall effect for any account in which such member has an interest, or for the account of any partner, officer, director or employee thereof, or for the account of any customer, an opening transaction in an option contract of any class of index options displayed on Nasdaq or dealt in on an exchange if the member has reason to believe that as a result of such transaction the member or partner, officer, director or employee thereof, or customer, would, acting alone or in concert with others directly or indirectly, hold or control or be obligated in respect of an aggregate position in excess of position limits established by the Association, in the case of Nasdaq index options, or the exchange on which the option trades.

(4) Exercise Limits

Except in highly unusual cicumstances, and with the prior written approval of the Association[,] *pursuant to the Rule 9600 Series for good cause shown* in each instance, no member or person associated with a member shall exercise, for any account in which such member or person associated with a member has an interest, or for the account of any partner, officer, director or employee thereof or for the account of any customer, any option contract if as a result thereof such member or partner, officer, director or employee thereof or customer, acting along or in concert with others, director or indirectly, has or will have exercised within any five (5) consecutive business days a number of option contracts of a particular class of options in excess of the limits for options positions in paragraph (b)(3). The Association may institute other limitations concerning the exercise of option contracts from time to time by action of the Association. Reasonable notice shall be given of each new limitation filed by the Association.

3210. Securities ''Failed to Receive'' and ''Failed to Deliver''

(b) *Pursuant to the Rule 9600 Series,* [F]*f*or good cause shown and in exceptional circumstances, *the Association may exempt a member or a person associated with a member* [a member may request exemption] from the provisions of this Rule [by written request to the District Director of the District in which his principal office is located].

3350. Short Sale Rule

(j) *Pursuant to the Rule 9600 Series or on the Association's* [Upon application or on its] own motion, the Association may exempt either unconditionally, or on specified terms and conditions, any transaction or class of transactions from the provisions of this Rule.

11870. Customer Account Transfer Contracts

(j) Exemptions.

(1) *Pursuant to the Rule 9600 Series,* The Association may exempt from the provisions of this Rule, either unconditionally or on specified terms and conditions, (A) any member or (B) any type of account, security or financial instrument.

11900. Clearance of Corporate Debt Securities

Each member or its agent that is a participant in a registered clearing agency, for purposes of clearing over-the-counter securities transactions, shall use the facilities of a registered clearing agency for the clearance of eligible transactions between members in corporate debt securities. *Pursuant to the Rule 9600 Series,* the Association may exempt any transaction or class or transactions in corporate debt securities from the provision of this Rule as may be necessary to accommodate special circumstances related to the clearance of such transactions or class of transactions.

* * * * *

[9800. Corporate Financing and Direct Participation Program Matters]

[9810. Purpose]

[The purpose of this Rule 9800 Series is to provide a procedure for review of determination by the Association's staff regarding compliance with Rules of the Association relating to corporate financing and direct participation program matters by which any member is aggrieved.]

[9820. Application by Aggrieved Member]

[Any member aggrieved by a determination rendered pursuant to any Rule or regulation of the Association relating to underwriting terms or arrangements may make application for review of such determination. In exceptional or unusual circumstances, a member may request conditionally or unconditionally an exemption from such Rules or regulations. Applications for review will be accepted only with respect to offerings for which a registration statement or similar document has been filed with the appropriate federal or state regulatory agency; provided, however, that a hearing committee may waive the requirement for filing prior to review upon finding that such review is appropriate under the circumstances.]

[9830. Application for Review]

[Any member making application for review pursuant to Rule 9820 (hereinafter referred to as ''applicant') shall request such review in writing and shall specify in reasonable detail the source and nature of the aggrievement and the relief requested. The applicant shall state whether a hearing is requested and shall sign the written application.]

[9840. Notice of Hearing]

[Any applicant shall have a right to a hearing before a hearing committee constituted as provided in Rule 9850. The hearing committee may request a hearing on its own motion. A hearing shall be scheduled as soon as practicable, at a location determined by the hearing committee. Written notice of the hearing shall be sent to the applicant stating the date, time, and location of the hearing.]

[9850. Hearing Committee and Procedure]

[(a) Any hearing shall be before an individual designated by the Association, who shall be current or past members of the appropriate standing committee of the Board of Governors, i.e. the ''hearing committee.'' Any applicant shall be entitled to appear at, and participate in, the hearing, to be represented by counsel, and to submit any relevant testimony or evidence. Representatives of the Association shall be entitled to appear at, participate in, the hearing, to be represented by counsel, and to submit any relevant testimony or evidence. Upon agreement of the applicant, representatives of the Association, and the hearing committee, a hearing may be conducted by means of telephonic or other linkage which permits all parties to participate simultaneously in the proceeding.]

[(b) In the event that the applicant waives a hearing before the appropriate hearing committee, the hearing committee shall review the matter on the record before it. Any applicant and the Association shall be entitled to submit any relevant written testimony or evidence to the hearing committee.]

[9860. Requirement for Written Determination]

[The hearing committee shall render a determination as to all issues which the committee finds to be relevant as soon as practicable following conclusion of the hearing or, in cases in which a hearing is not requested, completion of the committee's review of the record. The hearing committee may determine whether the proposed underwriting or other terms and arrangements in connection with or relating to the distribution of the securities, or the terms and conditions related thereto, taking into consideration all elements of compensation and all of the relevant surrounding factors and circumstances, are fair and reasonable and in compliance with applicable Rules and regulations. The determination of the hearing committee shall be issued in writing, and a copy shall be sent to each applicant.]

[9870. Review by Committee of Board]

[(a) Any member aggrieved by a determination of a hearing committee shall have a right to have that determination reviewed by the appropriate standing committee of the Board of Governors.]

[(b) Any member seeking a review of a determination of a hearing committee shall submit a written request for such review to the Association within fifteen (15) business days following issuance of the hearing committee's written determination. Any such member shall submit with the written request for review a written statement specifying the portion of the hearing committee's determination for which review is requested and the relief sought. Any such member may submit written testimony or evidence for consideration by the committee. Representatives of the Association may also submit written testimony or evidence to the committee.]

[(c) Pursuant to a request duly made, the appropriate standing committee of the Board of Governors will review the determination of a hearing committee, giving consideration to all parts of the record which the Board committee finds relevant. The Board committee shall

render a determination as to all issues which the committee finds to be relevant. The determination of the Board committee shall be issued in writing, and a copy shall be sent to each member requesting review.]

[9880. Nature of Determination]

[Any determination by a hearing committee or standing committee rendered shall constitute the opinion of that committee as to compliance with applicable Association Rules, interpretations or policies and shall be advisory in nature only. Such determination shall not be subject to review by the Board of Governors. No such determination shall constitute a finding of a violation of any Rule, interpretation or policy. A finding of a violation shall be made only by a District Business Conduct Committee.]

[FR Doc. 97–18728 Filed 7–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38827; File No. SR–NSCC–97–06]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Increase the Size of the Board of Directors

July 9, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 15, 1997, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared primarily by NSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will amend NSCC's shareholders agreement and by-laws to increase NSCC's board of directors by one member and to create a new category of director.

[1] 15 U.S.C. 78s(b)(1).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to increase the size of NSCC's board from twenty to twenty-one directors and to create a new ''Industry Director'' category. Article II, Section 2.1 of NSCC's by-laws, ''Number and Classification of Directors,'' currently provides for a board of twenty directors. NSCC's shareholders agreement currently provides for three categories of directors. ''Shareholder Directors'' represent each of NSCC's three shareholders: the New York Stock Exchange, the American Stock Exchange, and the National Association of Securities Dealers. The ''Management Director,'' typically NSCC's President, represents management. ''Participant Directors'' represent and are selected from NSCC's participants.[3]

NSCC's board has determined that it would be in the beneficial interest of NSCC to create one new board seat to be filled by a senior level securities industry official designated by the board. Because such a seat would not necessarily fall within any of the existing director categories, NSCC proposes that its shareholders agreement and by-laws be amended to accommodate this new director category.[4]

NSCC believes the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F)[5] of the Act because it allows NSCC's board to benefit from the participation of an experienced securities industry official in the administration of NSCC's affairs.

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] Currently, there are three Shareholder Directors, one Management Director, and sixteen Participant Directors. Securities Exchange Act Release No. 36570 (December 11, 1995), 60 FR 64466 (order approving proposed rule change to amend by-laws to add an additional board member).

[4] As with all new director positions created after 1977, the Industry Director will be assigned to one of the board's three classes. Assignments are apportioned so that the classes are as nearly equal in number as possible.

[5] 15 U.S.C. 78q–1(b)(3)(F).

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impact or impose a 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 have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F)[6] of the Act requires that the rules of a clearing agency must be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission understands that initially the new Industry Director category will be filled by an officer of DTC, which should result in NSCC and DTC being better able to coordinate their activities. Thus, the Commission believes that NSCC's proposal is consistent with Section 17A(b)(3)(F) of the Act.

NSCC requests the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause exists for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing because accelerated approval will permit NSCC's board to appoint the new Industry Director at the next shareholder's meeting which is scheduled for July 15, 1997.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

[6] *Id.*

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–97–06 and should be submitted by August 6, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–97–06) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18610 Filed 7–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38818; File No. SR–NYSE–97–22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc. Relating to Amendments to Exchange's Holiday Schedule

July 7, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on June 20, 1997, the New York Stock Exchange, Inc. (''NYSE''or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change consists of amendments to Rule 51.10 (''Holidays'') to include Martin Luther King, Jr. Day among the holidays on which the Exchange will not be open for business. The Exchange will observe the holiday on the third Monday in January.

The change to Rule 51.10 also consists of an amendment to more appropriately refer to the holiday observed on the third Monday in February as President's Day, rather than as Washington's Birthday.

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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in item IV below and is set forth in Sections (A), (B) and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of this proposed rule change is to modify the Exchange's practice with respect to Exchange holidays so as to include Martin Luther King, Jr. Day among those holidays on which the Exchange is not open for business.

(2) Statutory Basis

The statutory basis for this proposed rule change is the requirement under Section 6(b)(5) of the Act[3] that an exchange have rules that are 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 and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is concerned solely with the administration of the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[4] and Rule 19b–4(e)(3)[5] thereunder.

At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–NYSE–97–22 and should be submitted by August 6, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18607 Filed 7–15–97; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] 15 U.S.C. § 78f(b)(5).

[4] 15 U.S.C. § 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38821; File No. SR–PCX–97–27]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Addition of a Public Governor to Its Board of Governors and Permitting an Additional Public Governor To Serve on the Executive Committee

July 8, 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 June 27, 1997, the Pacific Exchange (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX is proposing to amend Sections 1(a) and 6 of Article II and Section 2(a) of Article III of its Constitution so that another individual from the public sector may serve on the Board of Governors and to permit an additional public governor to serve on the Executive Committee for the Exchange.

The complete text of the proposed rule change is available at the principal office of the Exchange 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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The purpose of the proposed rule change is to add one additional public governor to the Board. This additional public governor would broaden the representation on the Board and would add another outside dimension to the Board, thereby adding to its depth. Furthermore, the proposed rule change would also permit another public governor to serve on the Executive Committee for additional outside input in the administration of the Exchange.

This proposed rule change reflects some sentiment in the industry, including from Commission Chairman Arthur Levitt, to increase public presence on exchange boards. This proposed rule change will bring the PCX Board up to seven public governors on the twenty-two person Board. Also, the Executive Committee will now have two public governors as opposed to its single public participant prior to these proposed rule changes. These additions will add valuable input and insight at the highest levels of the administration of the PCX. Also, the proposed rule change contains an alteration to the text of Section 2(a), Article III to make it gender neutral.

Basis

The proposed rule change is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade and to protect the investors and the public interest.

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. 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, 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 PCX. All submissions should refer to File No. SR–PCX–97–27 and should be submitted by August 6, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18606 Filed 7–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38825; File No. SR–Phlx–97–29]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Amendments to Phlx's Tier I Listing and Maintenance Standards

July 9, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2]

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice is hereby given that on June 25, 1997, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rules 803 and 810 regarding Tier I security listing and maintenance standards in order to: (a) add a term limit and minimum distribution/aggregate market value listing requirement for index and currency warrants in Rule 803(e); (b) increase the pre-tax income listing requirement for ''other securities'' from $100,000 in three of the four prior fiscal years'' to ''$750,000 in its last fiscal year or in two of its last three fiscal years'' in Rule 803(f); and (c) add maintenance standards for bonds, notes and debentures in Rule 810(a). The text of the proposed rule change is available at the Office of the Secretary, Phlx, 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 self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In October, 1996, the National Securities Markets Improvement Act of 1996 [3] was signed into law. Among other provisions, the law amended Section 18 of the Securities Act of 1933 (''Securities Act'') [4] to provide for exclusive federal registration (and preemption of state blue sky laws) for ''covered securities'' which are those securities listed on the New York Stock Exchange (''NYSE''), American Stock Exchange (''Amex'') or the National Market System of the Nasdaq Stock Market (''Nasdaq/NMS'') or on any other national securities exchange designated by the Commission to have substantially similar listing standards to those markets. On March 31, 1997, the Phlx petitioned the Commission to adopt a rule that would find Phlx Tier I listing standards to be substantially similar to those of the NYSE, Amex or Nasdaq/NMS and therefore entitle its listed Tier I securities to be considered covered securities.

The Commission recently proposed Rule 146(b) under Section 19 of the Securities Act which would designate certain securities as ''covered securities'' for purposes of this federal registration scheme.[5] In order for the Commission to designate the Phlx's Tier I securities as covered securities, it must first determine that its Tier I listing and maintenance standards are substantially similar to those of either the NYSE, Amex or Nasdaq/NMS. The Commission has noted that it preliminarily believes that the Phlx's Tier I standards differ in three areas from those of the NYSE, Amex, or Nasdaq/NMS. Pursuant to this filing, the Phlx is amending its rules to make them substantially similar to those of the Amex in those three specified areas as set forth below.

First, Phlx Rule 803(e) would be amended to adopt additional listing standards for index warrants, currency warrants and currency index warrants. New subsection (2) would require that the warrants have a term of between one and five years from the date of issuance. New subsection (3) would impose a minimum public distribution and market value requirement of 1,000,000 warrants with at least 400 public warrant holders and a minimum aggregate market value of $4,000,000.[6]

Second, the pre-tax income requirement for ''other securities'' in Rule 803(f)(2) would be increased from ''$100,000 in three of the four prior fiscal years'' to ''$750,000 in its last fiscal year or in two of its last three fiscal years.'' [7] Other securities are hybrid securities which have features common to both equity and debt securities, yet do not fit within the traditional definitions of either.

Finally, Exchange Rule 810(a) which contains the maintenance standards for Tier I securities will be amended to add subsection (5) to add maintenance standards for bonds, notes and debentures. The rule will require that debt securities maintain an aggregate market value or principal amount of the bonds that are publicly held of $400,000 and the issuer to be able to meet its obligations in the listed debt securities. Also, for any debt security convertible into a listed equity security, the debt security will be reviewed when the underlying equity security is delisted and will be delisted when the underlying equity security is no longer subject to real-time trade reporting in the United States. In addition, if common stock is delisted for violation of any of the corporate governance criteria in Exchange Rules 812 through 899, the Exchange will also delist any listed debt securities convertible into that common stock.[8]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act [9] in general, and in particular, with Section 6(b)(5),[10] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, 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 and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by assuring that securities listed on the Phlx pursuant to its Tier I listing standards, which will no longer be subject to state blue sky laws, will not be any less onerous than similar securities listed on the NYSE, Amex or Nasdaq/NMS.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

[3] Pub. L. No. 104–290, Stat. 3416 (1996).

[4] 15 U..C. 77s.

[5] Securities Exchange Act Release No. 38728, Securities Act Release No. 7422 (June 10, 1997).

[6] These provisions are similar to Sections 106(b) and (c) of the Amex Company Guide.

[7] This provision is similar to Section 107 and, by reference, Section 101(b) of the Amex Company Guide.

[8] These provisions are similar to Section 1003(b)(iii) and (e) of the Amex Company Guide.

[9] 15 U.S.C. § 78f.

[10] 15 U.S.C. § 78f(b).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding of (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 Room. 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–Phlx–97–29 and should be submitted by August 6, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18611 Filed 7–15–97; 8:45 am]

BILLING CODE 8010–01–M

[11] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Testing Modifications to the Disability Determination Procedures; Test Sites for Single Decisionmaker Model

AGENCY: Social Security Administration.

ACTION: Notice of additional test sites and the duration of tests involving a single decisionmaker.

SUMMARY: The Social Security Administration is announcing the locations and the duration of additional tests that it will conduct under the current rules at 20 CFR §§ 404.906 and 416.1406. Those rules authorize the testing of several modifications to the disability determination procedures that we normally follow in adjudicating claims for disability insurance benefits under title II of the Social Security Act (the Act) and claims for supplemental security income (SSI) payments based on disability under title XVI of the Act. This notice announces the test sites and duration of additional tests involving use of a single decisionmaker who may make the initial disability determination without requiring the signature of a medical consultant.

FOR FURTHER INFORMATION CONTACT: Mark O'Donnell, SDM Test Leader, Office of the Commissioner, Disability Process Redesign Team, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland, 21235, 410–966–8336.

SUPPLEMENTARY INFORMATION: Current regulations at §§ 404.906, 404.943, 416.1406, and 416.1443 authorize us to test different modifications to the disability determination procedures. The tests are designed to provide us with information so that we can determine the effectiveness of the models in improving the disability process. In our regulations we explained that prior to commencing each test or group of tests, we would publish a notice in the **Federal Register** describing the model(s) that we will test, where the test sites will be and the duration of the tests. On May 3, 1996, we announced the first phase of testing of the single decisionmaker model (61 FR 19969). This test was conducted at ten sites in eight States wherein test cases were selected for a period of six months. On March 14, 1997, we announced the continuation of testing at one of those ten test sites, and the duration of the continuation of the test in that site (62 FR 12264). On or about July 15, 1997, we will begin additional testing of the single decisionmaker model in the test sites listed below. The sites listed below include the site in which we previously announced the continuation of the test of the single decisionmaker model on March 14, 1997. This notice extends the duration of that test for the period indicated below. Under this model, a single decisionmaker may make initial disability determinations without generally requiring a medical consultant to sign the disability determination forms that we use to certify the determination. We will select cases for evaluation of these tests for up to 18 months, and may continue to have cases processed for an additional six to eight months thereafter. We plan to test the use of a single decisionmaker in 30 sites located in 15 states. The sites selected represent a mix of geographic areas and case loads. We will publish another notice in the **Federal Register** if we extend the duration of the test or expand further the test sites. For the purpose of these tests, the single decisionmaker will be an employee of the State agency that makes disability determinations for us. The decisionmaker will make the initial disability determination after any appropriate consultation with a medical consultant. However, before an initial determination is made that a claimant is not disabled in any case in which the existence of a mental impairment is indicated, the decisionmaker will make every reasonable effort to ensure that a qualified psychiatrist or psychologist has completed the medical portion of the case review and any applicable residual functional capacity assessment pursuant to our existing procedures. Similarly, in making a determination with respect to the disability of an individual under age 18 applying for SSI payments based on disability, the decisionmaker will make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the child's impairment(s) evaluates the claim. The testing of the single decisionmaker model listed below are separate from, and in addition to, the testing of the Full Process Model—of which the Single Decisionmaker Model is also a part—and which we previously announced on April 4, 1997 (62 FR 16209, 62 FR 16210). Tests of the Single Decisionmaker Model will be held at the following locations:

State of Alaska

Division of Vocational Rehabilitation, Disability Determination Unit, 701 East Tudor Road, Suite 250, Anchorage, AK 99503–7498

District of Columbia

Rehabilitation Services Administration, 717 Fourteenth Street, NW., Washington, D.C. 20005

State of Florida

Office of Disability Determinations, 4140 Woodcock Drive, Dew Building, Suite 100, Jacksonville, FL 32207

State of Florida

Office of Disability Determinations, 9495 Sunset Drive, Sunset Square, Suite B100, Miami, FL 33173

State of Florida

Office of Disability Determinations, 3438 Lawton Road, Chandler Building, Suite 127, Orlando, FL 32803

State of Florida

Office of Disability Determinations, 2729 Fort Knox Boulevard, Building 2, Suite 300, Tallahassee, FL 32399–9994

State of Florida

Office of Disability Determinations, 2729 Fort Knox Boulevard, Building 2, Suite 301, Tallahassee, FL 32399–9994

State of Florida

Office of Disability Determinations, 1321 Executive Center Drive, Ashley Building, Suite 200, Tallahassee, FL 32399–6512

State of Florida

Office of Disability Determinations, 3450 West Busch Boulevard, Buschwood Park II, Suite 395, Tampa, FL 33618

State of Idaho

Disability Determination Services, 1505 McKinney Street, Boise, ID 83704

State of Kansas

Department of Social and Rehabilitation Services, Disability Determination Services, Docking State Office Building, Room 1016, 915 SW Harrison Street, Topeka, KS 66612–1596

State of Kentucky

Division of Disability Determinations, 102 Athletic Drive, P.O. Box 1000, Frankfort, Kentucky 40602

Social Security Administration, District Office, 1460 Newton Pike, Lexington, KY 40511

State of Kentucky

Division of Disability Determinations, 7th and Jefferson Streets, Louisville, Kentucky 40201

State of Maine

Department of Human Services, Bureau of Rehabilitation, Disability Determination Services, Arsenal Street Extension, State House Station #116, Augusta, ME 04333

State of Michigan

Department of Social Services, Disability Determination Services, 1200 6th Street, Tenth Floor, Detroit, MI 48226

State of Michigan

Department of Social Services, Disability Determination Services, 151 South Rose Street, Kalamazoo, MI 49007

State of Michigan

Department of Social Services, Disability Determination Services, 608 West Allegan Street, Lansing, MI 48933

State of Michigan

Department of Social Services, Disability Determination Services, 315 East Front Street, Traverse City, MI 49684

State of Nevada

Department of Employment, Training and Rehabilitation, Bureau of Disability Adjudication, 1050 East William Street, Room 300, Carson City, NV 89710

State of North Carolina

Division of Social Services, Disability Determination Services, 321 Chapanoke Street, Raleigh, NC 27603

State of Oklahoma

Disability Determination Services, 240 West Wilshire, Suite B6, Oklahoma City, OK 73116

Social Security Administration, District Office, 6128 E. 38th Street, Tulsa, OK 74121

State of Oregon

Department of Human Resources, Division of Vocational Rehabilitation, Disability Determination Services, Human Resources Building, 500 Summer Street, NE, Salem, OR 97310–1020

State of Vermont

Disability Determination Services, 2 Pilgrim Park Road, Second Floor, Waterbury, VT 05676

State of Washington

Department of Social and Health Services, Division of Disability Determination Services, Airindustrial Way, Building 12, Tumwater, WA 98502

State of Washington

Department of Social and Health Services, Division of Disability Determination Services, 5221 East Third Street, Spokane, WA 99212

State of Washington

Department of Social and Health Services, Division of Disability Determination Services, 1119 SW Seventh Street, Renton, WA 98055

State of West Virginia

Division of Rehabilitation Services, Disability Determination Section, 1206 Quarrier Street, Suite 200, Charleston, WV 25301

State of West Virginia

Division of Rehabilitation Services, Disability Determination Section, 153 West Main Street, Suite 607, Clarksburg, WV 26301

Not all cases received in the test sites listed above will be handled under the test procedures. However, if a claim is selected to be handled by a single decisionmaker as part of the test, the claim will be processed under the procedures established under the final rules cited above.

Dated: July 9, 1997.

Carolyn W. Colvin,

Deputy Commissioner for Programs and Policy.

[FR Doc. 97–18586 Filed 7–15–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice 2569]

Bureau of Political-Military Affairs; Determination Under the Arms Export Control Act

Pursuant to Section 654(c) of the Foreign Assistance Act of 1961, as amended, notice is hereby given that the Under Secretary of State for Arms Control and International Security Affairs has made a determination pursuant to Section 81 of the Arms Export Control Act and has concluded that publication of the determination would be harmful to the national security of the United States.

Dated: July 1, 1997.

Thomas E. McNamara,

Assistant Secretary of State for Political-Military Affairs.

[FR Doc. 97–18643 Filed 7–15–97; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for approval of a new collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 30, 1997 (62 FR, 23530).

DATES: Comments must be submitted on or before August 15, 1997.

FOR FURTHER INFORMATION CONTACT: Richard Weaver, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2811.

SUPPLEMENTARY INFORMATION:

Maritime Administration

Title: Information to Determine Seamen's Reemployment Rights—National Emergency.

Type of Request: Approval of a New Information Collection.

OMB Control Number: 2133–New.

Affected Public: U.S. Merchant Seamen who have completed designated national service in time of war or national emergency and are seeking reemployment with a prior employer.

Abstract: Approval is requested in an effort to implement provisions of the Maritime Security Act of 1996. These provisions amend the Merchant Marine Act, 1936, to grant reemployment rights and other benefits to certain merchant seamen serving on vessels used by the United States for a war; armed conflict, national emergency or maritime mobilization need. As such, this rule establishes the procedure for obtaining the necessary MARAD certification for reemployment rights and other benefits conferred by statute and its assistance in pursuing these statutory rights and benefits.

Need and Use of the Information: The information collection requires merchant seamen to provide documents indicating their period of employment and their merchant mariner's status. The information provided will allow MARAD to determine eligibility for reemployment rights when the employment is related to a designated national service.

Estimated Annual Burden Hours: 50 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT/MARAD Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on July 10, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–18661 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97–043]

Notice and Request for Comments Regarding Small Business Regulatory Enforcement Fair Act of 1996 Implementation

AGENCY: Coast Guard, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Coast Guard has implemented certain programs to comply with the Small Business Regulatory Enforcement Fairness Act of 1996. We developed these programs to help small entities understand and comply with statutes and our regulations. We are seeking comments about our programs from the public.

DATES: The programs went into effect on March 29, 1997. Comments must be received by September 15, 1997.

ADDRESSES: You may mail your comments to the Executive Secretary, Marine Safety Council (G–LRA/3406)) (SBREFA Comments), U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593–0001, or deliver them to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Meers, Marine Safety and Environmental Protection (G–MSR) at (202) 267–6819; or Ms. Brenda Beasley, Operations (G–0–1) at (202) 267–0825.

SUPPLEMENTARY INFORMATION: The Small Business Regulatory Enforcement Fairness Act (''SBREFA''), Public Law 104–121, 110 Stat. 847, was enacted on March 29, 1996. Sections 213 and 223 of SBREFA require agencies to establish specific policies or programs to assist small entities. Small entities include small businesses, nonprofit organizations, and small governmental jurisdictions.

Section 213 requires each covered agency to establish a program to answer inquiries concerning information and advice about compliance with statutes and regulations within the agency's jurisdiction. The agency must use information received during these inquiries to help small entities interpret and apply the regulations to specific facts.

Section 223 requires each covered agency to establish a policy or program to reduce or waive civil penalties when a small entity violates a statute or regulation. Under appropriate circumstances, an agency may consider ability to pay when it assesses a penalty against a small entity.

Informal Small Entity Guidance

To help small entities understand their obligations under the regulations administered by the Coast Guard, we provide both general guidance and individualized advice. We are available to assist small entities at our headquarters location in Washington, DC. and at our field offices located in port cities around the nation.

When we issue or propose new regulations, we identify a point of contract within the text of each rule who will provide small business advice. Depending on the nature of the rule, that person may be a Headquarters project officer, a subject matter expert at the Coast Guard's National Maritime Center, or a Coast Guard official assigned to a local port. This contact person is available, by phone, fax, or e-mail, to help small entities understand the rule so they can better evaluate its effects on them and participate in the rulemaking process.

In those instances where we hold public meetings to solicit views from the public regarding proposed or anticipated rules, we plan to develop a

standardized list of small business-related questions to be used during those meetings. This will ensure that small business concerns are addressed at the earliest stage of the regulatory process.

For complex rules, we have expanded our use of Navigation and Vessel Inspection Circulars (NVICs). NVICs are technical publications that answer questions about maritime safety. NVICs now provide guidance to help small entities comply with our regulations and apply them to particular fact situations. For less complicated rules, we plan to develop check sheets to help small entities comply with our rules and understand them.

We also provide assistance to small entities through the Internet. The Coast Guard home page is at http://www.dot.gov/dotinfo/uscg/welcome.html. The Assistant Commandant for Marine Safety and Environmental Protection has established a ''small business regulatory assistance'' web page. It contains links to regulations that may apply to small businesses and the addresses and telephone numbers of Coast Guard marine safety offices, worldwide. This web page is found at www.dot.gov/dotinfo/uscg/hq/g-m/smallbus/index.htm. Additionally, the Assistant Commandant for Operations plans to provide information and articles useful to small entities on its world wide web pages.

The Assistant Commandant for Marine Safety and Environmental Protection will add a ''small business'' section to the Coast Guard's Marine Safety Newsletter, to inform the small business community about substantive issues and identify points of contact from whom small entities may seek assistance. The Newsletter is available on-line at http://www.dot.gov/dotinfo/uscg/hq/g-m/gmhome.htm. For mail subscriptions, send requests to: Marine Safety Newsletter Editor, National Maritime Center, 4200 Wilson Blvd., Suite 510, Arlington, VA 22203–1804.

Additionally, small entities can download regulations, forms, and documentation from our web pages. If a small entity does not have access to a computer, we will mail this information on request. Send requests to: U.S. Coast Guard (G–MSR) 2100 Second Street SW, Washington, DC 20593.

The Assistant Commandant for Operations plans to publish articles of interest to small entities in Boating Safety Circulars. We mail Boating Safety Circulars to the recreational boating industry and community.

We have also expanded our toll-free customer service Infoline (1–800–368–5647) to include compliance advice for small entities. We have trained the Infoline staff to identify phone and fax inquiries from small entities. We plan to develop sheets of frequently asked questions (FAQ) to help our staff refer inquiries to the appropriate subject matter expert who can discuss specific requirements that may apply to a small entity and explain how to comply.

To ensure that we evaluate and update our small entity assistance program periodically, we will work with the Office of Intergovernmental Affairs and the Small Business Administration on a regular basis to identify small business concerns in the maritime community.

To monitor the success of the program, we will sample all field activities (such as inspections, fees, licensing) to obtain an estimate of the number of interactions with small businesses. We will report annually on our performance and accomplishments. To keep track of phone calls, faxes, and mailings, we will log and categorize them.

Rights of Small Entities in Enforcement Actions

Section 223 of SBREFA requires agencies that regulate the activities of small entities to establish a policy or program to reduce or, under appropriate circumstances, waive civil penalties when a small entity violates a statute or regulation.

Section 223 requires an agency's policy or program to contain conditions or exclusions, which may include: Requiring small entities to correct the violation within a reasonable correction period; applying the policy or program only if violations are discovered when small entities participate in a compliance assistance or audit program; excluding small entities that have been subject to multiple enforcement actions by the agency; excluding violations involving willful or criminal conduct or that pose serious health, safety, or environmental threats; or, requiring a good-faith effort to comply with the law.

Federal statutes and regulations authorize the Coast Guard to impose civil penalties in conjunction with maritime regulatory and enforcement issues. Several statutes (49 U.S.C. 336, 46 U.S.C. 2107, and 33 U.S.C. 1321(b)(8) require that penalty assessments be tailored to the facts of the case, including the violator's ability to pay.

The Coast Guard has adopted a ''user friendly'' approach to achieve compliance in certain situations where the violator has shown a good faith effort to comply with the regulations. Coast Guard hearing officers take into account the size of the business to determine whether a partial or full waiver of the penalty is appropriate in a particular case. Large, profitable businesses with adequate financial resources and personnel are expected to have better compliance records than smaller businesses or individuals with less resources.

Additionally, in 1995, the Coast Guard instituted a policy to waive certain civil monetary penalties for violators who use the penalty amount to correct deficiencies and comply with our regulations. We instituted this policy in response to a Presidential Memorandum directed at small business assistance. However, we applied the policy across the board because the Memorandum did not define ''small business,'' and it was difficult to identify small entities in the informal adjudicative process. Furthermore, we did not apply our waiver policy when the violation posed a significant threat to health, safety or the environment.

To comply with SBREFA, we will provide additional guidance to our hearing officers to help them identify circumstances involving ''small entities'' and determine what type of violations will qualify and will not qualify for the program. We will expand our program to permit Coast Guard civil penalty hearing officers to solicit information from the violator in the early part of the enforcement stage. By asking the right questions, our hearing officers can identify small entities and then determine whether the Coast Guard should waive or reduce the penalty.

Before hearing officers apply our waiver program, they must hear evidence from the violator to confirm that they corrected the violation, and that the violation did not pose a significant threat to health, safety, or the environment. Violators must also substantiate the cost of the correction. If we reduce or waive the penalty, we advise the violator that the violation has still occurred and that we may consider it when assessing future penalties.

Coast Guard Offices

To help you find us, here is a list of our Offices. Please contact the Office closest to you:

Headquarters

Commandant, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, General Information Telephone: 202–267–2229

Address the following to Commanding Officer, U.S. Coast Guard, Marine Safety Office:

—Boston: 405 Commercial, Boston, MA 02110

—Portland, ME: PO Box 108, 312 Fore St. Portland, ME 04112
—Providence: 20 Risho Ave. East Providence, RI 02914
—New York: USCG Activities NY, Bldg. 108, Governors Island, New York, NY 10004
—Long Island Sound: Group/MSO Long Island Sound, 120 Woodward Ave, New Haven, CT 06512
—Philadelphia: 1 Washington Ave, Philadelphia, PA 19147
—Hampton Roads: 200 Granby St., Norfork, VA 23510
—Baltimore: 2401 Hawkins Point Rd., Baltimore, MD 21226
—Wilmington: Suite 500, 272 Front St., Wilmington, NC 28401
—Miami: PO Box 01–6940, Miami, FL 33101
—Charleston: 196 Tradd St., Charleston, SC 29401
—Jacksonville: 7820 Arlington Expy, Jacksonville, FL 32211
—San Juan: PO Box 9023666, San Juan, Puerto Rico 00902
—Savannah: 222 W. Oglethorpe Ave., Suite 402, Savannah, GA 31401
—Tampa: 155 Columbia Dr. Tampa, FL 33606
—Mobile: PO Box 2924, Mobile, AL 36652
—New Orleans: 1615 Poydras Street, New Orleans, LA 70112
—Morgan City: 800 David Dr., Morgan City, LA 70380
—Port Arthur: 2875 Jimmy Johnson Blvd., Port Arthur, TX 77640
—Houston-Galveston: PO Box 446 Galena Park, TX 77547
—Corpus Christi: 400 Mann Street, Suite 210, Corpus, Christi, TX 77540
—St. Louis: 1222 Spruce St., Suite 8104E, St. Louis, MO 63103
—Paducah: 225 Tully St., Paducah, KY 42003
—Huntington: 1415 6th Ave., Huntington, WV 25701
—Louisville: 600 Martin Luther King Jr. Place, Louisville, KY 40202
—Memphis: 200 Jefferson Ave., Suite 1301, Memphis, TN 38103
—Pittsburgh: Kossman Bldg., Suite 1150, 100 Forbes Ave., Pittsburgh, PA 15222
—Cleveland: 1055 E. 9th St., Cleveland, OH 44114
—Buffalo: 1 Fuhrman Blvd., Buffalo, NY 14203
—Chicago: 215 W. 83rd St., Suite D, Burr Ridge, IL 60521
—Detroit: 110 Mt. Elliot Ave., Detroit, MI 48207
—Duluth: 600 S. Lake Ave., Canal Park, Duluth, MN 55902
—Milwaukee: 2420 S. Lincoln Memorial Dr., Milwaukee, WI 53207
—Sault. Ste. Marie: 337 Water St., Sault. St. Marie, MI 49783
—Toledo: Federal Bldg., Rm. 501, 234 Summit St., Toledo, OH 43604
—Los Angeles-Long Beach: 165 N. Pico Ave., Long Beach, CA 90802
—San Diego: 2716 N. Harbor Dr. San Diego, CA 92101
—San Francisco: Bldg. 14 Coast Guard Island, Alameda, CA 94501
—Puget Sound: Bldg. 1/ Pier 36, Seattle, WA 98134
—Portland, OR: 6767 N. Basin Ave., Portland, OR 97217
—Honolulu, HI: Room 1, 433 Ala Moana Blvd., Honolulu, HI 96813
—Guam: PSC 455, Box 176, FPO AP, 96540
—Juneau: Suite 2A, 2760 Sherwood La., Juneau, AK 99801
—Anchorage: 510 L St., Suite 100, Anchorage, AK 99501
—Valdez: P.O. Box 486, 105 South Clifton, Valdez, AK 99686

Request for Comments

We invite members of the public to comment on any issues or concerns that they believe are relevant or appropriate to our small entity programs. If you rely on factual data to support your comment, please submit that data with your comment. If we decide to revise our programs after considering all of the comments, we will publish our revisions in a **Federal Register** notice.

Authority: Sec. 213 and 223, Pub. L. 104–121, 110 Stat. 847.

Dated: July 9, 1997.

Paul M. Blayney,

Rear Admiral, U.S. Coast Guard, Chief Counsel.

[FR Doc. 97–18664 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of the Noise Compatibility Program for Meadows Field, Bakersfield, California

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program for Meadows Field (BFL), submitted by Kern County, California, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) (hereinafter referred to as ''the Act'') and 14 CFR part 150. These findings are made in recognition of the description of federal and non federal responsibilities in Senate Report No. 96–52 (1980). On April 14, 1995, the FAA determined that the BFL Noise Exposure Maps, submitted by the county under 14 CFR part 150, were in compliance with applicable requirements. On June 10, 1997, the Associate Administrator for Airports approved the Noise Compatibility Program for Meadows Field. Four (4) of the proposed noise abatement and mitigation measures were approved, one (1) measure requires no FAA action at the present, four (4) other measures were disapproved pending submission of additional information, and two (2) measures were disapproved for purposes of Part 150.

EFFECTIVE DATE: The effective date of the FAA's approval of the Noise Compatibility Program for Meadows Field is June 10, 1997.

FOR FURTHER INFORMATION CONTACT: Bahman H. Tash, Airport Planner, AWP–611.5, Airport Division, Western-Pacific Region, Federal Aviation Administration. Mailing address: P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007, Telephone number: (310) 725–3616. Street Address: 15000 Aviation Boulevard, Room 3012, Hawthorne, California 90261. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval of the Noise Compatibility Program for Meadows Field, effective June 10, 1997.

Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as the ''Act''), an airport operator who has previously submitted a Noise Exposure Map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non compatible land uses and prevention of additional non compatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport Noise Compatibility Program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport sponsor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and

is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government and;

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of navigable airspace and air traffic control responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an Airport Noise Compatibility Program are delineated in FAR part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under federal, state or local law. Approval does not, by itself, constitute an FAA implementation action. A request for federal action or approval to implement specific Noise Compatibility Measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982, as amended. Where federal funding is sought, requests for project grants must be submitted to the FAA Airports Division Office in Hawthorne, California.

Kern County submitted to the FAA on April 14, 1995, the Notice Exposure Maps, descriptions, and other documentation produced during the Noise Compatibility Planning study conducted from September 26, 1989 through November 11, 1996. The Meadows Field Noise Exposure Maps were determined by FAA to be in compliance with applicable requirements on April 14, 1995. Notice of this determination was published in the **Fedeal Register** on May 9, 1995.

The Meadows Field study contained a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to or beyond, the year 1999. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in Section 104(b) of the Act. The FAA began its review of the program on December 12, 1996 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). The Noise Compatibility Program was approved by the FAA on June 10, 1997. Failure to approve or disapprove such program within the 180-day period shall be deemed an approval of such program.

The submitted program contained 11 proposed actions for noise abatement and mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Associate Administrator for Airports effective June 10, 1997.

Outright approval was granted for four (4) of the 11 specific program measures. These are: Maintaining nighttime turbojet training policies; amending Metropolitan Bakersfield 2010 General Plan to reflect noise compatibility plan; continuing complaint response program; and develop, adopt and apply Meadows Field Noise Overlay Zoning District. One (1) measure required no action at this time: Raising the Runway 30L and 30R departure turn minimum altitudes. Four (4) measures were disapproved pending submission of additional information to make an informed analysis: Balancing general aviation aircraft operations on parallel runways; completing acquisition of navigation and noise easements in Precision Instrument Runway Protection Zone for Runway 30R; developing a program to acquire noise impacted residential properties between Norris Road and the airport boundary; and conducting periodic aircraft noise measurements. Two (2) other measures were disapproved for purposes of FAR part 150: Extension of Runway 12R–30L and displacement of Runway 30L landing threshold, and complete acquisition of Precision Instrument Runway Protection Zone for Runway 12L. Neither the NCP nor the NEM indicate any noise impacts within the CNEL 65 dB noise contour, except for may be one residence for the 5-year time frame program.

These determinations are set forth in detail in a Record of Approval endorsed by the Associate Administrator for Airports on June 10, 1997. The Record of Approval, as well as other evaluation materials, and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of Meadows Field, Bakersfield, California.

Issued in Hawthorne, California on June 26, 1997.

Herman C. Bliss,

Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 97–18671 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues—New Task

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee.

SUMMARY: Notice is given of a new task assigned to the Aviation Rulemaking Advisory Committee (ARAC), Transport Airplane and Engine Issues, to recommend disposition of public comments made to Notice of Proposed Rulemaking No. 96–6. This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Stewart R. Miller, Manager, Transport Standards Staff, ANM–110, FAA, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Ave. SW., Renton, WA 98055–4056, telephone (206) 227–2190, fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aviation Administration (FAA) has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulations and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations of the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area the ARAC deals with is Transport Airplane and Engine Issues. These issues involve the airworthiness standards for transport category airplanes in 14 CFR Parts 25, 33, and 35 and parallel provisions in 14 CFR Parts 121 and 135.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following harmonization task:

Within six (6) months of publication of this notice, recommend disposition of public comments made to Notice of Proposed Rulemaking No. 96–6, which proposes to amend the airworthiness standards for transport category airplanes to harmonize hydraulic systems design and test requirements with standards proposed for the European Joint Aviation Requirements, and to proposed Advisory Circular 25.1435–1.

Contrary to the usual practice, the FAA has not asked ARAC as part of this task to develop a final draft of the next action (i.e., supplemental notice, final rule, or withdrawal); rather, ARAC should provide a document setting forth the rationale for the recommended disposition of each of the comments.

ARAC Acceptance of Task

ARAC has accepted the task and has chosen to assign it to the Hydraulic Systems Harmonization Working Group. The working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendation, it forwards them to the FAA as ARAC recommendations.

Working Group Reports to ARAC

The Hydraulic Systems Harmonization Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the task, including rationale, for consideration at the meeting of the ARAC to consider Transport Airplane and Engine Issues held following publication of this notice.

2. Provide a status report at each meeting of ARAC held to consider transport airplane and engine issues.

Participation in the Working Group

The Hydraulic Systems Harmonization Working Group is composed of experts from those organizations having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

The Secretary of Transportation has determined that the formation and use of the ARAC are necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the ARAC will be open to the public except as authorized by section 10(d) of the Federal Advisory Committee Act.

Meetings of the working group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on July 9, 1997.

Joseph A. Hawkins,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–18668 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The meeting is scheduled for July 29 and 30, 1997 beginning at 8:30 a.m. on July 29. Arrange for oral presentations by July 22, 1997.

ADDRESSES: Boeing Commercial Airplane Group, 535 Garden Avenue, N. (10–16 Bldg.), Conference Room 11C4 or 12C4, Seattle, WA 98124.

FOR FURTHER INFORMATION CONTACT: Jackie Smith, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue, SW, Washington, DC 20591, Telephone (202) 267–9682.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App II), notice is given of an ARAC meeting to be held July 29–30, 1997 at Boeing Commercial Airplane Group, 535 Garden Avenue N. (10–16 Bldg.), Conference Room 11C4 or 12C4, Seattle, WA 98124.

The agenda will include:

Tuesday, July 29, 1997

- Opening Remarks.
- FAA Report.
- Joint Aviation Authorities (JAA) Report.
- Transport Canada Report.
- Executive Committee (EXCOM) Meeting Report.
- FAA/JAA Annual Harmonization Meeting Report.
- Action Item Reports.
- Issues List and Tasking Chart.
- Uncontained Engine Failure.
- FAA Icing Plan.
- Flight Test Guide Status Report.
- Flight Test Harmonization Working Group (HWG) Report.
- Engine HWG Report.
- Powerplant Installation HWG Report.
- Systems Design and analysis HWG Report.

Wednesday, July 30, 1997

- Electromagnetic Effects HWG Report.
- Loads & Dynamics HG Report and Vote.
- General Structures HWG Report.
- Breaking Systems HWG Report.
- Airworthiness Assurance HWG Report.
- Hydraulic Test HWG Report.
- Open Agenda.
- Review Action Items.
- Review Future Meeting Schedule and Set Next Meeting.

Attendance is open to the public, but will be limited to the space available. The public must make arrangements by July 22, 1997 to present oral statements at the meeting. Written statements may be presented to the Committee at any time by providing 25 copies to the Assistant Executive Director for Transport Airplane and Engine issues or by providing copies at the meeting. In addition, sign and oral interpretation as well as a listening device, can be made available if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC on July 9, 1997.

Joseph A. Hawkins,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–18670 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application to Use the Revenue From a Passenger Facility Charge (PFC) at Columbia Metropolitan Airport, Columbia, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Columbia Metropolitan Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before August 15, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Campus Building, 1701 Columbia Avenue, Suite 2–260, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: Mr. Robert H. Waddle, Executive Director, Richland-Lexington Airport Commission, Post Office Box 280037, Columbia, South Carolina 29228–0037.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Richland-Lexington Airport Commission under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Southern Region, Atlanta Airports District Office, Mr. E.C. Hunnicutt, Program Manager, 1701 Columbia Avenue, Suite 2–260, Atlanta, GA 30337–2747. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Columbia Metropolitan Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On July 7, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by Richland-Lexington Airport Commission was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 23, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 1993.

Proposed charge expiration date: September 1, 2008.

Total estimated PFC revenue: $587,186.

Application number: 97–02–U–00–CAE.

Brief description of proposed project(s): Runway/Taxiway Overlay.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Nonscheduled operations by Air Taxi/Commercial Operators filing Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Richland-Lexington Airport Commission.

Issued in Atlanta, Georgia on July 7, 1997.

Dell T. Jernigan,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 97–18669 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Prince George's County, Maryland

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed multi-modal project in Prince George's County, Maryland.

FOR FURTHER INFORMATION CONTACT: Ms. Renee Sigel, Planning, Research, and Environment Team Leader, Federal Highway Administration, The Rotunda Suite 220, 711 West 40th Street, Baltimore, Maryland 21211, Telephone: (410) 962–4440.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Maryland State Highway Administration, will prepare a first tier environmental impact statement (EIS) on proposed corridors and transportation modes to improve US 301 through Prince George's County. The proposed corridor extends from the MD 5 interchange at T.B. to US 50 (approximately 21.3 miles/34.3 km).

Existing and projected growth in population and development is creating traffic congestion in southern Maryland along existing US 301 between US 50 and MD 5. The local roadway network will reach capacity and will be unable to accommodate this increased travel demand. Improvements within the corridor will address safety problems and accommodate existing and projected travel demand.

The corridor to be studied in the first tier EIS includes and is adjacent to existing US 301. The modes include: fully controlled access highway, transportation systems management (TSM), and bus service.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, local agencies, private organizations, and citizens who have previously expressed or are known to have an interest in this project. A Public Hearing is tentatively scheduled for the Fall of 1997. The Draft EIS will be available for public and agency review and comment prior to a Public Hearing. Public notice will be given of the availability of the Draft EIS for review and of the time and place of this hearing.

Project scoping was initiated through formation of the US 301 Task Force, which included representatives of Federal, State and Local governments, elected officials, local area civic, environmental and business leaders, and concerned citizens. A series of Task Force Information Workshops and Public Hearings were held on June 17, June 19, and July 9, 1996, in Bowie, Waldorf and Upper Marlboro, respectively. At the meetings, the history and the goals of the US 301 Task Force were reviewed. The Task Force's preliminary recommendations were presented and consisted of the integration of new local land use policies, transportation demand strategies, transit options, and highway improvements.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning these proposed actions and EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research,

Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernment consultation of Federal programs and activities apply to this program).

Issued on: July 9, 1997.

Renee Sigel,

Planning, Research and Environment Team Leader, Baltimore, Maryland.

[FR Doc. 97–18638 Filed 7–15–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 558]

Railroad Cost of Capital—1996

AGENCY: Surface Transportation Board.

ACTION: Notice of decision.

SUMMARY: On July 16, 1997, the Board served a decision to update its estimate of the railroad industry's cost of capital for 1996. The composite cost of capital rate for 1996 is found to be 11.9%, based on a current cost of debt of 7.4%; a cost of common equity capital of 13.9%; a cost of preferred equity capital of 2.3%; and a 28.0% debt, 70.7% common equity, 1.3% preferred equity capital structure mix. The cost of capital finding made in this proceeding will be used in a variety of Board proceedings.

EFFECTIVE DATE: This action is effective July 16, 1997.

FOR FURTHER INFORMATION CONTACT: Leonard J. Blistein, (202) 565–1529. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: The cost of capital finding in this decision shall be used to evaluate the adequacy of railroad revenues for 1996 under the standards and procedures promulgated in *Standards for Railroad Revenue Adequacy,* 3 I.C.C.2d 261 (1986). This finding may also be used in other Board proceedings involving, for example, the prescription of maximum reasonable rate levels and proposed abandonments of rail lines. Additional information is contained in the Board's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Room 210, 1925 K Street, N.W., Washington, DC 20423. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

Environmental and Energy Considerations

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 605(b), we conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. The purpose and effect of this action are to update the annual railroad industry cost of capital finding by the Board. No new reporting or other regulatory requirements are imposed, directly or indirectly, on small entities.

Authority: 49 U.S.C. 10704(a).

Decided: July 2, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–18544 Filed 7–15–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33387]

Southern Electric Railroad Company—Construction and Operation Exemption—West Jefferson, AL

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board conditionally exempts from the requirements of 49 U.S.C. 10901 the construction and operation of 4.5 miles of railroad beginning near milepost 821, on the Norfolk Southern (NS) main line, located near the intersection of U.S. Highway 78 and Jefferson County Road No. 45 near West Jefferson, Jefferson County, AL and connecting with the industry track facilities of the James H. Miller, Jr. Steam Electric Generating Plant located near the south bank of the Locust Fork of the Black Warrior River, approximately 20 miles northwest of Birmingham, AL. The grant is subject to our further consideration of the anticipated environmental impacts of the proposal.

DATES: The exemption will be effective, if appropriate, following completion of the environmental review process and issuance of a further decision addressing the environmental impacts. Petitions to reopen must be filed by August 5, 1997.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 33387 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington DC 20423–0001; in addition a copy of all pleadings must be served on petitioner's representative: John R. Molm, Troutman Sanders LLP, 1300 Eye St., N.W., Suite 500 East, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call or pick up in person from: DC NEWS & DATA, INC., 1925 K Street, N.W., Suite 210, Washington, DC 20006. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

Decided: July 1, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–18545 Filed 7–15–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1000

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 Form 1000, Ownership Certificate.

DATES: Written comments should be received on or before September 15, 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 form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Ownership Certificate.

OMB Number: 1545–0054.

Form Number: 1000.

Abstract: Form 1000 is used by citizens, resident individuals, fiduciaries, partnerships and nonresident partnerships in connection with interest on bonds of a domestic, resident foreign, or nonresident foreign corporation containing a tax-free covenant and issued before January 1, 1934. IRS uses the information to verify that the correct amount of tax was withheld.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 1,500.

Estimated Time Per Respondent: 3 hr., 10 min.

Estimated Total Annual Burden Hours: 4,740.

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: July 9, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–18751 Filed 7–15–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 990–PF and 4720

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 Form 990–PF, Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation, and Form 4720, Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code.

DATES: Written comments should be received on or before September 15, 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 form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation (Form 990–PF) and Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code (Form 4720).

OMB Number: 1545–0052.

Form Number: 990–PF and 4720.

Abstract: Internal Revenue Code section 6033 requires all private foundations, including section 4947(a)(1) trusts treated as private foundations, to file an annual information return. Section 53.4940–1(a) of the Income Tax Regulations requires that the tax on net investment income be reported on the return filed under section 6033. Form 990–PF is used for this purpose. Section 6011 requires a report of taxes under Chapter 42 of the Code for prohibited acts by private foundations and certain related parties. Form 4720 is used by foundations and/or related persons to report prohibited activities in detail and pay the tax on them.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Non-profit institutions.

Estimated Number of Respondents: 50,762.

Estimated Time Per Respondent: 195 hr., 1 min.

Estimated Total Annual Burden Hours: 9,898,977.

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: July 8, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–18752 Filed 7–15–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 940 and 940–PR

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 Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, and Form 940–PR, Planilla Para La Declaracion Anual Del Patrono—La Contribucion Federal Para El Desempleo (FUTA).

DATES: Written comments should be received on or before September 15, 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 form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Federal Unemployment (FUTA) Tax Return (Form 940) and Planilla Para La Declaracion Anual Del Patrono—La Contribucion Federal Para El Desempleo (FUTA) (Form 940–PR).

OMB Number: 1545–0028.

Form Number: 940 and 940–PR.

Abstract: Internal Revenue Code section 3301 imposes a tax on employers based on the first $7,000 of taxable annual wages paid to each employee. The tax is computed and reported on Forms 940 and 940–PR (Puerto Rico employers only). IRS uses the information on Forms 940 and 940–PR to ensure that employers have reported and figured the correct FUTA wages and tax.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, individuals or households, and farms.

Estimated Number of Respondents: 1,367,000.

Estimated Time Per Respondent: 12 hr., 54 min.

Estimated Total Annual Burden Hours: 17,209,622.

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: July 8, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–18753 Filed 7–15–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8830

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 Form 8830, Enhanced Oil Recovery Credit.

DATES: Written comments should be received on or before September 15, 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 form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Enhanced Oil Recovery Credit.

OMB Number: 1545–1282.

Form Number: 8830.

Abstract: Internal Revenue Code section 43 allows taxpayers to elect a tax credit of 15% of the qualified oil recovery costs paid or incurred during the year. The credit is phased out as the reference price of crude oil for the prior year exceeds $28 per barrel. Form 8830 is used by taxpayers to compute the credit.

Current Actions: Line 6(c) (Adoption Credit) was added to the form effective for tax years beginning after December 31, 1996. The adoption credit will become part of the computation of the tax liability limitation on the enhanced oil recovery credit.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 7 hr., 52 min.

Estimated Total Annual Burden Hours: 78,700.

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: July 8, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–18754 Filed 7–15–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5500–EZ

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 Form 5500–EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan.

DATES: Written comments should be received on or before September 15, 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 form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan.

OMB Number: 1545–0956.

Form Number: 5500–EZ.

Abstract: Form 5500–EZ is an annual return filed by a one-participant or one-participant and spouse pension plan. The IRS uses this data to determine if the plan appears to be operating properly as required under the Internal Revenue Code or whether the plan should be audited.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, and farms.

Estimated Number of Respondents: 193,299.

Estimated Time Per Respondent: 15 hr., 41 min.

Estimated Total Annual Burden Hours: 3,032,861.

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: July 8, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–18755 Filed 7–15–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8844

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 Form 8844, Empowerment Zone Employment Credit.

DATES: Written comments should be received on or before September 15, 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 form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Empowerment Zone Employment Credit.

OMB Number: 1545–1444.

Form Number: 8844.

Abstract: Employers who hire employees who live and work in one of the 9 designated empowerment zones can receive a tax credit for the first $15,000 of wages paid to each employee. The credit is applicable from the date of designation through the year 2004.

Current Actions: Line 12c (Adoption Credit) was added to the form effective for tax years beginning after December 31, 1996. The adoption credit will become part of the computation of the tax liability limitation on the empowerment zone employment credit.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, individuals or households, farms, and non-profit institutions.

Estimated Number of Respondents: 30,000.

Estimated Time Per Respondent: 11 hr., 46 min.

Estimated Total Annual Burden Hours: 352,800.

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: July 8, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–18756 Filed 7–15–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–16; OTS Nos. H–2269 and 5061]

Bayonne Bankshares, M.H.C., Bayonne, New Jersey; Approval of Conversion Application

Notice is hereby given that on July 2, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Bayonne Bankshares, M.H.C., Bayonne, New Jersey, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: July 11, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–18689 Filed 7–15–97; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

OMB Control No. 2900–0438; Proposed Information Collection Activity: Proposed Collection; Comment Request; Reinstatement

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management, Department of Veterans Affairs, is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to the release of names and addresses to nonprofit organizations.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 15, 1997.

ADDRESSES: Submit written comments on the collection of information to Dolly V. Jackson, Office of Management (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0438'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Dolly V. Jackson at (202) 273–8022.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of functions, including whether the information will have practical utility; (2) the accuracy of the burden estimate of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: 38 CFR 1.519(a) Lists of Names and Addresses.

OMB Control Number: 2900–0438.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: Title 38, U.S.C., 5701(f)(1) authorizes the VA to disclose mailing lists of veterans and their dependents to nonprofit organizations, but only for certain specific and narrow purposes. Criminal penalties are provided for improper use of the list by the organization in violation of subsection (f) limitations. The information collection in this regulation ensures that any disclosure of a list under this subsection is authorized by law. The VA must ascertain that the applicant is a

nonprofit organization and intends to use the list for a proper purpose; if not, Title 38, U.S.C., 5701(a) prohibits disclosure. The additional information collection (specific geographic locations, point of contact, type of output and signature of organization head) is necessary to ensure timely and accurate processing of each application. Failure to obtain this information will prevent the Department from fulfilling its statutory obligations.

Affected Public: Not-for-profit institutions, and State, Local or Tribal Government.

Estimated Annual Burden: 110 hours.

Estimated Average Burden Per Respondent: 60 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 110.

Dated: June 25, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–18637 Filed 7–15–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0110]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 15, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0110'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Application for Assumption Approval and/or Release from Personal Liability to the Government on a Home Loan, VA Form 26–6381.

OMB Control Number: 2900–0110.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form is completed by veterans who are selling their homes by assumption rather than requiring purchasers to obtain their own financing to pay off the loan. The information furnished is essential to determinations for assumption approval, release of liability, and substitution of entitlement.

Title 38, U.S.C., Section 3713(a) provides that when a veteran disposes of his or her interest in the property securing the loan, the VA may, upon request, release the original veteran-borrower from personal liability to the Government only if three requirements are fulfilled. First, the loan must be current. Second, the purchaser must assume all of the veteran's liability to the Government and the mortgage holder on the guaranteed loan. Third, the purchaser must qualify from a credit and income standpoint, to the same extent as if he or she was a veteran applying for a VA-guaranteed loan in the same amount as the loan being assumed.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 30, 1996 at page 68819.

Affected Public: Individuals or households, and Business or other for-profit.

Estimated Annual Burden: 790 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 4,740.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. Please refer to ''OMB Control No. 2900–0110'' in any correspondence.

Dated: June 25, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–18634 Filed 7–15–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0078]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Office of Management, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 15, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0078'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Request to Correspondent for Identifying Information, VA Form Letter 70–2.

OMB Control Number: 2900–0078.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form letter is used to obtain additional information from a correspondent when the incoming correspondence does not provide sufficient information to identify a specific veteran. Failure to obtain this information may prevent VA from taking action on the correspondence. VA personnel use the information to identify a specific veteran, determine the location of a specific file, and to accomplish the action requested by the correspondent such as, process a benefit claim or file material in an individual's claims folder. Completion of VA Form Letter 70–2 is voluntary and failure to

furnish the requested information has no adverse effect on either the veteran or the correspondent.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 30, 1996 at page 68818.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,750 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 45,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0078'' in any correspondence.

Dated: June 25, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–18635 Filed 7–15–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0025]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Office of Management, Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 15, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0025'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Request for Consent to Release of Information, VA Form 3288.

OMB Control Number: 2900–0025.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: Veterans and their beneficiaries regularly request that copies of documents or information contained in their benefits or medical records be released to third parties, such as insurance companies, physicians and other individuals. The Privacy Act of 1974 (5 U.S.C. 552a) and the VA's confidentiality statue (38 U.S.C. 5701) as implemented by 38 CFR 1.526(a) and 38 CFR 1.576(b) require individuals to provide written consent before documents or information can be disclosed to third parties not allowed to receive records or information under any other provision of law, i.e., routine use of a record in a system of records.

VA Form 3288 is completed by veterans or beneficiaries to provide the VA with a written consent to release records or information. Use of the form ensures an individual gives an informed written consent for the release of records or information about himself/herself that is consistent with the statutory requirements of the Privacy Act of 1974 and the VA's confidentiality statute.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 30, 1996 at page 68818.

Affected Public: Individuals or households.

Estimated Annual Burden: 18,875 hours.

Estimated Average Burden Per Respondent: 7.5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 151,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. Please refer to ''OMB Control No. 2900–0025'' in any correspondence.

Dated: June 25, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–18636 Filed 7–15–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Charter Renewals

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Department of Veterans Affairs has renewed the following four charters:

Medical Research Service Merit Review Committee

Research and Development Cooperative Studies Evaluation Committee

Rehabilitation Research and Development Service Scientific Merit Review Board

Scientific Review and Evaluation Board for Health Services Research and Development Service

The charters have been renewed for a 2-year period beginning June 5, 1997, through June 5, 1999.

Dated: June 24, 1997.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–18633 Filed 7–15–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 62, No. 136

Wednesday, July 16, 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 DEFENSE

Office of the Secretary

32 CFR Part 286

[DoD 5400.7-R]

RIN 0790-AG

DoD Freedom of Information Act Program Regulation

Correction

In rule document 97–16742 beginning on page 35351 in the issue of Tuesday, July 1, 1997, make the following corrections:

§ 286.4 [Corrected]

1.(a) On page 35353, in the second column, § 286.4 (b), in the second line ''Dense'' should read ''Defense''.

(b) On page 35354, in the third column, § 286.4 (h)(1), in lines 17 and 18, ''are to obligated'' should read ''are not obligated''.

(c) On page 35355, in the first column, § 286.4 (h)(5), in the first line ''precious'' should read ''previous''.

(d) On page 35356, in the third column, § 286.4 (n)(2), in the first and second lines ''record 'unclassified''' should read ''record is 'unclassified'''.

§ 286.12 [Corrected]

2. On page 35358, in the second column:

(a) §§ 286.4 (a)(1), in the first line, ''if'' should read ''of''.

(b) §§ 286.4 (a)(2), in the third line, ''it'' should read ''if''.

§ 286.28 [Corrected]

3. On page 35369, in the first column, § 268.28(d)(3)(i)(A), in the fifth line from the bottom, ''state'' should read ''stated''.

BILLING CODE 1505-01-D

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

Correction

In notice document 97–17482 appearing on page 36067 in the issue of Thursday, July 3, 1997, make the following correction:

On page 36067, in the first column, the authorizing signature should read:

Joseph C. Polking,

Secretary.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc. Special Committee 187; Mode Select Beacon and Data Link System

Correction

In notice document 97–17908 appearing on page 36867 in the issue of Wednesday, July 9, 1997, make the following correction:

On page 36867, in the first column, the authorizing signature should read:

Janice L. Peters,

Designated Official.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG-252487-96]

RIN 1545-AU90

Inbound Grantor Trusts With Foreign Grantors

Correction

In proposed rule document 97–14735 beginning on page 30785 in the issue of Thursday, June 5, 1997, make the following corrections:

PART 1 - [CORRECTED]

1. On page 30789, in the third column, in the **Authority** section:

(a). In the third line from the bottom, ''U.S.C. 643(a)(7), 72(f) (3) and (6)'' should read ''U.S.C. 643(a)(7), 672(f) (3) and (6)''.

(b). In the first line from the bottom, ''U.S.C. 643(a)(7), 72(f) (2) and (6)'' should read ''U.S.C. 643(a)(7), 672(f) (2) and (6)''.

2. On page 30790, in the first column, in the second line, ''U.S.C. 643(a)(7), 72(f)(4) and (6)'' should read ''U.S.C. 643(a)(7), 672(f)(4) and (6)''.

BILLING CODE 1505-01-D

federal register

Wednesday
July 16, 1997

Part II

Department of Commerce

Economic Development Administration

Economic Development Assistance Program for Disaster Recovery Activities, Availability of Funds; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 950302065–7163–08]

RIN 0610–ZA03

Economic Development Assistance Program for Disaster Recovery Activities, Availability of Funds

AGENCY: Economic Development Administration (EDA), Department of Commerce (DOC).

ACTION: Supplementary notice.

SUMMARY: The Economic Development Administration (EDA) announces the policies and the application procedures for funds available to support disaster recovery projects designed to assist affected states and local communities recover from the consequences of the 1997 floods, tornadoes, and other natural disasters in the states of North Dakota, South Dakota, Minnesota, Kentucky, West Virginia, Ohio, Indiana, Illinois, Arkansas, and Tennessee.

EDA's program will be to assist disaster-impacted areas with revolving loan funds, and the construction of new and expanded infrastructure and development facilities required for economic development to alleviate the economic distress of the areas.

DATES: This announcement is effective July 16, 1997. Applications are accepted on a continuous basis and funds shall remain available until expended.

ADDRESSES: To establish merits of project proposals, interested parties should contact the Philadelphia Regional Office, Chicago Regional Office, Denver Regional Office, Atlanta Regional Office, or Austin Regional Office, or the appropriate Economic Development Representative for the area (see listing in ''Other Information'').

FOR FURTHER INFORMATION CONTACT: See listing in ''Other Information'' section of this Notice.

SUPPLEMENTARY INFORMATION: Applicants should be aware that a false statement on the application is grounds for denial of the application or termination of the grant award and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

The total dollar amount of the indirect costs proposed in an application under any EDA programs must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Applicants seeking an early start, i.e., to begin a project before EDA approval, must obtain a letter from EDA allowing such early start. Such approval may be given with the understanding that an early start does not constitute project approval. Applicants should be aware that if they incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DoC to cover preaward costs.

If an application is selected for funding, EDA has no obligation to provide any additional future funding in connection with an award. Renewal of an award to increase funding or extend the period of performance is at the sole discretion of EDA.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

No award of Federal funds will be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full;
2. A negotiated repayment schedule is established and at least one payment is received; or
3. Other arrangements satisfactory to DoC are made.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This notice involves a collection of information requirement subject to the provisions of the PRA and has been approved by OMB under Control Number 0610–0094.

Catalog of Federal Domestic Assistance (CFDA)

The Special Economic Development Adjustment Assistance Program—Long Term Economic Deterioration and Sudden and Severe Economic Dislocation is listed under CFDA 11.307 (13 CFR Part 308). Public Works and Development Facilities Assistance and Public Works Impact Program are listed under CFDA 11.300 and CFDA 11.304 (13 CFR part 305).

Funding Availability

Funds in the amount of $50.2 million are available for this disaster relief program and shall remain available until expended. These funds are provided from the 1997 Emergency Supplemental Appropriations Act For Recovery From Natural Disasters And For Overseas Peacekeeping Efforts, Including Those In Bosnia (Pub. L. 105–18). The funds are available for awarding disaster assistance grants pursuant to the Public Works and Economic Development Act of 1965, as amended. Funds will be apportioned as follows: North Dakota, South Dakota, and Minnesota—$26.2 million; Kentucky—$15.0 million, West Virginia—$3.0 million; Ohio—$2.0 million; Indiana—$1.0 million; Illinois—$1.0 million; Arkansas—$1.0 million; Tennessee—$1.0 million.

Grant Rates

Grant rates, as established by the Public Works and Economic Development Act of 1965, as amended (PWEDA) and its implementing regulations at 13 CFR Chapter III, may vary, if permitted by PWEDA and its implementing regulations, and will depend on the type of applicant, relative needs and financial capacity of applicants. In most cases, a nonfederal local share of not less than 25% will be required. In rare and extenuating circumstances, EDA may waive the local share requirement where permitted by PWEDA and its implementing regulations at 13 CFR chapter III.

Eligible Applicants

Eligible applicants include the states or political subdivisions thereof, including municipalities and quasi-public corporations and authorities, Indian tribes, Community Development Corporations, and nonprofit corporations representing an EDA-designated redevelopment area or part thereof located in affected disaster areas in the States of North Dakota, South Dakota, Minnesota, Kentucky, West Virginia, Ohio, Indiana, Illinois, Arkansas, and Tennessee.

Proposal Submission Procedures

Proposals for assistance under this disaster recovery program shall be submitted to EDA on a completed Form Ed–900P, OMB Control No. 0610–0094. Applicants must clearly demonstrate how the EDA assistance will help the area recover from the economic hardship and other problems caused by flood damage, tornado, or other disasters, and that such assistance has been preceded by sound planning. Interested parties should contact the

appropriate Economic Development Representative for the area, or the appropriate EDA Regional Office for a proposal package (see Listing under ''Other Information'').

Application Procedures

A determination of whether to invite an application under this disaster recovery program for EDA assistance will be issued based upon the Agency's review of the applicant's proposal under the evaluation criteria herein and EDA's regulations at 13 CFR Chapter III.

Funding Instrument

Funds will be awarded in accordance with the requirements of title I, title IV, and title IX of the Public Works and Economic Development Act of 1965, as amended (Pub. L. 89–136; 42 U.S.C. 3121 *et seq.*) (PWEDA) and EDA's regulations at 13 CFR chapter III. The appropriate title for grant application and award will be determined by EDA based on the nature of the project and the eligibility of the area.

Project Selection Criteria

It is anticipated that the funds announced herein for disaster recovery assistance may not be sufficient to meet all of the economic recovery needs for which requests are received. Evaluation criteria will not be assigned weights. EDA will consider the following criteria to select the grant project award. While each of the criteria are important, any one or combination of criteria may be the basis for selecting an application for award: (1) Projects that are consistent with an area Economic Adjustment Strategy, the Overall Economic Development Program for the area, or the State Emergency Recovery Plan; (2) the degree to which EDA funding is leveraged with appropriate state, local, private, and other Federal assistance efforts; (3) the extent to which projects are located in areas with a high levels of economic distress; (4) the degree to which projects enhance/stimulate sustainable economic development; (5) the extent to which projects mitigate the impacts of future disasters; (6) the relative impact projects have for assisting in the post-disaster recovery of the area; and (7) the extent to which the project will directly or indirectly tend to improve opportunities in the area for the establishment or expansion of industrial or commercial facilities and/or primarily benefit members of low-income families.

To establish the merits of project proposals, interested parties should contact the EDA Economic Development Representative or EDA Regional Office for the area (see listing below) for a proposal form, (ED–900P). Requests for assistance shall be submitted directly to the EDA Economic Development Representative or EDA Regional Office that serves the area (see listing below).

EDA will evaluate proposals to determine whether they can meet the criteria established. Following the review of the proposals, EDA will invite those entities whose projects are selected for consideration to submit full applications (ED–900A, OMB Control No. 0610–0094). In addition to the real property title requirements at 13 CFR 314.7, applicants will be expected to submit satisfactory evidence of rights of entry assuring prompt access to project property at time of grant award in those cases where applicants do not hold title to all real property requirements for the projects at time of application.

Other Information

Except as modified herein, evaluation criteria, competitive selection procedures, application procedures, and other requirements for the applicable assistance program are described at 13 CFR Chapter III.

For further information contact the appropriate Economic Development Representative or EDA Regional Office listed below: John E. Corrigan, Regional Director, Philadelphia Regional Office, Curtis Center, Independence Square West, Suite 140 South, Philadelphia, Pennsylvania 19106, Telephone: (215) 597–4603, Internet Address: jcorriga@doc.gov

Philadelphia region	States covered
R. Byron Davis, Economic Development Representative, 405 Capitol Street, Room 411, Charleston, West Virginia 25201, Telephone: (304) 347–5252, Internet Address: bdavis3@doc.gov.	West Virginia.
William J. Day, Jr., Regional Director, Atlanta Regional Office, 401 West Peachtree Street, NW., Suite 1820, Atlanta, GA 30308–3510, Telephone: (404) 730–3002, Internet Address: wday@doc.gov	
Atlanta Region	
Bobby D. Hunter, Economic Development Representative, 771 Corporate Drive, Suite 200, Lexington, Kentucky 40503–5477, Telephone: (606) 224–7426, Internet Address: bhunter@doc.gov.	Kentucky.
Mitchell Parks, Economic Development Representative, 261 Cumberland Bend Drive, Nashville, Tennessee 37228, Telephone: (615) 736–5911, Internet Address: mparks@doc.gov.	Tennessee.
John D. Woodward, Regional Director, Denver Regional Office, 1244 Speer Boulevard, Room 670, Denver, CO 80204, Telephone: (303) 844–4714, Internet Address: jwoodwa3@doc.gov	
Denver Region	
Paul Hildebrandt, Economic Development Representative, 608 East Cherry Street, Room B–2, Columbia, Missouri 65201, Telephone: (573) 442–8084, Internet Address: phildeb1@doc. gov.	North Dakota.
Robert I. Cecil, Economic Development Representative, Federal Building, Room 593A, 210 Walnut Street, Des Moines, Iowa 50309, Telephone: (515) 284–4746, Internet Address: bcecil@doc.gov.	South Dakota.
Robert Turner, Regional Contact, 1244 Speer Boulevard, Room 670, Denver, Colorado 80204, Telephone: (303) 844–4474, Internet Address: rturner2@doc.gov.	North Dakota and South Dakota.
C. Robert Sawyer, Regional Director, Chicago Regional Office, 111 North Canal Street, Suite 855, Chicago, Illinois 60606–7204, Telephone: (312) 353–7706, Internet Address: csawyer@doc.gov	
Chicago Region	
John B. Arnold, Economic Development Representative, 515 West First Street, Room 104, Duluth, Minnesota 55802, Telephone: (218) 720–5326, Internet Address: jarnold@doc.gov.	Minnesota and Illinois.
Robert F. Hickey, Economic Development Representative, 200 North High Street, Federal Building, Room 740, Columbus, Ohio 43215, Telephone: (614) 469–7314, Internet Address: rhickey@doc.gov.	Ohio and Indiana.
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Assistant Secretary for Economic Development.

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