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Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

RIN 0563–AA79

General Crop Insurance Regulations, Safflower Seed Crop Insurance Endorsement; and Common Crop Insurance Regulations, Safflower Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of safflower. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current safflower seed crop endorsement under the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current safflower seed crop endorsement to the 1997 and prior crop years.

EFFECTIVE DATE: August 8, 1997.

FOR FURTHER INFORMATION CONTACT: Ron Nesheim, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO, 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and therefore, has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Following publication of the proposed rule, the public was afforded 60 days to submit comments and opinions on information collection requirements currently being reviewed by OMB under OMB control number 0563–0053 through September 30, 1998. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) of State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. The amount of work required of insurance companies should not increase because the information used to determine eligibility is already maintained at their office. The amount of work required of insurance companies may actually be reduced because verification with FCIC of a producer's compliance with the controlled substance regulations, currently done manually, will be automated. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12988

This rule has been reviewed in accordance with Executive Order No. 12988 on civil justice reforms. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Friday, April 11, 1997, FCIC published a proposed rule in the **Federal Register** at 62 FR 17758 to add to the Common Crop Insurance Regulations (7 CFR part 457) a new section, 7 CFR 457.125, Safflower Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring safflower found at 7 CFR 401.123 (Safflower Seed Crop Endorsement). FCIC also amends 7 CFR 401.123 to limit its effect to the 1997 and prior crop years.

Following publication of the proposed rule, the public was afforded 30 days to

submit written comments, data, and opinions. A total of 13 comments were received from the reinsured companies and an insurance service organization. The comments received, and FCIC's responses, are as follows:

Comment: A reinsured company asked why no late planting period or prevented planting language was put in the policy. The reinsured company asked whether the old Late Planting Agreement Option must still be signed.

Response: The Late Planting Agreement Option, found under 7 CFR § 401.123 that is currently applicable to safflower provisions, will no longer apply. FCIC intends to revise the Late and Prevented Planting provisions for the 1998 crop year. Until the revised rule is published, FCIC will add the Late and Prevented Planting provisions, in effect for other crops, to safflower.

Comment: An insurance service organization suggested that in the definitions of ''final planting date'' and ''good farming practices,'' the term ''production guarantee'' be replaced by ''average yield,'' or ''insured's average yield'' (also in provision 2(e)(1)).

Response: The terms ''average yield'' or ''insured's average yield'' would not be accurate because the insured's approved yield is multiplied by the coverage level selected to determine the production guarantee. Good farming practices and final planting date require that the crop be able to produce the yield, not the production guarantee. Therefore, no change has been made.

Comment: A reinsured company and an insurance service organization expressed a concern that the provision in the definition of ''good farming practices'' stating that, ''recognized by the Cooperative State Research, Education and Extension Service as compatible * * *'' there may be accepted practices not so recognized. They also asked that if this cannot be dropped, it would at least help to say ''generally recognized * * *''.

Response: FCIC believes that the Cooperative State Research, Education, and Extension Service (CSREES) recognizes farming practices that are considered acceptable for producing safflower. If a producer is following practices currently not recognized as acceptable by the CSREES, there is no reason why such recognition cannot be sought by interested parties. CSREES pertains only to specific areas within a county. No change has been made.

Comment: A reinsured company suggested that in the definition of ''irrigated practice,'' the words ''and quality'' be added after the words ''* * * providing the quantity.''

Response: FCIC disagrees. There are no clear criteria regarding the quality of water necessary to produce a crop. The highly variable factors involved would make such criteria difficult to develop and administer. The provisions regarding good farming practices can be applied in situations in which the insured person failed to exercise due care and diligence. Therefore, no change has been made.

Comment: An insurance service organization stated that in the definition of ''practical to replant,'' the addition of marketing window in several recent proposed rules seems to be applicable to processor and fresh market crops. It does not appear to be a consideration for replanting crops like safflower.

Response: FCIC agrees that the concept is most applicable to processor and fresh market crops. However, the Federal Crop Insurance Act has mandated that insurance providers consider marketing window, when determining whether it is practical to replant. Therefore, no change has been made.

Comment: An insurance service organization suggested that ''value per pound of damaged safflower'' be changed to read ''value per pound'' since the definition refers to ''damaged safflower.''

Response: FCIC agrees and has made the change.

Comment: An insurance service organization questioned if it is necessary to include all the language in section 3 (Insurance Guarantees, Coverage Levels, and Prices) if there are no prices by type. Since this appears to be standard language for most of the recent proposed rule crop provisions, perhaps it should be in the Basic Provisions instead.

Response: While many crops allow separate prices, by type, not all require the same percentage relationship. The provision is included in safflower to provide correct coverage as different types are developed. Therefore, no change has been made.

Comment: An insurance service organization stated that some policies allow the entire replanting payment to be paid to the person incurring the entire expense (usually the tenant) when the landlord and tenant are insured with the same company, but no such language is in this proposed rule.

Response: It is true that a few Crop Provisions allow the entire replanting payment to be paid to the person incurring the entire expense (usually the tenant) when the landlord and tenant are insured with the same company. However, because of the difficulties of administering this provision, it is being discontinued as Crop Provisions are revised. Therefore, no change has been made.

Comment: An insurance service organization suggested that section 12(c)(1)(iv)(A) of the policy should not allow the insured to defer settlement and wait for a later, generally lower, appraisal, especially on crops that have a short ''shelf life.''

Response: A later appraisal will be necessary only if the insurance provider agrees that such an appraisal would result in a more accurate determination of production to count and if the producer continues to care for the crop. If the producer does not care for the crop, the original appraisal will be used. Therefore, no change will be made to these provisions.

Comment: An insurance service organization stated that section 12(d)(3)(ii) refers to ''net price;'' section 12(d)(4)(ii)(A) refers to ''value per pound;'' and section 12(d)(4)(ii)(B) refers to ''price per pound.'' All three seem to mean the same thing. Since ''value per pound'' is defined in the policy, they suggested using it in each item.

Response: FCIC agrees and has made those changes.

Comment: An insurance service organization suggested that in section 12(d)(4) (i) & (ii), ''qualifying adjustment factor provisions'' be revised to read ''quality adjustment factors'' in item (i), and ''quality adjustment factor provisions'' to ''quality adjustment factors'' in item (ii).

Response: FCIC agrees and has made the changes.

Comment: An insurance service organization suggested that in section 12(d)(4)(ii)(A), ''local market price of undamaged safflower'' be amended to read ''local market price.''

Response: FCIC agrees and has made the change.

Comment: An insurance service organization and a reinsured company suggested that written agreements should not be limited to one year. Written unit agreements are continuous unless there are significant changes in the farming operation. Some others should also be this way.

Response: Written agreements are intended to change policy terms or permit insurance in unusual or previously unknown situations. If such practices continue year to year, they should be incorporated into the policy or Special Provisions. It is important to keep non-uniform exceptions to the minimum and to ensure that the insured is well aware of the specific terms of the policy. Therefore, no change has been made.

In addition to the changes described above, FCIC has made minor editorial changes and has amended the following provisions:

1. The preamble is revised to refer to the Catastrophic Risk Protection Endorsement for the purpose of clarification.

2. In section 2, the authority to vary the unit structure has been clarified that only the optional unit guideline, specified in section 2(e)(4) may be revised by written agreement.

3. Section 9(e) has been amended to clarify that wildlife is an insured cause of loss, unless proper measures to control wildlife have not been taken to be consistent with other policies.

Good cause is shown to make this rule effective upon publication in the **Federal Register**. This rule improves the safflower crop insurance coverage and brings it under the Common Crop Insurance Policy Basic Provisions for consistency among policies. The earliest contract change date that can be met for the 1998 crop year is August 31, 1997, and the final rule must be published as soon as possible. It is, therefore, imperative that these provisions be made final so that reinsured companies may have sufficient time to implement these changes. Therefore, public interest requires the agency to make the rules effective upon publication.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Safflower seed.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR Parts 401 and 457 as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. In § 401.123, the introductory paragraph is revised to read as follows:

§ 401.123 Safflower seed crop endorsement.

The provisions of the Safflower Seed Crop Insurance Endorsement for the 1988 through the 1997 crop year.

* * * * *

3. Section 401.8 is amended by revising the introductory text of paragraph (d) to read as follows:

* * * * *

§ 401.8 The application and policy.

* * * * *

(d) The application for the 1988 and succeeding crop years is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37 and 400.38). The provisions of the Safflower Insurance Policy for the 1988 through 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

4. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

5. Section 457.125 is added to read as follows:

§ 457.125 Safflower crop insurance provisions.

The Safflower Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

UNITED STATES DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Safflower Crop Insurance Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, the Special Provisions, and the Catastrophic Risk Protection Endorsement, if applicable, the Special Provisions will control these Crop Provisions and the Basic Provisions; and these Crop Provisions will control the Basic Provisions. The Catastrophic Risk Protection Endorsement, if applicable, will control all provisions.

1. Definitions

Days. Calendar days.

FSA. The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor agency.

Final planting date. The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

Good farming practices. The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest. Collecting the safflower seed by combining or threshing.

Interplanted. Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice. A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Local market price. The cash price per pound for undamaged safflower (test weight of 35 pounds per bushel or higher and seed damage less than 25 percent) offered by buyers.

Nurse crop (companion crop). A crop planted into the same acreage as another crop, that is intended to be harvested separately, and which is planted to improve growing conditions for the crop with which it is grown.

Planted acreage. Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Safflower must initially be planted in rows. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Pound. Sixteen ounces avoirdupois.

Practical to replant. In lieu of the definition of ''Practical to replant'' contained in section 1 of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, condition of the field, time to crop maturity, and marketing window, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

Production guarantee (per acre). The number of pounds determined by multiplying the approved APH yield per acre by the coverage level percentage you elect.

Replanting. Performing the cultural practices necessary to replace the safflower seed, including preparing the land and then replacing the safflower seed in the insured acreage with the expectation of producing at least the yield used to determine the production guarantee.

Value per pound. The cash price per pound for damaged safflower (test weight below 35 pounds per bushel, seed damage in excess of 25 percent, or both).

Written agreement. A written document that alters designated terms of this policy in accordance with section 13.

2. Unit Division

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8) (a basic unit) may be divided into optional units if, for each optional unit you meet all the conditions of this section.

(b) Basic units may not be divided into optional units on any basis other than as described in this section.

(c) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you.

(d) All optional units you selected for the crop year must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(3) For each crop year, records of marketed production or measurement of stored production from each optional unit must be maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us; and

(4) Each optional unit must meet one or more of the following criteria, as applicable, unless otherwise specified by written agreement:

(i) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(ii) *Optional Units on Acreage Including Both Irrigated and Non-irrigated Practices:* Optional units may be based on irrigated acreage and non-irrigated acreage (in those counties where ''non-irrigated'' practice is allowed in the actuarial table) if both are located in the same section, section equivalent, or FSA Farm Serial Number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. Non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided that all other requirements of this section are met.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the safflower in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each safflower type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is August 31 preceding the cancellation date for California, and December 31 preceding the cancellation date for all other states.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are:

State	Cancellation and termination dates
California	December 31.
All other states	March 15.

6. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all safflower in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That is planted for harvest as safflower seed;

(c) That is not (unless allowed by the Special Provisions or by written agreement):

(1) Interplanted with another crop; or

(2) Planted into an established grass or legume.

7. Insurable Acreage

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), we will not insure:

(a) Safflower planted on land on which safflower, sunflower seed, any variety of dry beans, soybeans, mustard, rapeseed, or lentils were grown the preceding crop year, unless other rotation requirements are specified in the Special Provisions or we agree in writing to insure such acreage; or

(b) Any acreage of safflower damaged before the final planting date, to the extent that the majority of producers in the area would normally not further care for the crop, unless the crop is replanted or we agree that it is not practical to replant.

8. Insurance Period

In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the calendar date for the end of the insurance period is October 31 immediately following planting.

9. Causes of Loss

In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur during the insurance period:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife, unless proper measures to control wildlife have not been taken;

(f) Earthquake;

(g) Volcanic eruption; or

(h) Failure of the irrigation water supply, if caused by an insured cause of loss that occurs during the insurance period.

10. Replanting Payment

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment is allowed if the crop is damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the production guarantee or 160 pounds, multiplied by your price election, multiplied by your insured share.

(c) When safflower is replanted using a practice that is uninsurable as an original planting, the liability on the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

11. Duties In The Event of Damage or Loss

In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the representative samples of the unharvested crop must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by its respective production guarantee;

(2) Multiplying each result in section 12(b)(1) by the respective price election;

(3) Totaling the results in section 12(b)(2);

(4) Multiplying the total production to be counted of each type if applicable, (see section 12(c)) by the respective price election;

(5) Totaling the results in section 12(b)(4);

(6) Subtracting the results from the total in section 12(b)(5) from the results in section 12(b)(3); and

(7) Multiplying the result in section 12(b)(6) by your share.

(c) The total production to count (in pounds) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for the acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide acceptable production records;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 12(d)); and

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(d) Mature safflower may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable, it will be made prior to any adjustment for quality.

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of 8 percent. We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if such production:

(i) Has a test weight below 35 pounds per bushel;

(ii) Has seed damage in excess of 25 percent; or

(iii) Contains substances or conditions that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions and that occurred within the insurance period;

(ii) The deficiencies, substances, or conditions result in a value per pound that is less than the local market price;

(iii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iv) The samples are analyzed by a grader licensed to grade safflower under the authority of the Agricultural Marketing Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. Test weight for quality adjustment purposes may be determined by our loss adjuster.

(4) Safflower production that is eligible for quality adjustment, as specified in sections 12(d)(2) and (3), will be reduced as follows:

(i) In accordance with the quality adjustment factors contained in the Special Provisions; or

(ii) If quality adjustment factors are not contained in the Special Provisions:

(A) By determining the value per pound and the local market price on the earlier of the date such quality adjusted production is sold or the date of final inspection for the unit. Discounts used to establish the value per pound will be limited to those which are usual, customary, and reasonable. The value per pound will not be reduced for:

(*1*) Moisture content;

(*2*) Damage due to uninsured causes; or

(*3*) Drying, handling, processing, or any other costs associated with normal harvesting, handling, and marketing of safflower. We may obtain values per pound from any buyer of our choice. If we obtain values per pound from one or more buyers located outside your local market area, we will reduce such values per pound by the additional costs required to deliver the production to those buyers.

(B) Divide the value per pound by the local market price to determine the quality adjustment factor; and

(C) Multiply the adjustment factor by the number of pounds of the damaged production remaining after any reduction due to excessive moisture to determine the net production to count.

(e) Any production harvested from other plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

3. Written Agreement

Terms of this policy which are specifically designated for the use of written agreement may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 13(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved by us, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on August 4, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–20914 Filed 8–7–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1493

RIN 0551–AA35

CCC Facility Guarantee Program (FGP)

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comment.

SUMMARY: This interim rule provides for facility payment guarantees to be issued by the Commodity Credit Corporation (CCC). The guarantees are to be issued in connection with sales of goods or services to establish or improve agricultural-related facilities in emerging markets to expand exports of U.S. agricultural commodities or products.

DATES: *Effective date:* August 8, 1997. *Comment date:* Comments due on or before October 7, 1997.

ADDRESSES: Comments must be submitted in writing to L.T. McElvain,

Director, CCC Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture (USDA), Stop 1035, Washington, DC 20250–1035; FAX (202) 720–2949. All comments received will be available for public inspection at the U.S. Department of Agriculture, Room 4523–S, 1400 Independence Avenue, SW, Washington, DC 20250 during regular business hours.

FOR FURTHER INFORMATION CONTACT: William S. Hawkins, Branch Chief, or Mark A. Rasmussen, Agricultural Marketing Specialist, Export Programs Survey & Review Branch, CCC Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture (USDA), Stop 1035, Washington, DC 20250–1035; telephone (202) 720-3241 or 720–1537; FAX (202) 720–0938.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

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

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

Executive Order 12372

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

Environmental Evaluation

The Foreign Agricultural Service (FAS) is excluded from the requirements of preparing procedures to implement the National Environmental Policy Act and is categorically excluded from the preparation of an Environmental Assessment or Environmental Impact Statement unless the Administrator of FAS determines that an action may have a significant environmental effect. 7 CFR 1b.4(b)(7). The Administrator has made no such determination with respect to this action.

Paperwork Reduction Act

In accordance with provisions of the Paperwork Reduction Act of 1995, CCC will submit an emergency information collection request (ICR) for the reinstatement of the Facility Guarantee Program (FGP) submission.

Title: The Facility Guarantee Program.

OMB Control Number: 0551–0032.

Type of Request: Reinstatement, with change, of previously-approved collection for which approval has expired.

Abstract: The information to be collected under the Office of Management and Budget (OMB) Number 0551–0032 is needed to enable the CCC to effectively administer the FGP. The information collection will be used by the CCC to determine the eligibility of applications. CCC considers this information to be essential to prudent eligibility determinations. Failure to make sound decisions in providing payment guarantees for the sale of goods and services may negatively impact exports of U.S. agricultural commodities and products.

The FGP information collection is similar to those for the Export Credit Guarantee (GSM–102) Program and the Intermediate Export Credit Guarantee (GSM–103) Program (OMB control number 0551–004). The information collection for the FGP differs primarily as follows:

(1) The applicant, in order to receive a payment guarantee, provides information evidencing that the exported goods and services used to develop improved infrastructure will primarily benefit exports of U.S. agricultural commodities and products; (2) The applicant is required to certify that the value of non-U.S. components of goods and services is less than 50 percent of the contract value covered under the payment guarantee.

Estimate of Burden: The public reporting burden for this information collection is estimated to average 0.6 hours per response.

Respondents: Agricultural equipment manufacturers and exporters.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 11.

Estimated Total Annual Burden on Respondents: 159.

Topics for comments include: (a) Whether the collection of information is necessary for the proper performance of the functions of the CCC, including whether the information will have practical utility; (b) the accuracy of the CCC's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should be submitted in accordance with the Dates section above and sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; and to L.T. McElvain, Director, CCC Operations Division, Foreign Agricultural Service, U.S. Department of Agricultural (USDA), Stop 1035, Washington, DC 20250–1035. Copies of this information collection can be obtained from Valerie Countiss, Agency Information Collection Coordinator, at telephone (202) 720–6713.

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

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

Executive Order 12778

This interim rule has been reviewed under Executive Order 12778. Civil Justice Reform. The interim rule has preemptive effect with respect to any state or local laws, regulations, or policies which conflict with the provisions of this rule. The rule does not have a retroactive effect. The interim rule requires that certain administrative remedies be exhausted before suit may be filed.

Summary of Benefit-Cost Analysis

The benefit-cost analysis identifies and estimates potential benefits and costs attributed to provisions of this interim rule, which has been designated as ''Significant.'' These provisions include application requirements and program procedures. The changes in the program made by this rule are expected to have only limited economic effect and are not expected to increase administrative workload of the Federal Government. Provisions of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) which target emerging markets lower estimated subsidy costs by $2.5 million in FY 1997. Proposed foreign content

provisions will provide participants with fewer restrictions when negotiating terms and conditions of a sales transaction.

Request for Public Comment

The need for immediate action by CCC is predicated by two of the 1996 Act's amendments to the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (1990 Act). The 1996 Act (1) expanded the field of eligible countries to include emerging markets and (2) provided the Secretary of Agriculture the authority to determine and select the emerging markets. These changes reflect the importance of CCC being able to quickly respond to fleeting opportunities for increasing U.S. agricultural exports to emerging market countries, often in volatile and unpredictable circumstances, while at the same time enhancing and helping stabilize the rural business systems of those countries whose economies are in transition.

In addition, in order to implement a program to make available such credit in a timely manner and in a manner that will provide a more uniform distribution of funds in each fiscal year, it has been determined that this rule shall become effective upon publication in the **Federal Register**. However, comments are requested with respect to the provisions of this rule and will be taken into consideration in the development of the final rule. Comments should be submitted to the person indicated in the section titled **ADDRESSES**.

Background

A. Statutory Authority

CCC provides export credit guarantees for export sales of U.S. agricultural commodities under the Export Credit Guarantee (GSM–102) program and the Intermediate Export Credit Guarantee (GSM–103) program. The programs are authorized by section 202 of the Agricultural Trade Act of 1978 as amended (1978 Act). Section 1542(a) of the 1990 Act provides that CCC make available, for fiscal years 1996 through 2002, not less than $1 billion in direct credits or export credit guarantees for agricultural exports to emerging markets available under the 1978 Act. A portion of such credit guarantees must, in accordance with section 1542(b) of the 1990 Act, be made available for the export of goods and services for agricultural facilities. Guarantees are to be made available if the Secretary of Agriculture determines that such guarantees will primarily promote the export of United States agricultural commodities and products thereof. Specifically, eligible projects must provide for (1) the establishment or improvement of agricultural facilities in emerging markets, or (2) for the provision of goods or services in emerging markets, by U.S. persons to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities or products in such markets. The phrase ''establishment or improvement of facilities'' allows for varied types of projects ranging from the sale of equipment (e.g., refrigeration, processing, transportation) and other goods needed to alleviate impediments to increasing export sales of U.S. agricultural commodities, to providing services, such as equipment installation, testing, and training to facilitate achievement of the same purposes.

Section 1542(b) further requires CCC to give priority to projects that (1) encourage the privatization of the agricultural sector in emerging markets, (2) benefit private farms or cooperatives in emerging markets, and (3) are supported by nongovernmental persons who agree to assume a relatively larger share of the costs.

Section 1542(f) of the 1990 Act defines ''emerging market'' as any country that the Secretary of Agriculture determines (1) is taking steps towards a market-oriented economy through food, agriculture, or rural business sectors of the economy of the country and (2) has the potential to provide a viable and significant market for United States agricultural commodities or their products.

B. Legislative History

CCC published an FGP interim rule on March 1, 1993, (58 FR 11786) in response to the 1990 Act. The 1990 Act required CCC to develop an export credit guarantee program for facilities in countries that were determined by the President to be emerging democracies. However, the FGP was not made operational before the authority expired on September 31, 1995. Congress changed the targeting of the FGP in the 1996 Act to countries determined by the Secretary of Agriculture to be emerging markets. The interim rule was deleted effective November 18, 1994 when CCC revised 7 CFR part 1493 and issued a final rule on the GSM–102 and GSM–103 programs.

C. Summary of Comments—1993 Interim Rule

The Commodity Credit Corporation (CCC) received eleven comments from eight different sources in response to the Facility Guarantee Program (FGP) Interim Rule published March 1, 1993 in the **Federal Register**. The commenters included three equipment manufacturers, three animal health product manufacturers, the Office of the Inspector General, and a market research firm which submitted three separate responses.

Three comments were project proposals that did not comment on the regulatory aspects of the rule.

Three comments addressed the definition of ''acceptable substitute.'' This definition was required by law in the 1990 Farm Act to be included in the FGP rule. The commenters' believed that CCC misinterpreted the intent of the law and requested that CCC change the definition of acceptable substitute. This recommendation now is unnecessary. The term acceptable substitute was deleted from the 1996 Farm Act. Accordingly, CCC has dropped the definition from the rule under consideration.

One commenter suggested that CCC explain in the preamble of the regulation how CCC arrived at defining ''close geographical location of countries'' to be 1,000 miles from the target country. The law states that CCC may not provide credit guarantees to projects that may primarily benefit countries in close geographical location to the target country. CCC believes this definition does not improve the program and has dropped this definition from the interim rule. The objective of the FGP is to primarily benefit U.S. agricultural exports. In meeting this objective, no country, except the U.S., without regard to geographic proximity to the targeted emerging market, may primarily benefit from a FGP project.

One commenter requested that CCC provide 100 percent guarantee coverage on principal and interest for letters of credit extended by a foreign bank. CCC disagrees. If CCC provides 100 percent coverage on principal and interest it loses the risk sharing mechanism inherent in CCC's export credit programs. Risk sharing is necessary because CCC does not have the resources required to perform project specific financial and risk analysis. Therefore, to keep CCC's default rate at acceptable levels, risk sharing is essential. CCC believes that risk sharing in the FGP results in more efficient use of its limited resources.

One commenter requested CCC provide a statement in the regulations to include grain/food processing equipment as eligible projects under the FGP. The commenter indicated that the interim rule was unclear on this point. CCC disagrees. The regulations provide

that the FGP may guarantee credit extended for sales of equipment and services that improve handling, processing, storage or distribution of imported agricultural commodities. This program purpose clearly addresses sales of grain/food processing equipment.

One commenter also suggested that CCC qualify Russian banks other than those qualified to participate under the U.S. Export Import Bank (Eximbank) programs. CCC reviews foreign banks against an established set of eligibility criteria. These criteria may include financial and economic factors similar to those reviewed by Eximbank. CCC qualifies all foreign banks expressing a desire to participate in our programs if they meet these criteria.

One commenter recommended that CCC reach out to the food processing industries and agribusiness sector in target countries to promote the use of the program. The commenter pointed out that linking agricultural equipment sales to commodity sales may benefit the U.S. equipment manufacturers and agricultural export industries. CCC agrees and will endeavor to promote the FGP to these sectors in targeted emerging markets.

One commenter suggested that CCC adopt a competitive bidding process for projects to ensure the most cost effective bidder on a project receives the guarantee. CCC disagrees. This suggestion indicates a fundamental misunderstanding of the program. CCC does not plan to solicit FGP applications for specific types of projects. FGP applicants will propose projects and CCC will determine if such projects meet the criteria of the program.

One commenter suggested that project requirements (the information requested by CCC to determine if a FGP guarantee will be approved) be published in the regulation and not the program announcement. CCC agrees and has included such requirements in the regulation (7 CFR 1493.240 and 1493.250).

One commenter suggested that CCC explain why the application fee is $200 in the preamble of the interim rule. CCC agrees. Simply, the $200 application fee serves as a disincentive to the submission of speculative applications, and a means to defray a portion of CCC's administrative costs.

One commenter requested the FGP application include detailed financial information on the buyer. The commenter also specifically recommended the application require plans for servicing the guaranteed loan through field inspections, obtaining periodic financial statements, a description of any liens against the buyer, information concerning litigation against and defaults by the buyer, and the use of consultants in preparing the application. The commenter suggested further that the application require a description of planned insurance coverage (i.e. life, hazard, flood) and the names of foreign regulatory agencies that would require permits, licenses, or other clearances that would impact the facility. CCC disagrees. The commenter's concern appears to be in regard to assessing buyer or project risk. Assessing the ability of the buyer to successfully manage a facility or whether the facility will succeed financially is the role of the foreign bank. CCC's guarantee covers the risk of default of the foreign bank on the repayment obligation to the exporter or their U.S. bank assignee.

Two commenters referred to the application requirements concerning evidence of primary benefits to U.S. agricultural exports. One commenter recommended that the application requirements concerning primary benefit not overburden the applicant. The commenter recommended that CCC streamline paperwork requirements and reduce project approval lead time. The second commenter recommended that the interim rule require applicants to provide evidence of how a project proposal will benefit U.S. agricultural exports. CCC believes that the overall goal of the FGP is to promote U.S. agricultural exports. Sufficient information must be required from applicants in order for CCC to fully evaluate project proposals and the effects projects will have on U.S. agricultural exports. CCC has made many improvements in the interim rule to streamline the application process in comparison to the process outlined by the 1993 interim rule. However, CCC remains open to recommendations that specifically address how CCC may streamline the application review procedures and reduce project proposal lead time.

One commenter suggested that CCC request information from the applicant regarding the procurement funding or guarantees from sources outside of CCC. CCC agrees and has included this recommendation in the regulation (§ 1493.240(a)(22)).

One commenter recommended that the application include the names of attorneys, accountants and other parties engaged in preparing the application. CCC disagrees. Applications submitted under all CCC export programs are required to be signed by a principal of the company applying for a guarantee. CCC believes this is sufficient in addressing any concerns regarding the veracity of the information contained in the application.

One commenter suggested CCC expand the definition of a ''U.S. person'' so that CCC may determine if the applicant fulfills this criteria without seeking additional information. CCC believes that program qualifications respond to the commenter's concern. CCC qualifies applicants following a review of documents such as the articles of incorporation, partnership or registration of proprietorship that may permit CCC to determine if an applicant is a legally registered U.S. business entity.

D. The FGP Addresses a Market Failure

The FGP is designed to address a specific market failure. Many emerging markets lack sufficient infrastructure to support expansion of agricultural commodity imports. The demand for capital financing in emerging markets is significant. Agri-business projects must compete with other infrastructure development for the limited capital available. The market failure that arises is that private sector financial institutions may be unwilling to provide credit to agri-business projects, at a reasonable cost. This market failure may be more pervasive for small and medium size enterprises than for larger companies. The availability of CCC's guarantee under the FGP provides an opportunity for U.S. private sector financial institutions to provide credit to a foreign bank that will, in-turn, finance infrastructure projects at a reasonable cost. Such credit extension is unlikely to occur without the benefit of CCC's credit guarantee.

The market failure that FGP addresses, particularly for small and medium size enterprises, is viewed as normally being below the threshold level for multi-lateral and the regional development banks to consider extending financing or guarantees.

E. Exporter and Project Eligibility

CCC will make export credit guarantees available in the form of facility payment guarantees. Section 1542(b) of the 1990 Act provides that an exporter must be a ''U.S. person'' to be eligible for a facility payment guarantee. Under this interim rule, exporters must also furnish certain information and certifications to CCC in order to be eligible to receive payment guarantees.

Eligible projects must establish or improve agriculture-related facilities in an emerging market. For CCC to approve a facility payment guarantee such projects must primarily promote the export of U.S. agricultural commodities or products. For CCC to make such a

determination, the exporter must convince CCC that the issuance of a facility payment guarantee will cause exports of U.S. agricultural commodities or products to the emerging market to increase:

(1) To a greater degree than similar exports from other countries;

(2) To levels significantly above those expected in the absence of providing the facility payment guarantee; and

(3) For five years or until the facility payment guarantee expires, whichever comes first.

F. Program Implementation

The FGP will be administered by the Office of the General Sales Manager (GSM), Foreign Agricultural Service, U.S. Department of Agriculture, on behalf of CCC. Initially, CCC will consider projects of limited size in a limited number of emerging markets. The effectiveness of the program will be assessed in view of the comments received on the interim rule and after a number of facility payment guarantees have been issued. The GSM will periodically issue program announcements inviting submissions by exporters of applications for facility payment guarantees. These program announcements will identify emerging markets, indicate maximum guarantee coverage, and provide other pertinent information.

CCC will review applications and provide to the exporter a preliminary commitment letter if an application meets the standards of the regulations and appears to represent the best use of CCC's resources. CCC may also request additional information to clarify or supplement an application. CCC may reject applications that do not appear to meet program objectives or for other sufficient reasons.

Upon receiving a letter of preliminary commitment from CCC, the exporter has six months to submit a final application. Such final application must contain information confirming, updating, and supplementing information previously provided. If CCC approves the final application, it will issue a letter of final commitment requiring the exporter to pay an exposure fee before a facility payment guarantee is issued. CCC will issue a facility payment guarantee when the amount of the exposure fee has been paid in full.

G. Credit Terms and Risk Coverage

The terms of CCC's coverage will be set forth in each facility payment guarantee. These will conform to pertinent rules of the Organization for Economic Cooperation and Development (OECD) Arrangement on Guidelines for Officially Supported Export Credits (Arrangement). Copies of the OECD Arrangement and classification of country categories are available from: The Director, Office of Trade Finance, Department of Treasury, Room 4448, 1500 Pennsylvania Avenue, NW, Washington DC 20220. The OECD Arrangement sets out the most favorable terms allowable for government credits and guarantees. For example, pursuant to the Arrangement, the exporter must oblige the importer to comply with CCC's initial payment requirement (§ 1493.230(c)). This requires the importer to pay the exporter at least 15 percent of the net contract value. The net contract value is equal to the contract value minus (a) the value of goods that are not U.S. goods; and (b) the cost of services that are not U.S. services (except those services the exporter requests CCC to determine are vital to the success of the project and approved to be included in the net contract value (§ 1493.260(b)(1))).

CCC will initially offer facility payment guarantee coverage of 95 percent of the facility base value. This value is the amount of the net contract value that remains after deducting the amount paid in accordance with the initial payment requirement, and the value of any discounts or allowances (§ 1493.260(b)(2)). CCC will also cover interest on a variable rate basis. The method of determining the variable interest rate coverage will be indicated in program announcements and in each payment guarantee. The interim rule also provides that the maximum interest rate, when determined by CCC, will not exceed the average investment rate of the most recent Treasury 52-week bill auction in effect at that time.

H. Guidelines for U.S. Content

CCC used certain guidelines relating to the inclusion and valuation of goods that are not U.S. goods, services that are not U.S. services, and imported components of U.S. goods in sales transactions covered under this program. The most important of these guidelines are summarized below:

1. FGP payment guarantees are derived only from that portion of an exporter's sales contract that represents (a) U.S. goods, (b) U.S. services, and (c) any services that are not U.S. services that CCC determines are vital to the success of the project and are approved by CCC for coverage. This derived value is called net contract value (§ 1493.260(b)(1)). Any other goods or services included in the exporter's contract (e.g., foreign goods that are not components of U.S. goods, goods not exported from the U.S., and foreign services not approved by CCC) cannot be included in net contract value.

2. U.S. goods may include imported components that are assembled, processed or manufactured into goods within, and exported from, the U.S. Services that are not U.S. services (e.g., foreign flag freight (e.g., ocean, air), and related insurance, ship discharge operations, inland transportation) provided by persons who are not citizens or legal residents of the U.S. may receive guarantee coverage only if approved by CCC. Most likely CCC will approve such services if they are determined to be vital to the success of the project.

3. In addition to the above requirements, CCC will issue a facility payment guarantee only if the value of covered imported components, combined with the cost of covered services that are not U.S. services, meet the 50 percent minimum U.S. content test (§ 1493.260(d)). This means that those components and services must represent less than 50 percent of the net contract value. The 50 percent determination is made on an aggregate or cumulative basis as exports of goods and services occur, not item by item. For example, more than 50 percent of the value of a single piece of equipment may be comprised of imported components so long as the total value of covered imported components and cost of services that are not U.S. services remain less than 50 percent of net contract value for all goods and services.

To make the above 50 percent determination, imported components are valued at their declared customs value or, in the absence of specific information regarding declared customs value, the fair wholesale market value of the components in the U.S. at the time they are acquired by the exporter. The costs of services that are not U.S. services are the actual amounts paid by the exporter for the services in an arms-length transaction, or, in the absence of such a transaction, the fair market value of the services at the time the services were provided.

4. Imported raw materials (such as iron, steel, nuts, and bolts) which are processed, assembled or manufactured in the U.S. are automatically included in CCC's coverage and are not counted as imported components for the purpose of the 50 percent minimum U.S. content test (§ 1493.260(d)). CCC will rely on commercial practice and communication with participants to resolve issues that may arise regarding raw materials.

I. CCC's Payment Guarantee Mechanism and Claims Procedure

CCC guarantees the exporter, or the exporter's assignee, against defaults by a foreign bank under its irrevocable letter of credit or related obligation. In the event of such a default, the exporter or the exporter's assignee must notify CCC within a ten day period, and may file a claim with CCC within six months. CCC will pay the guaranteed amount of the claim plus eligible interest if all required claims documentation has been received, including an instrument subrogating to CCC the rights of the exporter and, if applicable, the exporter's assignee, to the amount of payment in default. Recoveries made by CCC pursuant to the subrogated rights, or from any source whatsoever, are shared between CCC and the exporter or exporter's assignee on a pro rata basis determined by their respective interests in such recoveries. In the event that monies are recovered by the exporter or the exporter's assignee from any source whatsoever, these must be paid to CCC which will include them in pro rata sharing. The Appendix to § 1493.320 contains an example of pro rata sharing of recoveries.

J. Example: Typical Transaction

A typical transaction eligible for coverage under a facility payment guarantee could be as follows: CCC issues a program announcement inviting U.S. persons to apply for facility payment guarantees in connection with eligible projects in a specified emerging market. The program announcement states that the terms of coverage will be 95 percent of the facility base value (§ 1493.260(b)(2)). An exporter responds by submitting an application for the export sale of goods and services to an importer in the emerging market. The goods and services have a contract value of $2.2 million, of which $200,000 represents goods that are not U.S. goods which are not further processed, assembled, or manufactured into U.S. goods and services that are not U.S. services for which no CCC coverage is sought. Those goods and services are subtracted from the contract value to provide the net contract value of $2.0 million (§ 1493.260(b)(1)). The exporter does not expect any discounts and allowances to be provided.

The combined value or cost of covered imported components contained in U.S. goods and services that are not U.S. services for which CCC coverage is requested is $650,000. This represents 32.5 percent of the net contract value. Because this is less than 50 percent, the sale meets the U.S. content test (§ 1493.260(d)). The exporter indicates that the importer, in order to comply with the initial payment requirement (15 percent of the net contract value), will pay the exporter $300,000.

The net contract value ($2 million) minus the initial payment requirement ($300,000), minus discounts and allowances (zero), equals the facility base value ($1,700,000) to which CCC's rate of coverage applies. The payment guarantee would thus show a guaranteed value of 95 percent of $1,700,000, or $1,615,000 as shown below. The facility payment guarantee would also indicate how eligible interest would be covered on a variable rate basis, consistent with relevant program announcements.

Example

(1) Contract Value	$2,200,000
(a) minus: Goods and services that are not U.S. goods and services and are not approved for coverage by CCC	200,000
(2) Equals: Net Contract Value	2,000,000
(a) minus: Initial Payment (15% of net contract value)	300,000
(b) minus: Discounts and Allowances	0
(3) equals: Facility Base Value	1,700,000
(4) Guaranteed Value (95 percent of $1,700,000)	1,615,000

Exporters should recognize that the maximum liability for a claim (§ 1493.310(b)), under certain circumstances, may turn out to be less than $1,615,000. Under § 1493.310(b), CCC's liability is limited to the lesser of: (1) The guaranteed value as provided in the facility payment guarantee, plus eligible interest, or (2) the guaranteed percentage of a value called the exported value indicated in the evidence of export report(s), plus eligible interest. The exported value is the net contract value of the goods or services exported minus (a) the initial payment and (b) the dollar amount of any discounts and allowances (§ 1493.280(a)(7)). Thus, if for any reason, the exported value decreases, the dollar amount of coverage would decrease. For example, the exported value would be less if fewer goods and services are exported; if the value of goods and services exported decreases from the value originally reported to CCC; if discounts or allowances, not foreseen at the time of application, are provided; or if payments by the importer exceed the initial payment requirement.

List of Subjects in 7 CFR Part 1493

Administrative practice and procedures, Agricultural commodities, Agriculture, Banks, Banking, Business and industry, Credit, Exports, Finance, Foreign banks, Guaranteed loans, Reporting and recordkeeping requirements.

Accordingly, Part 1493 of Title 7 is amended as follows:

PART 1493—[AMENDED]

1. The authority citation for Part 1493 continues to read as follows:

Authority: 7 U.S.C. 5602, 5622, 5661, 5662, 5663, 5664, 5676, 15 U.S.C. 714b(d), 714c(f).

2. By adding a new subpart C to read as follows:

Subpart C—CCC Facility Guarantee Program (FGP) Operations

Sec.
1493.200 General statement.
1493.210 Definition of terms.
1493.220 Exporter eligibility.
1493.230 Eligible transactions.
1493.240 Initial application and letter of preliminary commitment.
1493.250 Final application and issuance of a facility payment guarantee
1493.260 Facility payment guarantee.
1493.270 Certifications.
1493.280 Evidence of export report.
1493.290 Proof of entry.
1493.300 Notice of default and claims for loss.
1493.310 Payment for loss.
1493.320 Recovery of losses.
1493.330 Miscellaneous provisions.

Subpart C—CCC Facility Guarantee Program (FGP) Operations

§ 1493.200 General statement.

This subpart governs the Commodity Credit Corporation's (CCC) Facility Guarantee Program (FGP). CCC will issue facility payment guarantees for project applications meeting the terms and conditions of the Facility Guarantee Program (FGP) and where private sector financing is otherwise not available. This subpart describes the criteria and procedures for applying for a facility payment guarantee, and contains the general terms and conditions of such a guarantee. These general terms and conditions may be supplemented by special terms and conditions specified in program announcements or notices to participants published prior to the issuance of a facility payment guarantee and, if so, will be incorporated by reference on the face of the facility payment guarantee issued by CCC.

§ 1493.210 Definition of terms.

Terms set forth in this subpart will have the following meaning:

Assignee. A financial institution in the United States which, for adequate consideration given, has obtained the legal rights to receive payment under the facility payment guarantee.

CCC. The Commodity Credit Corporation, an agency and instrumentality of the United States within the U.S. Department of Agriculture, authorized pursuant to the Commodity Credit Corporation Charter Act of 1948, *as amended,* 15 U.S.C. 714 *et seq.*, and subject to the general supervision and direction of the Secretary of Agriculture.

Contacts P/R. A notice issued by Foreign Agricultural Service, U.S. Department of Agriculture (FAS/USDA) by public press release which contains specific names, addresses, and telephone and facsimile numbers of contacts within FAS/USDA and CCC. The Contacts P/R also contains details about where to submit information required to qualify for program participation, to apply for payment guarantees, to request amendments of facility payment guarantees, to submit evidence of export reports, and to give notices of default and file claims for loss.

Contract value. The total negotiated dollar amount for the export sale of goods and services to emerging markets.

Date of export for goods. The on-board date of an ocean bill of lading or an airway bill, the on-board ocean carrier date of an intermodal bill of lading; or, if exported by rail or truck, the date of entry shown on an entry certificate or similar document issued and signed by an official of the government of the importing country.

Date of export for services. The date interest begins to accrue on credit extended to cover payment for services, except for freight and marine insurance where the date of export is the same date as for the goods exported.

Discounts and allowances. Any consideration provided directly or indirectly, by or on behalf of an exporter, to an importer in connection with a sale of goods or services, in excess of the value of such goods or services. Discounts or allowances include, but are not limited to, the provision of additional goods, services or benefits; the promise to provide additional goods, services or benefits in the future; financial rebates; the assumption of any financial or contractual obligation; or the whole or partial release of the importer from any financial or contractual obligation.

Facility. An opportunity or project that improves the handling, marketing, processing, storage, or distribution of imported agricultural commodities or products.

GSM. The General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, acting in his capacity as Vice President, CCC; or his designee.

U.S. goods. Goods that are assembled, processed or manufactured in, and exported from, the United States including goods which contain imported raw materials or imported components.

U.S. services. Services performed by citizens or legal residents of the United States, including those temporarily residing outside the United States.

§ 1493.220 Exporter eligibility.

An exporter may apply for a facility payment guarantee if such exporter:

(a) Is a citizen or legal resident of the United States or is a business organized under the laws of any state of the United States or the District of Columbia;

(b) Has an established place of business in the United States;

(c) Has a registered agent for service of process in the United States; and

(d) Is not suspended or debarred, or owned or controlled by a person who is suspended or debarred, from contracting with, or participating in programs administered by, a U.S. Government agency.

§ 1493.230 Eligible transactions.

(a) *Program announcements.* From time to time CCC will issue program announcements indicating the availability of facility payment guarantees in connection with sales of goods or services to emerging markets. The announcements will specify the emerging markets, the maximum amount, in U.S. dollars, of guarantee exposure that CCC will undertake, and may specify special terms or conditions that will be applicable.

(b) *Sale requirements.* CCC will issue facility payment guarantees only in connection with projects that CCC determines will benefit primarily exports of U.S. agricultural commodities and products, and only where there is a firm contract for the sale of goods or services for the establishment or improvement of an agriculture-related facility. The contract may be contingent, however, on the issuance of a CCC facility payment guarantee.

(c) *Initial payment requirement.* The contract for sale of goods or services between the exporter and the importer shall oblige the importer to make an initial payment(s) to the exporter of at least 15 percent of the net contract value in § 1493.260(b)(1). Such initial payment(s) shall be in U.S. dollars or instruments having a definite value in U.S. dollars, and shall be made prior to the export of the goods or services.

(d) *Required method of payment.* CCC will issue a facility payment guarantee only in connection with a sale in which payment will be made under either:

(1) An irrevocable foreign bank letter of credit specifically stating the deferred payment terms under which the foreign bank is obligated to make payments in U.S. dollars as payments become due; or

(2) An irrevocable foreign bank letter of credit supported by a related obligation specifically stating the deferred payment terms under which the foreign bank is obligated to make payment in U.S. dollars as such payments become due.

(e) *Form of letter of credit.* The foreign bank letter of credit referred to in paragraph (d) of this section shall be an irrevocable commercial letter of credit, subject to the revision of the International Chamber of Commerce Uniform Customs and Practices for Documentary Credits© in effect when the letter of credit is issued, providing for payment in U.S. dollars against stipulated documents and issued in favor of the exporter by a CCC-approved foreign banking institution.

(f) *Form of related obligation.* The related obligation referred to in paragraph (d) of this section shall be in one of the following forms:

(1) A letter of credit including a specific promise to pay on deferred payment terms as a special instruction from the issuing bank directly to the U.S. financial institution to refinance the amounts paid by the U.S. financial institution for obligations financed according to the tenor of the letter of credit;

(2) A separate document specifically identified and referred to in the letter of credit as the agreement under which the foreign bank is obligated to repay the U.S. financial institution on deferred payment terms;

(3) A separate document setting forth the related obligation, or in a duly executed amendment thereto, as having been financed by a U.S. financial institution pursuant to, and subject to, repayment in accordance with the terms of such related obligation; or

(4) A promissory note executed by a foreign bank issuing the letter of credit in favor of the financial institution.

§ 1493.240 Initial application and letter of preliminary commitment.

(a) *Initial Application.* An exporter may apply for a facility payment guarantee by submitting the following information:

(1) A cover sheet with the title: ''Application for a Facility Payment Guarantee—Preliminary Commitment'';

(2) The program announcement number;

(3) The emerging market;

(4) The name, contact person, address, and telephone number and, if applicable, facsimile number and E-mail address of:

(i) The exporter;

(ii) The exporter's registered agent for service of process in the United States;

(iii) The exporter's assignee, if applicable;

(iv) The importer;

(v) The end-user of the goods or services if other than the importer;

(vi) The foreign bank expected to issue the letter of credit or related obligation; and

(vii) The financial institution in the United States expected to provide financing;

(5) A statement on letterhead from a:

(i) Foreign bank indicating an interest in guaranteeing payment, in U.S. dollars, for goods or services to be exported under the facility payment guarantee at least equal to the net contract value listed in paragraph (a)(14) of this section, less the initial payment requirement listed in paragraph (a)(15) of this section; and

(ii) Financial institution in the U.S. indicating an interest in financing the export sales of goods or services under the facility payment guarantee for an amount at least equal to the net contract value listed in paragraph (a)(14) of this section less the initial payment requirement listed in paragraph (a)(15) of this section. The financial institution must state that such financing would not otherwise be available without an FGP payment guarantee;

(6) The period for which credit is being extended to finance the sale of goods or services covered by the facility payment guarantee;

(7) The exporter's sales number pertinent to this application and a description of the status of the intended sale;

(8) A description (e.g., a process flow diagram) of the agriculture-related facility that will use the goods or services to be covered by the facility payment guarantee and an explanation of how these goods and services will be used to improve handling, marketing, processing, storage, or distribution of agricultural commodities or products;

(9) A brief description of each good or service to be covered by the facility payment guarantee including, where applicable, brand name, model number, Standard Industrial Classification (SIC) or the North American Industry Classification System (NAICS) code, and contract specifications;

(10) The final date for export of goods or services. If applicable, include construction start date, milestones (e.g., installation), and contractual deadline for completion of project;

(11) The contract value for the sale of goods or services and the basis of sale for goods to be exported (e.g., FOB, CFR, CIF);

(12) The description and value of the goods or cost of services listed in paragraph (a)(11) of this section that are not U.S. goods or services;

(13) Identification and cost of, and justification for, those services listed in paragraph (a)(12) of this section for which the exporter requests CCC to provide coverage;

(14) The net contract value in § 1493.260(b)(1) obtained by subtracting paragraph (a)(12) of this section from paragraph (a)(11) of this section, and adding paragraph (a)(13) of this section;

(15) The amount to be paid in accordance with the initial payment requirement (§ 1493.230(c));

(16) The description and dollar amount of discounts and allowances provided in connection with the sale of goods or services covered by the facility payment guarantee;

(17) The facility base value in § 1493.260(b)(2) obtained by subtracting paragraphs (a)(15) and (a)(16) of this section from paragraph (a)(14) of this section;

(18) The maximum guaranteed value under the facility payment guarantee determined by multiplying the facility base value listed in paragraph (a)(17) of this section by the guarantee rate of coverage announced by CCC in § 1493.260(b)(3);

(19) A map or other description of the facility's location and distance from major population centers of neighboring countries;

(20) For all principal agricultural commodities or products (inputs) to be handled, marketed, processed, stored, or distributed, by the proposed project after completion, provide:

(i) A list or table identifying such principal inputs;

(ii) The likely countries of origin for each input;

(iii) Estimated annual quantities, in metric tons, of each input listed in paragraph (a)(20)(i) of this section to be used by the project for five years from the final date of export or until the expiration of the facility payment guarantee, whichever comes first; and

(iv) An analysis, including price, cost, and other assumptions (the reasons why U.S. agricultural commodities or products will be more competitive inputs than commodities or products from other sources, and whether the projected use of U.S. agricultural commodities or products depends on the availability of U.S. export bonus or credit guarantee programs), of which inputs listed in paragraph (a)(20)(i) of this section will represent increased imports of U.S. agricultural commodities or products:

(A) To a greater degree than imports of agricultural commodities or products from other countries;

(B) To or at levels significantly above those expected in the absence of the project; and

(C) For a period of five years from the final date of export or until expiration of the facility payment guarantee, whichever comes first.

(21) If applicable, a list of agricultural outputs or final products of the proposed project and:

(i) Projected annual quantities (for five years or until the expiration of the facility payment guarantee, whichever comes first), in metric tons, of each output to be marketed;

(A) Within the emerging market; and

(B) In any other country;

(ii) Quantities, by country of origin, of products imported into the emerging market during the past year which would compete with such outputs; and

(iii) An analysis of whether products of the project will significantly displace U.S. exports of similar agricultural commodities or products in any market;

(22) If applicable, a description of any arrangements or understandings with other U.S. or foreign government agencies, or with financial institutions or entities, private or public, providing financing to the exporter in connection with this export sale, and copies of any documents relating to such arrangements;

(23) A description of the exporter's experience selling goods or providing services similar to those for which the exporter seeks to obtain facility payment guarantee coverage;

(24) A statement of how this project may encourage privatization of the agricultural sector, or benefit private farms or cooperatives, in the emerging market. Include in the statement the share of private sector ownership of the project;

(25) The exporter's signature.

(b) *Application fee.* The exporter shall pay the application fee specified in the program announcement at the time the application is submitted. An application will not be considered without payment of the specified fee. The application fee is nonrefundable.

(c) *Letter of preliminary commitment.* CCC will determine whether, in its

judgment, the project in connection with which the exporter seeks a facility payment guarantee is likely to increase exports of U.S. agricultural commodities or products to an emerging market; and whether the project is likely to benefit primarily U.S. agricultural commodities or products as opposed to commodities or products originating in other countries. If necessary, CCC may seek additional information from an applicant prior to making its determination. If CCC determines that an application meets these standards and appears to represent, in CCC's judgment, the best use of available resources, CCC will respond to the applicant with a letter of preliminary commitment indicating CCC's interest in issuing a facility payment guarantee conditioned on its approval of the exporter's final application.

§ 1493.250 Final application and issuance of facility payment guarantee.

(a) *Final application.* An exporter who has received a letter of preliminary commitment may, within six months of the date of such letter, submit a final application to CCC for a facility payment guarantee which shall include the following information:

(1) A cover sheet with the title: ''Application for a Facility Payment Guarantee—Final Commitment.''

(2) A letterhead statement from the importer's bank or other documentation confirming the importer has the financial ability to comply with the initial payment requirement in § 1493.230(c);

(3) Written evidence of a firm sale signed by the exporter and the importer, specifying at minimum, the following information: Goods or services to be exported, quantities of such items, delivery terms (e.g., FOB, CFR, CIF), delivery period(s), contract value, payment terms, and date of sale. A sales contract may be contingent upon obtaining a facility payment guarantee;

(4) A description of any changes in the information submitted in the preliminary application; and

(5) The exporter's signature;

(b) *Additional information.* CCC shall have the right to request the exporter to furnish any other information and documentation it deems pertinent to the evaluation of the exporter's final application for a final commitment. CCC may request from the exporter an independent engineering study or economic feasibility study relating to the project.

(c) *Final commitment letter.* After making a favorable determination on the exporter's submissions, CCC will issue a final commitment letter indicating the applicable exposure fee rate and stating that CCC is prepared to issue a facility payment guarantee upon receiving full payment of the exposure fee within an allotted time. The letter will also indicate the key terms and coverage of the guarantee to be issued. CCC will also inform exporters in writing when it denies their request for a facility payment guarantee.

(d) *Exposure fee.* The exposure fee is calculated by multiplying the requested guaranteed value (up to the maximum established by CCC's final commitment letter) by the exposure fee rate. Once the facility payment guarantee is issued to the exporter, CCC will ordinarily not refund the exposure fee. If CCC does not issue a facility payment guarantee, or issues a guarantee for only part of the coverage requested, CCC will make a full or *pro rata* refund of the exposure fee, as appropriate.

(e) *Issuance of the facility payment guarantee.* Upon receipt of the exposure fee, CCC will issue a facility payment guarantee.

§ 1493.260 Facility payment guarantee.

(a) *CCC's maximum obligation.* CCC will agree to pay the exporter or the exporter's assignee an amount not to exceed the guaranteed value stipulated on the face of the facility payment guarantee, plus eligible interest, in the event that the foreign bank fails to pay under the foreign bank letter of credit or related obligation. The exact amount of CCC's liability in the event of default will be determined in accordance with § 1493.310(b).

(b) *Calculation of maximum guarantee coverage.* CCC will determine the maximum amount of its obligation under a facility payment guarantee by calculating a:

(1) Net contract value equal to the contract value minus:

(i) The value of goods that are not U.S. goods; and

(ii) The cost of services that are not U.S. services (except those services the exporter requests CCC to determine are vital to the success of the project and approved to be included in the net contract value);

(2) Facility base value equal to net contract value minus:

(i) The amount to be paid in accordance with the initial payment requirement in § 1493.230(c); and

(ii) The amount of discounts and allowances; and

(3) Maximum guaranteed value equal to:

(i) A principal amount determined by multiplying the facility base value (as determined in § 1493.260(b)(2)) by the guaranteed percentage specified in the program announcement; and

(ii) Interest on such principal amount at the rate specified in the applicable program announcement, not to exceed the investment rate of the most recent Treasury 52-week bill auction in effect at that time.

(c) *Value and cost.* For the purposes of this section:

(1) *Value* means declared customs value of the goods; or, in the absence of specific information regarding declared customs value, the fair market wholesale value of the imported goods in the United States at the time they were acquired by the participant; and

(2) *Cost* means actual amount paid by the exporter for the services in an arms-length transaction; or in the absence of an arms-length transaction, the fair market value of the services at the time the services were provided.

(d) *U.S. content test.* (1) CCC will issue a guarantee only if the following items collectively represent less than 50 percent of the net contract value in § 1493.260(b)(1):

(i) The value of imported components (except for raw materials) that are assembled, processed, or manufactured into U.S. goods included in the net contract value;

(ii) The cost of services that are not U.S. services (including freight on foreign flag carriers and transportation insurance registered with foreign agents) that, at the request of the exporter, CCC determines are vital to the success of the project and approves their inclusion in the net contract value;

(2) For purpose of this subsection, minor or cosmetic procedures (e.g., affixing labels, cleaning, painting, polishing) do not qualify as assembling, processing or manufacturing;

(3) For purpose of this subsection, local services which involve costs for hotels, meals, transportation, and other similar services incurred in the emerging market are not U.S. services.

(e) *Period of guarantee coverage.* The payment guarantee will apply to the period beginning on the date(s) of export(s) and will continue during the credit term specified in the facility payment guarantee. For goods, the period of coverage will also apply from the date on which interest begins to accrue, if earlier than the date of export. The final payments of principal and interest by the foreign bank must come due within the period of guarantee coverage.

(f) *Terms of the CCC facility payment guarantee.* The terms of CCC's coverage will be set forth in the facility payment guarantee and will include the provisions of this subpart, which may

be supplemented by any program announcement(s) or notice(s) to participants in effect at the time the facility payment guarantee is approved by CCC.

(g) *Final date to export.* The final date to export will be stated in the facility payment guarantee.

(h) *Ineligible exports.* Goods or services with a date of export prior to the date CCC issues the facility payment guarantee are ineligible for coverage unless approved by the GSM.

(i) *Additional requirements.* The facility payment guarantee may contain such additional terms, conditions, and limitations as are deemed necessary or desirable by the GSM. Such additional terms, conditions or qualifications, as stated in the facility payment guarantee, are binding on the exporter or the exporter's assignee.

(j) *Amendments.* Exporters must notify CCC of any amendments concerning contracts covered by a facility payment guarantee. CCC will determine if the contract amendments will require amendments to the facility payment guarantee. Amending the facility payment guarantee may result in an increase to the exposure fee. Requests made by the exporter to amend the facility payment guarantee so as to change the guaranteed value must have the concurrence of the assignee when an assignment has been made.

(k) *Effective date.* The facility payment guarantee shall become effective on the date of export of the goods or services.

Appendix to Section 1493.260—Illustration of FGP Coverage of Imported Raw Materials, Components, and Services That Are Not U.S. Services

The following example illustrates CCC's regulations and policy options with regard to issuing a payment guarantee for a project which includes imported raw materials, imported components, and services that are not U.S. services:

1. Ten grain trucks and one truck scale are to be exported from the U.S. to an emerging market. The trucks will provide the ability to purchase larger quantities of grain from the U.S. The contract value totals $2,025,000, cost, insurance and freight (CIF) basis.

2. The fenders, hoods and doors of the trucks have been manufactured and assembled in the U.S. and contain some imported raw materials (sheet metal).

3. Imported components consist of starters and alternators, with a U.S. customs valuation of $149,000. These items are installed into the trucks in the U.S.

4. The truck scale was imported from Canada into the U.S. with a U.S. customs valuation of $20,000.

5. A U.S. citizen, will travel on a foreign airline carrier to the emerging market (airfare is $1,000) to instruct mechanics in repair and maintenance of the trucks. He will be paid a salary for this service and, in addition, will be reimbursed separately for local costs in the emerging market (e.g., hotel, meals, transportation) which are estimated to be $5,000.

6. The trucks are to be shipped on foreign flag vessels, and the marine insurance is to be placed with a foreign agent. The combined cost of these services that are not U.S. services for which the exporter seeks coverage is estimated to be $500,000.

CCC's Approval of Services that are Not U.S. Services

CCC agrees to include in the net contract value the foreign flag freight and marine insurance ($500,000) and the airfare ($1,000) of the U.S. instructor (§ 1493.260(b)(1)).

Calculation of Net Contract Value

CCC will calculate the net contract value by subtracting from the contract value ($2,025,000) the U.S. customs value of the truck scale ($20,000) in accordance with § 1493.260(b)(1)(I) and the local costs to be incurred by the U.S. instructor ($5,000) in accordance with § 1493.260(b)(1)(ii) to equal $2,000,000.

CCC's Determination of U.S. Content Eligibility

The imported components and services that are not U.S. services approved for coverage total $650,000 (i.e., $149,000 for starters and alternators, $1,000 for airfare, $500,000 for freight and insurance; or 32.5 percent of the net contract value of $2,000,000 (§ 1493.260(b)(1)). Since this is less than 50 percent of the net contract value the transaction meets the U.S. content test (§ 1493.260(d)).

§ 1493.270 Certifications.

(a) *Exporter's signature.* The exporter's signature on documentation submitted to CCC under this subpart, is the exporter's certification that:

(1) There have not been and are no arrangements for any payments in violation of the Foreign Corrupt Practices Act of 1977, as amended, or other U.S. Laws;

(2) All information submitted to CCC is true and correct; and

(3) The exporter is in compliance with this subpart.

(b) *False certification.* False certifications under this subpart may result in the termination of the facility payment guarantee, suspension or debarment, or civil or criminal action.

§ 1493.280 Evidence of export report.

(a) *Report of export.* The exporter is required to provide CCC an evidence of export report for each shipment of goods or provision of services covered under the facility payment guarantee. Each report must be numbered in chronological order and contain the following information in the order prescribed below:

(1) The facility payment guarantee number;

(2) The date goods or services were exported or provided;

(3) The exporter's sale number, bill of lading numbers, or identification of other documents that may be submitted to establish the contract value of the goods or services exported or provided;

(4) The net contract value of the exported goods or services as determined in accordance with § 1493.260(b)(1);

(5) The amount paid in accordance with the initial payment requirement (§ 1493.230 (c));

(6) A description and dollar value of discounts and allowances, if any;

(7) The exported value of the shipment which is the net contract value of the goods or services exported in paragraph (a)(4) of this section minus:

(i) The initial payment requirement listed in paragraph (a)(5) of this section; and

(ii) The dollar amount of any discounts and allowances listed in paragraph (a)(6) of this section;

(8) The name of the carrier and, if applicable, the name of the vessel;

(9) The final payment schedule showing the payment due dates and amounts of principal, and payment due dates for interest accrual. If the payment schedule is unknown, the exporter must indicate in writing that: ''The payment schedule will be provided in an amendment to the evidence of export report when the payment schedule has been determined;''

(10) Written statements that:

(i) The goods exported or services provided were included in the final application for a final commitment as approved by CCC for coverage under the facility payment guarantee and this subpart;

(ii) The specifications and quantity of goods or services exported conform to the information contained in the exporter's application documents for a facility payment guarantee, or if different, that CCC has approved of such changes;

(iii) A letter of credit has been opened in favor of the exporter by the foreign bank shown on the facility payment guarantee to cover the dollar amount of the sale of goods or services exported less the amount paid in accordance with the initial payment requirement and less discounts and allowances; and

(11) The exporter's signature.

(b) *Final report of export.* The final evidence of export report submitted under a facility payment guarantee must contain:

(1) A written statement that exports under the facility payment guarantee have been completed;

(2) The information requested in § 1493.280(a) for the shipment(s) included in the final report; and

(3) The combined total of all dollar amounts reported under § 1493.280 (a) and (b) for all reports.

(c) *Time limit for submission of evidence of export report.* Unless extended by CCC for good cause, the exporter must submit to CCC an evidence of export report:

(1) Within 60 days of the date goods are exported by rail or truck;

(2) Within 30 days of the date goods are exported by any other carrier; or

(3) Within 30 days of the date of export of services.

(d) *Late reports.* If the evidence of export report is not received by CCC within the time period for filing, the facility payment guarantee will become null and void only if and only to the extent that failure to make timely filing resulted, or would likely result, in:

(1) Significant financial harm to CCC;

(2) The undermining of an essential regulatory purpose of the FGP;

(3) The obstruction of the fair administration of the FGP; or

(4) A threat to the integrity of the FGP.

§ 1493.290 Proof of entry.

(a) *Diversion.* The diversion of goods covered by a facility payment guarantee to a country other than that shown on the facility payment guarantee is prohibited, unless expressly authorized by the GSM.

(b) *Records of proof of entry.* Exporters must obtain and maintain records of an official or customary commercial nature and grant authorized USDA officials access to such documents or records as may be necessary to demonstrate the arrival of the goods authorized by the facility payment guarantee. Records demonstrating proof of entry must be in English or be accompanied by a certified or other translation acceptable to CCC. Records acceptable to meet this requirement include:

(1) For goods: An original certificate, signed by a duly authorized customs or port official of the emerging market, by the importer, by an agent or representative of the vessel or ship line which delivered the goods to the emerging market, or by a private surveyor in the emerging market, or other documentation deemed acceptable by CCC:

(i) Showing that the goods entered the emerging market;

(ii) Identifying the export carrier;

(iii) Describing the goods; and

(iv) Indicating date and place the goods were unloaded in the emerging market.

§ 1493.300 Notice of default and claims for loss.

(a) *Notice of default.* If the foreign bank issuing the letter of credit fails to make payment pursuant to the terms of the foreign bank letter of credit or related obligation, the exporter or the exporter's assignee must submit a notice of default to CCC as soon as possible, but not later than ten days after the date that payment was due from the foreign bank (the due date). A notice of default must be submitted in writing to the Treasurer, CCC, at the address specified in the Contacts P/R. If the exporter or the exporter's assignee fails to promptly notify CCC of defaults in accordance with this paragraph, CCC may make the facility payment guarantee null and void with respect to any payment(s) applicable to such default. This time limit may be extended only under extraordinary circumstances and if approved by the Controller, CCC. The notice of default must include:

(1) Facility payment guarantee number;

(2) Name of the emerging market;

(3) Name of the defaulting bank;

(4) Payment due date;

(5) Total amount of the defaulted payment due, indicating separately the amounts for principal and interest;

(6) Date of foreign bank's refusal to pay, if applicable; and

(7) Reason for the foreign bank's refusal to pay, if known.

(b) *Filing a claim for loss.* A claim for a loss by the exporter or the exporter's assignee will not be paid if it is made later than six months from the due date of the defaulted payment. A claim for loss must be submitted in writing to the Treasurer, CCC, at the address specified in the Contacts P/R. The claim for loss must include the following information and documents:

(1) Facility payment guarantee number;

(2) A certification that the scheduled payment has not been received;

(3) A certification of the amount of accrued interest in default, the date interest began to accrue and the interest rate on the foreign bank obligation applicable to the claim; and

(4) A copy of each of the following documents, with a cover document containing a signed certification by the exporter or the exporter's assignee that each page of each document is a true and correct copy:

(i)(A) The foreign bank's letter of credit securing the export sale, and;

(B) If applicable, the document(s) evidencing the related obligation owed by the foreign bank to the assignee financial institution which is related to the foreign bank's letter of credit issued in favor of the exporter.

(ii) Depending upon the method of shipment, the negotiable ocean carrier or intermodal bill(s) of lading signed by the shipping company with the onboard ocean carrier date for each shipment, the airway bill; or, if shipped by rail or truck, the entry certificate or similar document signed by an official of the emerging market;

(iii) The exporter's sales invoice(s) showing the value and basis of sale (e.g., FOB, CFR, or CIF) or, if services are billed separately, documents that the exporter or its assignee relied upon in extending the credit to the issuing foreign bank;

(iv) An instrument, in form and substance satisfactory to CCC, subrogating to CCC the respective rights of the exporter and the exporter's assignee, if applicable, to the amount of payment in default. The instrument must reference the applicable foreign bank letter of credit and the related obligation, if applicable; and

(v) A copy of the evidence of export report(s) previously submitted by the exporter to CCC pursuant to § 1493.280.

(c) *Subsequent claims for defaults on installments.* The exporter or an exporter's assignee need only provide one claim which meets full documentation requirements relating to a covered transaction. For subsequent claims relating to such failures of the foreign bank to make scheduled installments on the same export, the exporter or the exporter's assignee need only submit to CCC a notice of such failure containing the information stated in paragraphs (b) (1), (2), and (3) of this section; an instrument of subrogation as per paragraph (b)(4)(iv) of this section, and the date the original claim was filed with CCC.

§ 1493.310 Payment for loss.

(a) *Determination of CCC's liability.* Upon receipt in good order of the information and documents required under § 1493.300, CCC will determine whether or not a loss has occurred for which CCC is liable under the facility payment guarantee, this subpart, program announcement(s) and notice(s) to participants. If CCC determines that it is liable to the exporter or the exporter's assignee, CCC will pay the exporter or the exporter's assignee in accordance with paragraphs (b) and (c) of this section.

(b) *Amount of CCC's liability.* CCC's maximum liability for any claims for loss submitted with respect to any facility payment guarantee, not including any late interest payments due in accordance with paragraph (c) of

this section, will be limited to the lesser of:

(1) The guaranteed value as stated in the facility payment guarantee, plus eligible interest; or

(2) The guaranteed percentage (as indicated in the facility payment guarantee) of the exported value indicated in the evidence of export report (§ 1493.280(a)(7)), plus eligible interest.

(c) *Late interest payment.* If a claim is not paid within one day of receipt of a claim which CCC has determined to be in good order, late interest will accrue in favor of the exporter or the exporter's assignee beginning with the first day after the claim was found by CCC to be in good order and continuing until and including the date that payment is made by CCC. Late interest will be paid on the guaranteed amount, as determined by paragraphs (b)(1) and (2) of this section, and will be calculated based on the latest average investment rate of the most recent Treasury 91-day bill auction as announced by the Department of Treasury as of the due date.

(d) *Accelerated payments.* CCC will pay claims only for losses on amounts not paid as scheduled. CCC will not pay claims for amounts due under an accelerated payment clause in the export sales contract, the foreign bank's letter of credit, or any obligation owed by the foreign bank to the assignee U.S. financial institution which is related to the foreign bank's letter of credit issued in favor of the exporter, unless it is determined to be in the best interest of CCC by the Controller, CCC. Notwithstanding the foregoing, CCC at its option may declare the entire amount of the unpaid balance, plus accrued interest, in default and make payment to the exporter or the exporter's assignee in addition to such other claimed amount as may be due from CCC.

(e) *Action against the assignee.* Notwithstanding any other provision in this subpart to the contrary, with regard to the value of goods or services covered by a facility payment guarantee, CCC will not hold the assignee responsible or take any action or raise any defense against the assignee for any action, omission or statement by the exporter of which the assignee has no knowledge, provided that:

(1) The exporter complies with the reporting requirements under § 1493.270 and § 1493.280 excluding post-export adjustments (i.e., corrections of evidence of export reports); and

(2) The exporter or the exporter's assignee furnishes the statements and documents specified in § 1493.300.

§ 1493.320 Recovery of losses.

(a) *Notification.* Upon payment of loss to the exporter or the exporter's assignee, CCC will notify the foreign bank of CCC's rights under the subrogation agreement to recover all monies in default.

(b) *Receipt of monies.* (1) In the event that monies for a defaulted payment are recovered by the exporter or the exporter's assignee from the importer, the foreign bank or any other source whatsoever, such monies shall be immediately paid to the Treasurer, CCC. If such monies are not received by CCC within 15 days from the date of recovery by the exporter or the exporter's assignee, the exporter or the exporter's assignee will owe to CCC interest from the date of recovery to the date of receipt by CCC. This interest will be calculated based on the latest average investment rate of the most recent Treasury 91-day auction, as announced by the Department of Treasury, in effect on the date of recovery and will accrue from such date to the date of payment by the exporter or the exporter's assignee to CCC. Such interest will be charged only on CCC's share of the recovery.

(2) If CCC recovers monies that should be applied to a facility payment guarantee for which a claim has been paid by CCC, CCC will pay the holder of the facility payment guarantee its pro rata share immediately, provided that the required information necessary for determining pro rata distribution has been furnished. If payment is not made by CCC within 15 days from the date of recovery or 15 days from receiving the required information for determining pro rata distribution, whichever is later, CCC will pay interest calculated on the latest average investment rate of the most recent Treasury 91-day bill auction, as announced by the Department of Treasury, in effect on the date of recovery and will accrue from such date to the date of payment by CCC. The interest will apply only to the portion of the recovery payable to the holder of the facility payment guarantee.

(c) *Allocation of recoveries.* Recoveries made by CCC from the importer or the foreign bank, and recoveries received by CCC from the exporter, the exporter's assignee or any other source whatsoever, will be allocated by CCC to the exporter or the exporter's assignee and to CCC on a pro rata basis determined by their respective interests in such recoveries. The respective interest of each party will be determined on a pro rata basis, based on the combined amount of principal and interest in default. Once CCC has paid out a particular claim under a facility payment guarantee, CCC prorates any collections it receives and shares these collections proportionately with the holder of the guarantee until both CCC and the holder of the guarantee have been reimbursed in full. Appendix to § 1493.320 provides an example of the methodology used by CCC in applying this paragraph (c).

(d) *Liabilities to CCC.* Notwithstanding any other terms of the facility payment guarantee, the exporter may be liable to CCC for any amounts paid by CCC under the facility payment guarantee when and if it is determined by CCC that the exporter engaged in fraud, or has been or is in breach of any contractual obligation, certification or warranty made by the exporter for the purpose of obtaining the facility payment guarantee or for fulfilling obligations under the FGP. Further, the exporter's assignee may be liable to CCC for any amounts paid by CCC under the facility payment guarantee when and if it is determined by CCC that the exporter's assignee engaged in fraud or otherwise violated program requirements.

(e) *Good faith.* The violation by an exporter of the certifications in § 1493.270 or the failure of an exporter to comply with the provisions of § 1493.290 or § 1493.330(e) will not affect the validity of any facility payment guarantee with respect to an assignee which had no knowledge of such violation or failure to comply at the time such exporter applied for the facility payment guarantee or at the time of assignment of the facility payment guarantee.

(f) *Cooperation in recoveries.* Upon payment by CCC of a claim to the exporter or the exporter's assignee, the exporter or the exporter's assignee will cooperate with CCC to effect recoveries from the foreign bank or the importer.

Appendix to § 1493.320—Illustration of Pro Rata Allocation of Recoveries

The following example illustrates CCC's policy, as set forth in § 1493.320, regarding pro rata sharing of recoveries made for claims filed under the FGP. For the purpose of this example only, even though CCC interest coverage is on a floating rate basis, a constant rate of interest is assumed. A typical case might be as follows:

1. The U.S. bank enters into a $300,000 three-year credit arrangement for the export sale of goods and services with the foreign bank calling for equal semi-annual payments of principal and semi-annual payment of interest at a rate of 10 percent per annum and a penalty interest rate of 12 percent per annum on overdue amounts until the overdue amount is paid.

2. Exported value reported to CCC equals $300,000.

3. The foreign bank fails to make the final principal payment of $50,000 and an interest payment of $2,493.15, both due on January 31.

4. On February 10, the U.S. bank files a notice of default and claim in good order with CCC.

5. CCC's guarantee states that CCC's maximum liability is limited to 95 percent of the principal amount due ($47,500) and interest at a rate of 8 percent per annum (basis 365 days) on 95 percent of the principal ($1,894.80).

6. CCC pays the claim on February 22.

7. The latest investment rate of the 91-day Treasury Bill auction average which has been published by the Department of Treasury in effect on the date of nonpayment by CCC (February 11) is 7 percent.

Computation of Obligations

Using the above case, CCC's payment to the holder of the facility payment guarantee would be computed as follows:

1. CCC's Obligation under the Facility Payment Guarantee:	
(a) Principal coverage—(95% × $50,000)	$47,500.00
(b) Interest coverage—(8% × $47,500 × 182/365)	1,894.80
Total	49,394.80
(c) Late interest due from CCC (7% per annum for 11 days × $49,394.80)	104.20
(d) Amount paid by CCC on February 22	49,499.00
2. Foreign Bank's Obligation under the Letter of Credit or the Related Obligation:	
(a) Principal due January 31	50,000.00
Interest due January 31 (10% × $ 50,000 × 182/365)	2,493.15
Amount owed by foreign bank as of January 31	52,493.15
(b) Penalty interest due (12% per annum for 22 days × $ 50,000)	361.64
(c) Amount owed by foreign bank as of February 22	52,854.79
3. Amount of Foreign Bank's Obligation Not Covered by CCC's Payment Guarantee:	3,355.79.

Computation of Pro Rata Sharing in Recovery of Losses

In establishing each party's respective interest in any recovery of losses, the total amount due under the foreign bank obligation would be determined as of the date the claim is paid by CCC (February 22). Using the above example in which the amount owed by the foreign bank is $52,854.79, CCC would be entitled to 93.65 percent ($49,499.00 divided by $52,854.79) and the holder of the facility payment guarantee would be entitled to 6.35 percent ($3,355.79 divided by $52,854.79) of any recoveries of losses after settlement of the claim. Since in this example, the losses were recovered after the claim had been paid by CCC, § 1493.320(b) would apply.

§ 1493.330 Miscellaneous provisions.

(a) *Assignment.* (1) The exporter may assign the proceeds which are, or may become, payable by CCC under a facility payment guarantee or the right to such proceeds only to a financial institution in the U.S. The assignment must cover all amounts payable under the facility payment guarantee not already paid, may not be made to more than one party, and may not, unless approved in advance by CCC, be subject to further assignment. Any assignment may be made to one party as agent or trustee for two or more parties participating in the assignment.

(2) An original and two copies of the written notice of assignment signed by the parties thereto must be filed by the assignee with the Treasurer, CCC, at the address specified in the Contacts P/R.

(3) Receipt of the notice of assignment will ordinarily be acknowledged to the exporter and its assignee in writing by an officer of CCC. In cases where a financial institution is determined to be ineligible to receive an assignment, in accordance with paragraph (b) of this section, CCC will provide notice thereof to such financial institution and to the exporter issued the facility payment guarantee in lieu of an acknowledgment of assignment.

(4) The name and address of the assignee must be included on the written notice of assignment.

(b) *Ineligibility of financial institutions to receive an assignment.* A financial institution will be ineligible to receive an assignment of proceeds which may become payable under a facility payment guarantee if, at the time of assignment, such financial institution:

(1) Is not in sound financial condition, as determined by the Treasurer of CCC; or

(2) Is the financial institution issuing the letter of credit or a branch, agency or subsidiary of such institution; or

(3) Is owned or controlled by an entity that owns or controls the financial institution issuing the letter of credit; or

(4) Is the U.S. parent of the foreign bank issuing the letter of credit.

(c) *Ineligibility of financial institutions to receive proceeds.* A financial institution will be ineligible to receive proceeds payable under a facility payment guarantee approved by CCC if such financial institution:

(1) At the time of assignment of a facility payment guarantee, is not in sound financial condition, as determined by the Treasurer of CCC;

(2) Is the financial institution issuing the letter of credit or a branch, agency, or subsidiary of such institution; or

(3) Is owned or controlled by an entity that owns or controls the financial institution issuing the letter of credit; or

(4) Is the U.S. parent of the foreign bank issuing the letter of credit.

(d) *Alternative satisfaction of facility payment guarantees.* CCC may, with the agreement of the exporter (or if the right to proceeds payable under the facility payment guarantee has been assigned, with the agreement of the exporter's assignee), establish procedures, terms or conditions for the satisfaction of CCC's obligations under a facility payment guarantee other than those provided for in this subpart if CCC determines that those alternative procedures, terms or conditions are appropriate in rescheduling the debts arising out of any transaction covered by the facility payment guarantee and would not result in CCC paying more than the amount of CCC's obligation.

(e) *Maintenance of records and access to premises.* (1) For a period of five years after the date of expiration of the coverage of a facility payment guarantee, the exporter or the exporter's assignee, as applicable, must maintain and make available all records pertaining to sales and deliveries of and extension of credit for goods or services exported in connection with a facility payment guarantee, including those records generated and maintained by agents, and related companies involved in special arrangements with the exporter. The Secretary of Agriculture and the Comptroller General of the United States, through their authorized representatives, must be given full and complete access to the premises of the exporter or the exporter's assignee, as applicable, during regular business hours from the effective date of the facility payment guarantee until the expiration of such five-year period to inspect, examine, audit, and make copies of the exporter's, exporter's assignee's, or a related company's books, records, and accounts concerning transactions relating to the facility payment guarantee, including, but not limited to, financial records and accounts pertaining to sales, inventory, manufacturing, processing, and administrative and incidental costs, both normal and unforeseen.

(2) The exporter must maintain the proof of entry required by § 1493.290(b),

and must provide access to such document if requested by the Secretary of Agriculture or his authorized representative for the five-year period specified in paragraph (e)(1) of this section.

(f) *Responsibility of program participants.* It is the responsibility of all program participants to review, and fully acquaint themselves with, this subpart, program announcement(s), and notice(s) to participants relating to the FGP, as applicable. Applicants for facility payment guarantees under this program are hereby on notice that they will be bound by any terms contained in applicable program announcement(s) or notice(s) to participants issued prior to the date of approval of a facility payment guarantee.

(g) *Submission of documents by principal officers.* All required submissions, including certifications, applications, reports, or requests (i.e., requests for amendments), by exporters or exporters' assignees under this subpart must be signed by a principal or officer of the exporter or exporter's assignee or their authorized designee(s). In cases where the designee is acting on behalf of the principal or the officer, the signature must be accompanied by:

(1) Wording indicating the delegation of authority or, in the alternative, by a certified copy of the delegation of authority; and

(2) The name and title of the authorized person or officer. Further, the exporter or exporter's assignee must ensure that all information/reports required under this subpart are submitted within the required time limits. If requested in writing, CCC will acknowledge receipt of a submission by the exporter or the exporter's assignee. If acknowledgment of receipt is requested, the exporter or exporter's assignee must submit an extra copy of each document and a stamped self-addressed envelope for return by U.S. mail. If courier services are desired for the return receipt, the exporter or exporter's assignee must also submit a self-addressed courier service order which includes the recipient's billing code for such service.

(h) *Officials not to benefit.* No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of the facility payment guarantee or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the facility payment guarantee if made with a corporation for its general benefit.

(i) *Deadlines.* (1) Where a deadline is fixed in terms of days, it means business days and excludes Saturdays, Sundays and federal holidays.

(2) Where a deadline is fixed in terms of months, the deadline falls on the same day of the month as the day triggering the deadline period, or if there is no same day, the last day of the month; and

(3) Where a deadline would otherwise fall on a Saturday, Sunday or federal holiday, the deadline shall be the next business day.

Signed this 1st day of August, 1997 at Washington, DC.

Christopher E. Goldthwait,

General Sales Manager, Commodity Credit Corporation.

[FR Doc. 97–20761 Filed 8–7–97; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 97–007–2]

Change in Disease Status of The Netherlands Because of Hog Cholera

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by removing The Netherlands from the list of countries free from hog cholera. We took this action based on reports we have received from The Netherlands that an outbreak of hog cholera has occurred in The Netherlands. As a result of this action, there are additional restrictions on the importation of pork and pork products into the United States from The Netherlands, and the importation of swine from The Netherlands is prohibited.

EFFECTIVE DATE: The interim rule was effective on February 21, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Staff Veterinarian, Animal Products Program, National Center for Import and Export, VS, APHIS, suite 3B05, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–3399; or e-mail: jcougill@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective February 21, 1997, and published in the **Federal Register** on February 27, 1997 (62 FR 8867–8868, Docket No. 97–007–1), we amended §§ 94.9(a) and 94.10(a) of the regulations by removing The Netherlands from the list of countries declared to be free from hog cholera.

Comments on the interim rule were required to be received on or before April 28, 1997. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR 94 and that was published at 62 FR 8867–8868 on February 27, 1997.

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 4th day of August 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–20996 Filed 8–7–97; 8:45 am]

BILLING CODE 3410–34–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

General Rules and Regulations, Securities Exchange Act of 1934

CFR Correction

In title 17 of the Code of Federal Regulations, part 240 to end, revised as of April 1, 1997, on page 369, in § 240.17a–5, paragraph (g)(1) is corrected to read as follows:

§ 240.17a–5 Reports to be made by certain brokers and dealers.

* * * * *

(g) *Audit objectives.* (1) The audit shall be made in accordance with generally accepted auditing standards and shall include a review of the accounting system, the internal accounting control and procedures for safeguarding securitiesincluding appropriate tests thereof for the period since the prior examination date. The audit shall include all procedures necessary under the circumstances to enable the independent public accountant to express an opinion on the statement of financial condition, results of operations, cash flow, and the Computation of Net Capital under § 240.15c3–1, the Computation for Determination of Reserve Requirements for Brokers or Dealers under Exhibit A of § 240.15c3–3, and Information Relating to the Posession or Control Requirements under § 240.15c3–3. The scope of the audit and review of the accounting system, the internal control and procedures for safeguarding securities shall be sufficient to provide reasonable assurance that any material inadequacies existing at the date of the examination in (a) the accounting system; (b) the internal accounting controls; (c) procedures for safeguarding securities; and (d) the practices and procedures whose review is specified in (i), (ii), (iii) and (iv) of this paragraph would be disclosed. Additionally, as specific objectives, the audit shall include reviews of the practices and procedures followed by the client:

(i) In making the periodic computations of aggregate indebtedness and net capital under § 240.17a–3(a)(11) and the reserve required by § 240.15c3–3(e);

(ii) In making the quarterly securities examinations, counts, verifications and comparisons and the recordation of differences required by § 240.17a–13;

(iii) In complying with the requirement for prompt payment for securities of section 4(c) of Regulation T (§ 220.4(c) of chapter II of title 12) of the Board of Governors of the Federal Reserve System; and

(iv) In obtaining and maintaining physical possession or control of all fully paid and excess margin securities of customers as required by § 240.15c3–3. Such review shall include a determination as to the adequacy of the procedures described in the records required to be maintained pursuant to § 240.15c3–3(d)(4).

* * * * *

[FR Doc. 97–55509 Filed 8–7–97; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF STATE

[Public Notice 2573]

22 CFR Part 22

Bureau of Consular Affairs; Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates, Diversity Visa Lottery Fee

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Final rule.

SUMMARY: This publication finalizes the Department's proposed rule [62 FR 32558] published June 16, 1997 proposing the fee for administration of the diversity visa lottery. The fee will be added to the Schedule of Fees for Consular Services published in 22 CFR 22.1.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Sally Light, Office of the Executive Director, Bureau of Consular Affairs, Room 4820A, Department of State, Washington, DC, (202) 647–1148.

SUPPLEMENTARY INFORMATION: The Department is instituting a new fee, in the nature of a surcharge, to be paid by applicants for diversity immigrant visas. This additional fee will recover the full costs of the visa lottery conducted pursuant to Sections 203 and 222 of the Immigration and Nationality Act (''INA''), 8 U.S.C. 1153, 1202, from those successful lottery entrants who actually apply for diversity visas. The fee was authorized by Section 636 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104–208, 110 Stat. 3009–703–704 (Sept. 30, 1996). A single fee imposed on actual diversity visa applicants will ensure that the costs of administering the lottery and allocating diversity visas is recovered from actual users of the lottery, while avoiding the impracticable imposition of a fee on all visa lottery entrants (technically, visa ''petitioners''). The imposition of a fee on all entrants rather than actual applicants is not feasible, given the millions of entrants, the problems of collecting a uniform fee from individuals all over the world (who will have varying access to U.S. or other international currency), and the burden of having to collect and account for what would be a very small fee from a large number of persons. Roughly seven million entrants have registered for the 1998 diversity lottery. Approximately 100,000 of those will be invited to apply for a visa, and of those, approximately 87,000 will apply and pay the fee. The Department's projected cost to administer the 1998 diversity lottery is about $6,500,000, which will be covered by the diversity visa surcharge of $75.

Provision has already been made in the visa regulations governing the diversity visa lottery for a fee of this nature (see 22 CFR 42.33(i)). Thus no regulatory amendments other than an addition of the Schedule of Fees for Consular Services published at 22 CFR 22.1 are required to establish this fee. The new fee is being added as item number 19 on the Schedule of Fees. This will locate it immediately before the other fees for immigrant visas, which diversity visa applicants will also be required to pay (*i.e.*, before the fees for immigrant visa application and issuance).

With the exception of nonimmigrant visa reciprocity fees, which are established based on the practices of other countries, all consular fees are established on a basis of cost recovery and in a manner consistent with general user charges principles, regardless of the specific statutory authority under which they are promulgated. The proposed fee is consistent with these principles and the guidance in OMB Circular A–25, which addresses the establishment of user charges. The fee is based on a cost-of-service study completed in late 1996 that documented the direct and indirect costs associated with administration of the diversity visa lottery. The study was based on fiscal year 1995 data and was intended to capture the full cost of service.

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 605(b). This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35. This rule has been reviewed as required by E.O. 12988 and determined to be in compliance therewith. This rule is exempt from review under E.O. 12866, but has been reviewed internally by the Department to ensure consistency with the objectives thereof.

Final Rule: The proposed Diversity Visa Lottery Fee rule invited interested persons to submit comments. No comments were received. The proposed rule is adopted herein without changes as a final rule.

List of Subjects in 22 CFR Part 22

Fees, Schedule of Fees for Consular Services, Visas.

Accordingly, part 22 is amended as follows.

PART 22—[AMENDED]

1. The authority citation for part 22 is revised to read as follows:

Authority: Sec. 3, 63 Stat. 111, as amended; 22 U.S.C. 211a; 214, 2651, 2651a, 3921, 4219; 31 U.S.C. 9701; E.O. 10718, 22 FR 4632; E.O. 11295, 31 FR 10603; 3 CFR, 1966–1970 Comp. p. 570; Sec. 636, P.L. 104–208, 110 Stat. 3009–703–704; 8 U.S.C. 1351; Sec. 140(a), P.L. 103–236, 108 Stat. 399, as amended.

2. Section 22.1 is amended by revising the phrase ''(Item Nos. 15 through 19 vacant)'' immediately following item 14 to read ''(Items Nos. 15 through 18 vacant)'' and by inserting a new item 19 under the header ''Visa Services for Aliens'' to read as follows:

22.1 Schedule of fees.

Item No.	Fee
* * * * *	
Visa Services for Aliens	
19. Immigrant visa application surcharge for Diversity Visa Lottery	$75.00
* * * * *	

Dated: July 21, 1997.

Patrick F. Kennedy,

Under Secretary for Management, Acting.

[FR Doc. 97–20603 Filed 8–7–97; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

RIN 1218–AA95

Methylene Chloride; Approval of Information Collection Requirements; Extension of Start-up Dates

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final Rule; Amendment; Announcement of the OMB Approval of Information Collection Requirements; Extension of Start-up Dates for Compliance.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is announcing that the collections of information regarding § 1910.1052(d), exposure monitoring; § 1910.1052(e), regulated areas; § 1910.1052(j), medical surveillance; § 1910.1052(l), employee information and training; and § 1910.1052(m), recordkeeping of OSHA's final rule for Occupational Exposure to Methylene Chloride (MC) have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. The OMB approval number is 1218–0179. In addition, this document announces that OSHA is providing an additional 30 days for certain employers to comply with the start-up dates contained in § 1910.1052(n).

DATES: Effective August 8, 1997. The start-up date for initial monitoring as stated in § 1910.1052(n)(2)(i)(C) is September 7, 1997 (150 days from the standard's effective date of April 10, 1997).

FOR FURTHER INFORMATION CONTACT: Todd Owen, OSHA, Directorate of Health Standards Programs, Room N3718, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; Telephone (202) 219–7075 extension 109.

SUPPLEMENTARY INFORMATION: OSHA published a final rule for Methylene Chloride, § 1910.1052, on January 10, 1997, at 62 FR 1494 to provide greater protection to employees exposed to methylene chloride's harmful effects. The final rule became effective on April 10, 1997, although various provisions did not take effect until the startup dates specified in paragraph (n)(2), the earliest of which was August 7, 1997. In addition, as required by the Paperwork Reduction Act of 1995, the **Federal Register** notice stated that compliance with the collection of information requirements in § 1910.1052(d), exposure monitoring; § 1910.1052(e), regulated areas; § 1910.1052(j), medical surveillance; § 1910.1052(l), employee information and training; and § 1910.1052(m), recordkeeping was not required until those collections of information had been approved by the Office of Management and Budget and until the Department of Labor published a notice in the **Federal Register** announcing the OMB control numbers assigned by OMB. Under 5 CFR 1320.5(b), an agency may not conduct or sponsor a collection of information unless: (1) the collection of information displays a currently valid OMB control number; and (2) the agency informs the potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

On May 29, 1997, the Agency submitted the Methylene Chloride information collection request to OMB for approval in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). On July 29, 1997, OMB approved the collections of information and assigned OMB Control Number 1218–0179. The approval for the collection expires on February 28, 1999.

With one exception, the earliest start-up date for any provision of the standard, including those with paperwork requirements, is October 7, 1997. The announcement today of OMB approval of paperwork requirements is sufficient notice to permit compliance without extending those start-up dates. However, the start-up date for the initial monitoring provisions (which includes paperwork requirements) for larger employers is August 8, 1997. Because that date is soon after publication of this notice, OSHA is amending paragraph § 1910.1052(n)(2)(i)(C) to allow those employers an additional 30 days to come into compliance with the initial monitoring requirements. OSHA finds that there is good cause to issue this extension without notice and public comment because following such procedures would be impractical, unnecessary or contrary to the public interest in this case. OSHA believes that it is in the public interest to give employers additional time between the notice of OMB approval and the date that compliance is required.

Authority And Signature

This document was prepared under the direction of Gregory R. Watchman, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC this 4th day of August 1997.

Gregory R. Watchman,

Acting Assistant Secretary for Occupational Safety and Health.

PART 1910—[AMENDED]

1. The authority citation for Subpart A of part 1910 continues to read as follows:

Authority: Secs. 4, 6, 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), or 6–96 (62 FR 111), as applicable.

§ 1910.8 [Amended]

2. § 1910.8 is amended by adding the entry ''1910.52 * * * 1218–0179'' (in numerical order) to the table in the section.

3. The general authority citation for subpart Z of 29 part 1910 is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55

FR 9033), or 6–96 (62 FR 111), as applicable; and 29 CFR Part 1911.

* * * * *

4. Paragraph (n)(2)(i)(C) of § 1910.1052 is revised to read as follows:

§ 1910.1052 Methylene chloride.

* * * * *

(n) * * *

(2) * * *

(i) * * *

(C) For all other employers, within 150 days after the effective date of this section.

* * * * *

[FR Doc. 97–20890 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC11

Outer Continental Shelf Civil Penalties

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule revises MMS regulations governing the Outer Continental Shelf (OCS) Civil Penalty Program. MMS is revising these regulations to clarify and simplify assessing and collecting OCS civil penalties. In addition, MMS is adjusting the maximum civil penalty per day per violation from $20,000 to $25,000 due to inflation.

EFFECTIVE DATE: October 7, 1997.

FOR FURTHER INFORMATION CONTACT: Greg Gould, Program Coordinator, at (703) 787–1591 or fax (703) 787–1575.

SUPPLEMENTARY INFORMATION:

Background

MMS proposed revising the regulations for civil penalties in a notice of proposed rulemaking published in the **Federal Register** (61 FR 66967) on December 19, 1996. We received one comment during the 90-day comment period, which closed on March 19, 1997. This final rule revises the regulations at 30 CFR 250.200.

The Oil Pollution Act of 1990 (OPA 90), (Pub. L. 101–380) expanded and strengthened MMS's authority to impose penalties for violating regulations promulgated under the OCS Lands Act.

Section 8201 of OPA 90 authorizes the Secretary of the Interior (Secretary) to assess a civil penalty without providing notice and time for corrective action where a failure to comply with applicable regulations results in a threat of serious, irreparable, or immediate harm or damage to human life or the environment.

The goal of the MMS OCS Civil Penalty Program is to ensure safe and clean operations on the OCS. By pursuing, assessing, and collecting civil penalties, the program is designed to encourage compliance with OCS statutes and regulations.

Not all regulatory violations warrant a review to initiate civil penalty proceedings. However, violations that cause injury, death, or environmental damage, or pose a threat to human life or the environment, will trigger such review.

Intent of Proposed Rule

The goal of the proposed rule was to rewrite the regulations at 30 CFR part 250, subpart N to simplify the language into ''plain English.'' The new question-and-answer format provides a better understanding of the OCS civil penalty process.

Besides simplifying the regulations, MMS proposed to increase the maximum civil penalty to $25,000 per day per violation. The provisions of OPA 90 require the Secretary to adjust at least every 3 years the maximum civil penalty to reflect any increases in the Consumer Price Index for all-urban consumers (CPI–U) as prepared by the Department of Labor.

Comments on the Rule

One major oil company commented on the rule. The company strongly opposed the amount of the increase to the maximum civil penalty. In particular, the company believed that rounding to the nearest $5,000 was inappropriate, and recommended rounding to the nearest $500.

Response to the Comments

In computing the new civil penalty maximum amount, MMS divided the August 1995 CPI–U by the August 1990 CPI–U and multiplied the resulting value by the current maximum civil penalty (152.5/131.6=1.159; 1.159×20,000=23,180)

Section 5(a) of Pub. L. 101–410 provides that ''Any increase determined under this subsection shall be rounded to the nearest multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000.'' Therefore, MMS rounded the maximum civil penalty from $23,180 to $25,000 based on the formula provided in the law. The final rule also includes a few other changes from the proposed rule that are not substantive.

Executive Order (E.O.) 12866

This final rule is significant under E.O. 12866 and has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

The Department of the Interior (DOI) has determined that this final rule will not have a significant effect on a substantial number of small entities. In general, the entities that engage in offshore activities are not considered small because of the technical and financial resources and experience necessary to safely conduct such activities. DOI also determined that the indirect effects of this final rule on small entities that provide support for offshore activities are small.

Paperwork Reduction Act

The final rule does not contain collections of information that require approval by OMB under 44 U.S.C. 3501, *et seq.* The requirements in subpart N are exempted as defined in 5 CFR 1320.4(a)(2) and 1320.4(c).

Taking Implication Assessment

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

Unfunded Mandates Reform Act of 1995

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

E.O. 12988

DOI has certified to OMB that the final rule meets the applicable reform standards provided in sections 3(a) and 3(b)(2) of E.O. 12988.

National Environmental Policy Act

DOI determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, an Environmental Impact Statement is not required.

List of Subjects in 30 CFR Part 250

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

Dated: June 19, 1997.

Sylvia V. Baca,

Acting Assistant Secretary, Land and Minerals Management.

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

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

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

Authority: 43 U.S.C. 1334.

2. Subpart N is revised to read as follows:

Subpart N—Outer Continental Shelf (OCS) Civil Penalties

Sec.

250.200 How does MMS begin the civil penalty process?
250.201 Index table.
250.202 Definitions.
250.203 What is the maximum civil penalty?
250.204 Which violations will MMS review for potential civil penalties?
250.205 When is a case file developed?
250.206 When will MMS notify me and provide penalty information?
250.207 How do I respond to the letter of notification?
250.208 When will I be notified of the Reviewing Officer's decision?
250.209 What are my appeal rights?

Subpart N—Outer Continental Shelf (OCS) Civil Penalties

§ 250.200 How does MMS begin the civil penalty process?

This subpart explains MMS's civil penalty procedures whenever a lessee, operator or other person engaged in oil, gas, sulphur or other minerals operations in the OCS has a violation. Whenever MMS determines, on the basis of available evidence, that a violation occurred and a civil penalty review is appropriate, it will prepare a case file. MMS will appoint a Reviewing Officer.

§ 250.201 Index Table.

The following table is an index of the sections in this subpart:

§ 250.201 Table.

	Section
Definitions	250.202
What is the maximum civil penalty?	250.203
Which violations will MMS review for potential civil penalties?	250.204
When is a case file developed?	250.205
When will MMS notify me and provide penalty information?	250.206
How do I respond to the letter of notification?	250.207
When will I be notified of the Reviewing Officer's decision?	250.208
What are my appeal rights?	250.209

§ 250.202 Definitions.

Terms used in this subpart have the following meaning:

Case file means an MMS document file containing information and the record of evidence related to the alleged violation.

Civil penalty means a fine. It is an MMS regulatory enforcement tool used in addition to Notices of Incidents of Noncompliance and directed suspensions of production or other operations.

I, me in a question or *you* in a response means the person, or agent of a person engaged in oil, gas, sulphur, or other minerals operations in the Outer Continental Shelf (OCS).

Person means, in addition to a natural person, an association (including partnerships and joint ventures), a State, a political subdivision of a State, or a private, public, or municipal corporation.

Reviewing Officer means an MMS employee assigned to review case files and assess civil penalties.

Violation means failure to comply with the Outer Continental Shelf Lands Act (OCSLA) or any other applicable laws, with any regulations issued under the OCSLA, or with the terms or provisions of leases, licenses, permits, rights-of-way, or other approvals issued under the OCSLA.

Violator means a person responsible for a violation.

§ 250.203 What is the maximum civil penalty?

The maximum civil penalty is $25,000 per day violation.

§ 250.204 Which violations will MMS review for potential civil penalties?

MMS will review each of the following violations for potential civil penalties:

(a) Violations that you do not correct within the period MMS grants;

(b) Violations that MMS determines may constitute a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment; or

(c) Violations that cause serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment.

§ 250.205 When is a case file developed?

MMS will develop a case file during its investigation of the violation, and forward it to a Reviewing Officer if any of the conditions in § 250.204 exist. The Reviewing Officer will review the case file and determine if a civil penalty is appropriate. The Reviewing Officer may administer oaths and issue subpoenas requiring witnesses to attend meetings, submit depositions, or produce evidence.

§ 250.206 When will MMS notify me and provide penalty information?

If the Reviewing Officer determines that a civil penalty should be assessed, the Reviewing Officer will send the violator a letter of notification. The letter of notification will include:

(a) The amount of the proposed civil penalty;

(b) Information on the alleged violation(s); and

(c) Instruction on how to obtain a copy of the case file, schedule a meeting, submit information, or pay the penalty.

§ 250.207 How do I respond to the letter of notification?

You have 30 calendar days after you receive the Reviewing Officer's letter to either:

(a) Request, in writing, a meeting with the Reviewing Officer;

(b) Submit additional information; or

(c) Pay the proposed civil penalty.

§ 250.208 When will I be notified of the Reviewing Officer's decision?

At the end of the 30 calendar days or after the meeting and submittal of additional information, the Reviewing Officer will review the case file, including all information you submitted, and send you a decision. The decision will include the amount of any final civil penalty, the basis for the civil penalty, and instructions for paying or appealing the civil penalty.

§ 250.209 What are my appeal rights?

When you receive the Reviewing Officer's decision, you must either pay

the penalty or file an appeal with MMS under part 290 of this chapter. If you do not either pay the penalty or file a timely appeal, MMS will take one or more of the following actions:

(a) MMS will collect the amount you were assessed, plus interest, late payment charges, and other fees as provided by law, from the date of assessment until the date MMS receives payment;

(b) MMS may initiate additional enforcement proceedings including, if appropriate, cancellation of the lease, right-of-way, license, permit, or approval, or the forfeiture of a bond under this part; or

(c) MMS may bar you from doing further business with the Federal Government according to Executive Orders 12549 and 12689, and section 2455 of the Federal Acquisition Streamlining Act of 1994, 31 U.S.C. 6101. The Department of the Interior's regulations implementing these authorities are found at 43 CFR part 62, subpart D.

[FR Doc. 97–21032 Filed 8–7–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

30 CFR Part 250

RIN 1010–AC12

Safety and Pollution Prevention Equipment Quality Assurance Requirements

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule amends the regulations governing the quality assurance (QA) program for safety and pollution prevention equipment (SPPE) used on the Outer Continental Shelf (OCS). The rule requires lessees to install only QA certified SPPE after April 1, 1998. However, the rule allows the continued use of noncertified SPPE installed prior to April 1, 1998, provided the equipment does not require remanufacturing. Amendments to the rule reduce the paperwork burden on both industry and MMS and ensure that OCS lessees continue to use the best available and safest equipment.

EFFECTIVE DATE: September 8, 1997. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of September 8, 1997.

FOR FURTHER INFORMATION CONTACT: Bill Hauser, Engineering and Research Branch, at (703) 787–1613.

SUPPLEMENTARY INFORMATION:

Background

MMS proposed revising the regulations for the SPPE program in a notice of proposed rulemaking published in the **Federal Register** (61 FR 66639) on December 18, 1996. We received two sets of comments during the 60-day comment period, which closed on February 18, 1997. This final rule amends the regulations found at 30 CFR 250.126.

To fully understand this rule, you need to know that SPPE consists of the following equipment: surface safety valves (SSV) and their actuators; underwater safety valves and their actuators; and subsurface safety valves (SSSV) and associated safety valve locks and landing nipples. MMS requires lessees to install SPPE in their wells to protect the safety of personnel and to prevent the accidental release of produced fluids or gases (thus the name safety and pollution prevention equipment). Certified SPPE means that the manufacturer built the equipment under a QA program recognized by MMS. Noncertified SPPE is SPPE that was not manufactured under a recognized QA program but was in a lessee's inventory on April 1, 1988. MMS required each lessee to submit a list of this inventory to MMS by August 29, 1988.

Intent of Proposed Rule

The proposed rule had two goals: (1) to reduce the paperwork associated with the SPPE QA regulations and (2) to ensure that lessees continue to use high quality SPPE on the OCS. To reduce paperwork, the proposed rule eliminated the need for companies to update their list of noncertified SPPE. It also eliminated the detailed reporting requirements regarding the installation and failure of certified equipment.

The proposed rule addressed the quality of SPPE by limiting the use of noncertified SPPE. Under the proposed rule a lessee could not install noncertified SPPE after April 1, 1998. In addition, a lessee would have to replace noncertified SPPE already in service with certified SPPE when one of the following conditions occurred:

(1) Noncertified SPPE failed during normal operations,

(2) Noncertified SPPE failed during testing, or

(3) Noncertified SPPE was removed from service for any other reason.

Comments on the Rule

The Offshore Operators Committee (OOC) and a major oil company were the only two commenters on the rule. OOC, an organization that represents 85 companies that operate in the Gulf of Mexico, commended MMS' effort to reduce the paperwork associated with the program, but strongly objected to replacing noncertified SPPE with certified SPPE as proposed by the rule. They stated that the rules should allow noncertified SPPE to stay in service as long as it functions properly. Replacement of an internal seal or temporary removal from a well during routine operations should not prohibit the use of noncertified SPPE after it has functioned acceptably for many years. OOC recommended that MMS should require replacement only when the noncertified SPPE has to be remanufactured.

OOC estimated that approximately 3,000 noncertified SSV's and 1,000 noncertified SSSV's remain in service on the OCS. OOC estimated that the cost to replace these noncertified SPPE would be $51,000,000. Their estimate did not include the cost to replace noncertified landing nipples for the SSSV.

The major oil company endorsed OOC's comments. It reiterated that the rule should require replacement of noncertified SPPE only when it must be re-manufactured or repaired by hot work, such as welding.

Response to Comments

After review of the comments, MMS agrees that the rule should not prohibit the use of noncertified SPPE if it requires only minor repairs, such as the replacement of a seal. Therefore, we have revised the final rule to require replacement of noncertified SPPE only when the noncertified SPPE requires offsite repair, remanufacturing, or hot work, such as welding. This will allow lessees to continue using noncertified SPPE provided the equipment works properly, and when necessary, requires only minor repairs. Once noncertified SPPE requires offsite repair, remanufacturing, or hot work, it may not be used on the OCS. MMS believes this restriction helps ensure that lessees continue to use high quality SPPE.

MMS plans to examine the performance of noncertified and certified SPPE as part of a research study that will examine leakage rates and testing criteria for SPPE. This research will begin this year. We invite and encourage industry participation in this research study. The results will impact future rulemaking on SPPE testing requirements.

We also clarified § 250.126(b)(2) of the rule to state that a lessee may not install additional noncertified SPPE after April 1, 1998.

Other Changes to the Regulations

As part of amending the SPPE regulations, the rule updates the two QA documents referenced in § 250.1, Documents Incorporated by Reference, paragraphs (c)(5)and (d)(1):

(1) American National Standards Institute/American Society Mechanical Engineers (ANSI/ASME) SPPE–1–1994, Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations, and

(2) American Petroleum Institute (API) Spec Q1, Specification for Quality Programs, Fifth Edition, December 1994.

These documents update editions that MMS has previously incorporated by reference. MMS did not receive any comments on these documents. ASME has notified MMS that it will sunset its SPPE program on June 11, 1999. After that date, MMS will remove the reference to SPPE–1–1994 from the regulations. MMS believes that the sunset of this program will not have a significant effect on SPPE quality.

Executive Order (E.O.) 12866

This is a significant rule under E.O. 12866 and has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

DOI has determined that this final rule will not have a significant economic effect on a substantial number of small entities. Most entities that engage in offshore activities as operators are not small because of the technical complexities and financial resources necessary to conduct such activities safely. Small entities are more likely to work as contractors to larger entities on the OCS, or in the case of SPPE, they may work at repairing SPPE. This rule will not have a negative effect on small SPPE repair shops or manufacturers since it does not impose any new restrictions on them. This rule should not change the business practices of repair and manufacturing SPPE.

Paperwork Reduction Act

OMB has approved the information collection requirements in 30 CFR Part 250, Subpart H, Oil and Gas Production Safety Systems, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The OMB control number is 1010–0059. The Paperwork Reduction Act of 1995 provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

MMS received no comments with respect to the information collection aspects in the notice of proposed rulemaking. There is no significant change to the information collection required by the final rule.

The collection of information consists of applications and approvals for design, installation, and operation of subsurface safety devices and surface production-safety systems and related requirements; notifying MMS prior to production and conduct of preproduction tests and inspections; approval of QA programs covering manufacture of SPPE; and related recordkeeping requirements. The requirement to respond is mandatory. MMS uses the information to evaluate equipment and/or procedures lessees propose to use during production operations and to verify compliance with minimum safety requirements. MMS will protect information considered confidential or proprietary under the Freedom of Information Act and under regulations at 30 CFR 250.18 (Data and information to be made available to the public) and 30 CFR Part 252 (OCS Oil and Gas Information Program).

Respondents are approximately 130 Federal OCS oil, gas, and sulphur lessees. The frequency of submission varies. We estimate that the public reporting burden for this information averages 1.25 hours per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the information collection. MMS estimates that the total annual burden of this collection of information to be 352 reporting hours and 2,548 recordkeeping hours. Based on $35 per hour, the total burden hour cost to respondents is $101,500.

You may direct comment on the burden estimate or any other aspect of this collection to the Information Collection Clearance Officer, Minerals Management Service, Mail Stop 4230, 1849 C Street, N.W., Washington, D.C. 20240; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for the Department of the Interior (OMB control number 1010–0059), Room 10102, 725 17th Street, N.W., Washington, D.C. 20503. You may obtain a copy of the collection of information by contacting the Bureau's Information Collection Clearance Officer at (202) 208–7744.

Takings Implication Assessment

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

Unfunded Mandates Reform Act of 1995

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

E.O. 12988

DOI has certified to OMB that this rule meets the applicable civil justice reform standards provided in sections 3(a) and 3(b)(2) of E.O. 12988.

National Environmental Policy Act

DOI has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, preparation of an Environmental Impact Statement is not required.

List of Subjects in 30 CFR Part 250

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

Dated: June 5, 1997.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

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

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

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

Authority: 43 U.S.C. 1334.

2. Section 250.1 is amended by revising paragraphs (c)(5) and (d)(1) to read as follows:

§ 250.1 Documents incorporated by reference.

* * * * *

(c) * * *

(5) ASME SPPE–1–1994 and ASME SPPE–1d–1996 ADDENDA, Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations, Incorporated by Reference at: § 250.126(a)(2)(A).

* * * * *

(d) * * *

(1) API Spec Q1, Specification for Quality Programs, Fifth Edition, December 1994, API Stock No. 811–00001, Incorporated by Reference at: § 250.126(a)(2)(B).

* * * * *

3. MMS revises § 250.126 to read as follows:

§ 250.126 Safety and pollution prevention equipment quality assurance requirements.

(a) *General requirements.* (1) Except as provided in paragraph (b)(1) of this section, you may install only certified safety and pollution prevention equipment (SPPE) in wells located on the OCS. SPPE includes the following:

(i) Surface safety valves (SSV) and actuators;

(ii) Underwater safety valves (USV) and actuators; and

(iii) Subsurface safety valves (SSSV) and associated safety valve locks and landing nipples.

(2) Certified SPPE is equipment the manufacturer certifies as manufactured under a quality assurance program MMS recognizes. MMS considers all other SPPE as noncertified. MMS recognizes two quality assurance programs:

(i) ANSI/ASME SPPE–1, Quality Assurance and Certification of Safety and Pollution-Prevention Equipment Used in Offshore Oil and Gas Operations; and

(ii) API Spec Q1, Specification for Quality Programs.

(3) All SSV's and USV's must meet the technical specifications of API Spec 14D or API Spec 6A and 6AV1. All SSSV's must meet the technical specifications of API Spec 14A.

(b) *Use of noncertified SPPE.* (1) Before April 1, 1998, you may continue to use and install noncertified SPPE if it was in your inventory as of April 1, 1988, and was included in a list of noncertified SPPE submitted to MMS prior to August 29, 1988.

(2) On or after April 1, 1998:

(i) You may not install additional noncertified SPPE; and

(ii) When noncertified SPPE that is already in service requires offsite repair, remanufacturing, or hot work such as welding, you must replace it with certified SPPE.

(c) *Recognizing other quality assurance programs.* The MMS will consider recognizing other quality assurance programs covering the manufacture of SPPE. If you want MMS to evaluate other quality assurance programs, submit relevant information about the program and reasons for recognition by MMS to the Chief, Engineering and Operations Division; Minerals Management Service; Mail Stop 4700; 381 Elden Street; Herndon, Virginia 20170–4817.

[FR Doc. 97–21037 Filed 8–7–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[CGD 97–051]

Safety Zones, Security Zones, and Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document provides required notice of substantive rules adopted by the Coast Guard and temporarily effective between April 1, 1997 and June 30, 1997, which were not published in the **Federal Register**. This quarterly notice lists temporary local regulations, security zones, and safety zones, which were of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This notice lists temporary Coast Guard regulations that became effective and were terminated between April 1, 1997 and June 30, 1997, as well as several regulations which were not included in the previous quarterly list.

ADDRESS: The complete text of these temporary regulations may be examined at, and is available on request, from Executive Secretary, Marine Safety Council (G–LRA), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Lieutenant Christopher S. Keane at (202) 267–6004 between the hours of 8 a.m. and 3 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety needs of the waters within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. Safety zones may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Security zones limit access to vessels, ports, or waterfront facilities to prevent injury or damage. Special local regulations are issued to enhance the safety of participants and spectators at regattas and other marine events. Timely publication of these regulations in the **Federal Register** is often precluded when a regulation responds to an emergency, or when an event occurs without sufficient advance notice. However, the affected public is informed of these regulations through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the regulation. Because mariners are notified by Coast Guard officials on-scene prior to enforcement action, **Federal Register** notice is not required to place the special local regulation, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary special local regulations, security zones, and safety zones. Permanent regulations are not included in this list because they are published in their entirety in the **Federal Register**. Temporary regulations may also be published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. These safety zones, special local regulations and security zones have been exempted from review under E.O. 12866 because of their emergency nature, or limited scope and temporary effectiveness.

The following regulations were placed in effect temporarily during the period April 1, 1997 and June 30, 1997, unless otherwise indicated.

Dated: August 5, 1997.

Pamela M. Pelcovits,

Chief, Office of Regulations and Administrative Law.

QUARTERLY REPORT

	Location	Type	Effective date
District Docket			
01–97–006	Upper New York Bay, NY & NJ	do	May 4, 1997.
01–97–010	New York Harbor, Upper Bay	do	Apr. 8, 1997.
01–97–011	do	do	May 3, 1997.
01–97–012	do	do	June 12, 1997.
01–97–013	Long Island Sound	do	June 28, 1997.
01–97–015	Port of New York and New Jersey	do	Apr. 14, 1997.
01–97–016	do	do	May 21, 1997.
01–97–023	East River, NY Harbor, Upper Bay	do	May 6, 1997.
01–97–025	Greenwood Lake, New York/New Jersey	do	May 17, 1997.
01–97–027	Kennebec River, Bath, ME	do	May 3, 1997.
01–97–028	East River, NY	do	Apr. 29, 1997.
01–97–030	Hudson River, New York Harbor	do	May 21, 1997.
01–97–033	Boston, MA	do	June 27, 1997.
01–97–036	New York Harbor, Upper Bay	do	June 17, 1997.
01–97–037	Hempstead Harbor, Long Island	do	June 21, 1997.
01–97–038	Hudson River, New York	do	June 29, 1997.
01–97–045	Hudson River, NY	do	June 14, 1997.
01–97–052	North Kingstown, RI	do	June 26, 1997.
01–97–055	Sandy Hook Bay, NJ	do	June 28, 1997.
01–97–057	East River, NY	do	June 26, 1997.
01–97–059	do	do	June 30, 1997.
05–97–007	Portsmouth, VA	Special Local	June 6, 1997.
05–97–018	Delaware Bay, Delaware River	Safety Zone	Apr. 9, 1997.
05–97–019	Chesapeake Bay, VA	do	Apr. 14, 1997.
05–97–022	Philadelphia, PA	Special Local	Apr. 28, 1997.
05–97–023	Cape Fear River Inlet	Safety Zone	Apr. 18, 1997.
05–97–024	Chesapeake Bay, VA	Security Zone	May 6, 1997.
05–97–025	Delaware Bay, Delaware River	Safety Zone	Apr. 25, 1997.
05–97–026	Atlantic Ocean	do	May 10, 1997.
05–97–027	Delaware Bay, Delaware River	do	May 6, 1997.
05–97–028	do	do	May 7, 1997.
05–97–029	Elizabeth River, Norfolk, VA	Security Zone	May 13, 1997.
05–97–033	Western Bar Channel, Oak Island, NC	Safety Zone	May 10, 1997.
05–97–034	Elizabeth River, Norfolk, VA	Security Zone	May 28, 1997.
05–97–035	Delaware Bay, Delaware River	Safety Zone	May 13, 1997.
05–97–036	do	do	May 16, 1997.
05–97–037	Chesapeake Bay, VA	do	May 22, 1997.
05–97–038	Delaware Bay, Delaware River	do	May 3, 1997.
05–97–039	Atlantic Intracoastal Waterway, Hobucken, NC.	do	May 28, 1997.
05–97–041	Delaware Bay, Delaware River	do	June 1, 1997.
05–97–042	Chesapeake Bay, VA	Security Zone	June 4, 1997.
05–97–044	Delaware Bay, Delaware River	Safety Zone	June 7, 1997.
05–97–047	Delaware River	do	June 14, 1997.
05–97–048	Hampton Roads, VA	do	June 12, 1997.
05–97–049	James River, VA	do	June 28, 1997.
05–97–050	Delaware Bay, Delaware River	do	June 20, 1997.
05–97–051	Delaware River	do	June 22, 1997.
05–97–052	Delaware Bay, Delaware River	do	June 28, 1997.
05–97–053	Delaware River	do	June 30, 1997.
05–97–054	Hampton Roads, VA	do	June 12, 1997.
07–97–016	North Charleston, SC	Special Local	June 13, 1997.
07–97–017	Bathia De Mayaguez, Puerto Rico	do	Apr. 20, 1997.
07–97–025	Key West, FL	do	June 1, 1997.
07–97–028	San Juan, Puerto Rico	do	June 22, 1997.
08–97–008	Lower Mississippi River M. 437 to M. 88	Reg Nav Area	Apr. 15, 1997.
08–97–016	Arkansas River M. 308 to M. 309	Special Local	May 3, 1997.
09–97–013	Illinois River	Safety Zone	Apr. 21, 1997.
09–97–016	Maumee River, Ohio	do	June 6, 1997.
09–97–018	do	do	June 15, 1997.
09–97–019	Rochester, NY	do	June 21, 1997.
09–97–020	Chicago Sanitary and Ship Canal	do	June 30, 1997.
11–97–004	Colorado River, Davis Dam	Special Local	May 29, 1997.
13–97–005	Williamette River, Portland, OR	Safety Zone	May 2, 1997.
13–97–006	do	do	May 30, 1997.
COTP Docket			
Corpus Christi 97–001	Corpus Christi Ship Channel	do	Apr. 28, 1997.
Corpus Christi 97–02	do	Security Zone	June 14, 1997.
Houston-Galveston 97–002	Houston, TX	Safety Zone	Apr. 20, 1997.
Houston-Galveston 97–003	Houston Ship Channel, Houston, TX	do	Apr. 10, 1997.

QUARTERLY REPORT—Continued

	Location	Type	Effective date
Houston-Galveston 97–004	Bayport Ship Channel, Houston, TX	do	May 17, 1997.
Houston-Galveston 97–005	Sylvan Beach, Houston, TX	do	June 14, 1997.
Houston-Galveston MSU 97–003	Offatts Bayou, Galveston, TX	do	May 3, 1997.
Louisville 97–003	Ohio River, Louisville, KY	do	Apr. 18, 1997.
Miami 97–015	Port Everglades, FL	do	Apr. 7, 1997.
Miami 97–018	do	do	Apr. 21, 1997.
Miami 97–021	do	do	Apr. 22, 1997.
Miami 97–030	do	do	June 16, 1997.
Mobile 97–001	Point Cadet, MS	Security Zone	May 4, 1997.
Mobile 97–006	Santa Rosa Bay, Fort Walton Beach, FL	Safety Zone	May 5, 1997.
Mobile 97–009	Back Bay, Biloxi, MS	do	May 10, 1997.
Mobile 97–010	Fort Walton Beach, FL	do	June 6, 1997.
Mobile 97–011	Demopolis, AL	do	do.
Mobile 97–013	St. Andrews Bay, Panama City, FL	do	June 22, 1997.
Morgan City 97–002	Lower Atchafalaya River M. 128 to M. 129	do	Apr. 8, 1997.
Morgan City 97–003	do	do	Apr. 17, 1997.
Morgan City 97–004	do	do	Apr. 19, 1997.
Morgan City 97–005	do	do	Apr. 30, 1997.
Morgan City 97–006	do	do	May 12, 1997.
New Orleans 97–008	Lower Mississippi River M. 225 to M. 238	do	Apr. 20, 1997.
New Orleans 97–011	Lower Mississippi River M. 94 to M. 95	do	May 6, 1997.
New Orleans 97–012	Lower Mississippi River M. 95 to M. 96.6	do	June 24, 1997.
New Orleans 97–013	Lower Mississippi River M. 92 to M. 83.5	do	June 20, 1997.
San Francisco Bay 97–003	San Pablo and San Francisco Bays, CA	do	June 13, 1997.
San Francisco Bay 97–004	do	do	June 20, 1997.
San Francisco Bay 97–005	San Francisco Bay, CA	do	June 23, 1997.
San Francisco Bay 97–006	San Pablo and San Francisco Bays, CA	do	June 22, 1997.
San Juan 97–013	San Juan, Puerto Rico	Security Zone	Apr. 3, 1997.
San Juan 97–029	do	Safety Zone	June 8, 1997.
Western Alaska 97–002	Kodiak Harbor, Kodiak, AK	do	June 12, 1997.

[FR Doc. 97–21031 Filed 8–7–97; 8:45 am]
BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–97–017]

RIN 2115–4497

Safety Zone Regulations; Thunder '97 Sprint Boat Race, Columbia River, Richland, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Thunder '97 Sprint Boat Race. The event will be held Saturday, August 9, 1997, through Sunday, August 10, 1997, from 10 a.m. (PDT) to 6 p.m. (PDT) each day. The Coast Guard, through this action, intends to promote the safety of spectators and participants during the event from the hazards associated with power boat racing, and to keep spectator vessels from interfering with the races. Entry into the safety zone is prohibited unless authorized by the Captain of the Port.

DATES: This temporary safety zone is effective on Saturday, August 9, 1997, and Sunday, August 10, 1997, from 9 a.m. (PDT) to 7 p.m. (PDT) each day.

FOR FURTHER INFORMATION CONTACT: Lt. T. G. Allan, c/o Captain of the Port, Portland, 6767 N. Basin Ave, Portland, Oregon 97217–3992, (503) 240–9327.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the area of the fireworks display. Due to the complex planning and coordination involved, the event sponsor, the Tri-City Watersports Association, was unable to provide the Coast Guard with notice of the final details until 30 days prior to the date of the event. Therefore, sufficient time was not available to publish a proposed rule in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures in this case would be impracticable.

Background and Purpose

The event requiring this regulation is the Thunder '97 Sprint Boat Races to be held on the Columbia River in Richland, Washington. The races are scheduled to begin on August 9, 1997, at 10 a.m. (PDT). This event may result in a large number of spectator vessels congregating near the race course. To promote the safety of both the spectators and participants, a safety zone is being established on all the waters of the Columbia River, in the vicinity of the Howard Amon Park from river mile 337.5 to river mile 338, Richland, Washington. Entry into this safety zone is prohibited unless authorized by the Captain of the Port. This action is necessary due to the safety hazards associated with race boats traveling at high speeds. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal, state, and local agencies.

Regulatory Evaluation

This temporary final 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that entry into the safety zone will only be restricted for twelve hours each day of the event, and that less than one mile of the waterway will be restricted. The entities most likely to be affected by this action are commercial ship, and tug and barge operators on the Columbia River. Most of these entities are aware of the regatta and the safety zone, and they can schedule their transits accordingly. If safe to do so, the representative of the Captain of the Port assigned to enforce this safety zone may authorize commercial vessels to pass through the safety zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule 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). For the reasons outlined in the Regulatory Evaluation above, the Coast Guard expects the impact of this final rule to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule contains 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 proposed 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 final rule and has concluded that, under section 2.B.2.c. of Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be made available in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T13014 is added to read as follows:

§ 165.T13–014 Safety Zone; Columbia River, Richland, WA.

(a) *Location.* The following area is a safety zone: All the waters of the Columbia River, in the vicinity of the Howard Amon Park from river mile 337.5 to river mile 338, Richland, Washington.

(b) *Definitions.* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at Coast Guard Group Portland, Oregon.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels or persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) *Effective date.* These regulations are effective from Saturday, August 9, 1997, through Sunday, August 10, 1997, from 9 a.m. (PDT) to 7 p.m. (PDT) daily, unless sooner terminated by the Captain of the Port.

Dated: July 24, 1997.

G.M. Webber,

Commander, U.S. Coast Guard Captain of the Port Acting.

[FR Doc. 97–20966 Filed 8–7–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–97–018]

RIN 2115–AA97

Safety Zone Regulations; Astoria Regatta Fireworks Display, Columbia River, Astoria OR

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Astoria Regatta Associations Inc.'s fireworks display being held in conjunction with the Astoria Regatta on the Columbia River in Astoria, Oregon. The event will be held on Saturday, August 09, 1997, from 9:30 p.m. (PDT) to 11 p.m. (PDT). The Coast Guard, through this action, intends to protect persons, facilities, and vessels from safety hazards associated with the fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

DATES: This temporary safety zone is effective from 9:30 p.m. (PDT) until 11 p.m. (PDT) on August 09, 1997.

FOR FURTHER INFORMATION CONTACT: LT T. G. Allan, c/o Captain of the Port, Portland, 6767 N. Basin Ave, Portland, Oregon 97217–3992, (503) 240–9327.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the area of the fireworks display. Due to the complex planning and coordination involved, the event sponsor, the Astoria Regatta Association Inc., was unable to provide the Coast Guard with notice of the final details until 30 days prior to

the date of the event. Therefore, sufficient time was not available to publish a proposed rule in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures in this case would be impracticable

Background and Purpose

The event requiring this regulation is a fireworks display sponsored by the Astoria Regatta Association Inc. The fireworks display is scheduled to begin on August 09, 1997, at 10 p.m. (PDT). This event may result in a large number of vessels congregating near the fireworks launching barge. To promote the safety of both the spectators and participants, a safety zone is being established on the waters of the Columbia River around the fireworks launching barge, and entry into this safety zone is prohibited unless authorized by the Captain of the Port. This action is necessary due to the possibility of debris and unexploded fireworks falling into the Columbia River in the vicinity of the launching barge. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal agencies.

Regulatory Evaluation

This temporary final 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that entry into the area covered by this safety zone will be restricted for less than 2 hours on the day of the event, and that less than 1 mile of the waterway will be restricted. The entities most likely to be affected by this action are commercial ship, and tug and barge operators on the Columbia River. Most of these entities are aware of the fireworks display and the safety zone, and can schedule their transits accordingly. If safe to do so, the representative of the Captain of the Port assigned to enforce this safety zone may authorize commercial vessels to pass through the safety zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule 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). For the reasons outlined in the Regulatory Evaluation above, the Coast Guard expects the impact of this final rule to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule contains 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 proposed 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 final rule and has concluded that, under section 2.B.2.c. of Commandant Instruction M16475.B, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be made available in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T13015 is added to read as follows:

§ 165.T13–015 Safety Zone; Columbia River, Astoria, OR.

(a) *Location.* The following area is a safety zone: All waters of the Columbia River bounded by a circle with a 1000-foot radius centered on a fireworks launching barge located at position 46°11′48″N latitude, 123°51′44″W longitude, in the vicinity of Astoria, Oregon. This safety zone represent an area approximately 450 yards north of the channel, between buoys 33 and 35. [Datum: NAD 83]

(b) *Definitions.* The designated representative of the Captain of The Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at Coast Guard Group Astoria, Oregon.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels or persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) *Effective dates.* These regulations become effective on August 09, 1997, at 9:30 p.m. (PDT) and terminate on August 9, 1997, at 11 p.m. (PDT), unless sooner terminated by the Captain of the Port.

Dated: July 24, 1997.

G. M. Webber,

Commander, U.S. Coast Guard, Captain of the Port Acting.

[FR Doc. 97–20967 Filed 8–7–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 05–97–063]

RIN 2115–AA97

Safety Zone: Delaware Bay, Delaware River

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Delaware Bay and Delaware River between the Delaware Breakwater and Marcus Hook, Pennsylvania. This safety zone is needed to protect vessels, the port community and the environment from potential safety and environmental hazards associated with the loading and transit of the T/V TARQUIN RANGER while it is loaded with more than 2% of its cargo carrying capacity of Liquified Hazardous Gas.

DATES: This rule is effective from 11:59 p.m. July 31, 1997, and terminates at 11:59 p.m. August 12, 1997.

FOR FURTHER INFORMATION CONTACT: Lt. S.A. Budka, Project Officer, U.S. Coast Guard Captain of the Port, 1 Washington Avenue, Philadelphia, PA 19147–4395, Phone: (215) 271–4889.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. The Coast Guard was informed by the owner/operator of the T/V TARQUIN RANGER on July 30, 1997 of the intended transit of the T/V TARQUIN RANGER along the Delaware River. Publishing a NPRM and delaying its effective date would be contrary to the public interest, since immediate action is needed to respond to protect the environment and vessel traffic against potential hazards associated with the transit of the T/V TARQUIN RANGER while it is loaded with Liquefied Hazardous Gas.

Discussion of the Regulation: This temporary rule establishes a safety zone in a specified area around the T/V TARQUIN RANGER while underway in the loaded condition and during cargo operations. The safety zone will be in effect during the T/V TARQUIN RANGER'S transit of the Delaware Bay and Delaware River and during cargo operations at the Sun Marcus Hook Refinery on the Delaware River, at Marcus Hook Pennsylvania. This temporary rule is intended to minimize the potential hazards associated with the transportation of Liquefied Hazardous Gas by a large tankship in heavily trafficked areas of the Delaware Bay and Delaware River as well as in the Ports of Philadelphia. Entry into this zone is prohibited unless authorized by the Captain of the Port, Philadelphia, PA. The Captain of the Port may impose certain restrictions on vessels allowed to enter the safety zone.

Regulatory Evaluation: This temporary 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 CFR 11040; February 26, 1979). The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Collection of Information: This temporary rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

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

Environment: The Coast Guard considered the environmental impact of this temporary rule and concluded that under section 2.B.2.e(34) of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

In consideration of the foregoing, the Coast Guard amends 33 CFR 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Section 165.T05–063 is added to read as follows:

§ 165.T05–063 Safety Zone: Delaware Bay and Delaware River from the Delaware Breakwater to Marcus Hook, PA.

(a) *Location:* The following area is a safety zone:

(1) All water within an area which extends 500 years on either side and 1000 yards ahead and astern of the T/V TARQUIN RANGER while the vessel is in the loaded condition and underway in the area of the Delaware River and Delaware Bay bounded by the Sun Marcus Hook Refinery on the Delaware River, at Marcus Hook, Pennsylvania and the Delaware Breakwater.

(2) All waters within a 200 yard radius of the T/V TARQUIN RANGER while it is moored at the Sun Marcus Hook Refinery on the Delaware River, at Marcus Hook, Pennsylvania.

(b) *Effective Dates.* This rule is effective from 11:59 p.m. July 31, 1997, and terminates at 11:59 p.m. August 12, 1997.

(c) *Definitions.* (1) *Captain of the Port* or *COTP* means the Captain of the Port of Philadelphia or any Coast Guard commissioned, warrant or petty officer authorized to act on his behalf.

(2) *Loaded Condition* means loaded with LHG that exceeds 2% of the vessel's cargo carrying capacity.

(d) No vessel may enter the safety zone unless its operator obtains permission of the Captain of the Port or his designated representative.

(e) As a condition of entry, the COTP may order that:

(1) All vessels operating within the safety zone must maintain a continuous radio guard on channels 13 and 16 VHF–FM while underway;

(2) Overtaking may take place only under conditions where overtaking is to be completed well before any bends in the channel. Before any overtaking, the pilots, masters, and operators of both vessels must clearly agree on all factors including speeds, time, and location of overtaking.

(3) Meeting situations on river bends shall be avoided to the maximum extent possible.

(4) The operator of any vessel in the safety zone shall proceed as directed by the Captain of the Port or by his designated representative.

(f) The senior boarding officer enforcing the safety zone may be contacted on VHF channels 13 & 16. The Captain of the Port of Philadelphia and the Command Duty officer at the Marine Safety Office, Philadelphia, may be contacted at telephone number (215) 271–4940.

Dated: July 31, 1997.

John E. Veentjer,

Captain, U.S. Coast Guard, Captain of the Port, Philadelphia, PA.

[FR Doc. 97–21029 Filed 8–7–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–97–063]

RIN 2121–AA97

Safety Zone: Albany Bicentennial Fireworks, Hudson River, Troy, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Albany Bicentennial Fireworks program. The safety zone will close all waters of the Hudson River, shore to shore, south of the Green Island Bridge and north of the Congress Street Bridge, Troy, New York. The safety zone is necessary to protect the maritime public from the hazards associated with fireworks launched from a barge in the Hudson River.

DATES: This final rule is effective from 8:45 p.m. until 10:15 p.m. on August 10, 1997.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Dave Gefell, Waterways Oversight Branch, Coast Guard Activities New York, (718) 354–4195, 212 Coast Guard Drive, Staten Island, New York 10305.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date that conclusive information for this event was received, there was insufficient time to draft and publish an NPRM. Following normal rulemaking procedures would cause the event to be delayed or cancelled and would be contrary to the public interest since the event is intended for public entertainment.

Background and Purpose

On July 15, 1997, the Albany Bicentenary Commission submitted an application to hold a fireworks program in the Hudson River for the purpose of celebrating the 200th birthday of the city of Albany. The safety zone prevents vessels from transiting this portion of the Hudson River, and is needed to protect mariners from the hazards associated with fireworks launched from a barge. This regulation establishes a temporary safety zone in all waters of the Hudson River, shore to shore, south of the Green Island Bridge and north of the Congress Street Bridge, Troy, New York. The safety zone is in effect from 8:45 p.m. until 10:15 p.m. on August 10, 1997.

Regulatory Evaluation

This temporary 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 not been reviewed 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. Although this regulation would prevent traffic from transiting this area, the effect of this regulation would not be significant. This finding is based on the following: the duration of the event is limited, the limited vessel traffic in the area, the event is at a late hour, and extensive, advance advisories will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this proposal 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 less than 50,000. For the reasons discussed in the Regulatory Evaluation section above, the Coast Guard expects this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule does not provide for a collection of information requirement under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

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

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T01–063, is added to read as follows:

§ 165.T01–063 Safety Zone; Albany Bicentennial Fireworks Display, Hudson River, New York.

(a) *Location.* All waters of the Hudson River, shore to shore, south of the Green Island Bridge and north of the Congress Street Bridge, Troy, New York.

(b) *Effective period.* This safety zone is in effect on August 10, 1997, from 8:45 p.m. until 10:15 p.m.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: August 1, 1997.

Richard C. Vlaun,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 97–21030 Filed 8–7–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300517; FRL–5731–7]

RIN 2070–AB78

Herbicide Safener HOE–107892; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for the inert ingredient, herbicide safener HOE–107892 (mefenpyr-diethyl) and its 2,4-dichlorophenyl-pyrazoline metabolites HOE–094270 and HOE–113225 in or on wheat grain and wheat straw. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the herbicide safener on wheat grain and wheat straw in North Dakota and Montana. This regulation establishes a maximum permissible level for residues of the Herbicide safener HOE–107892 in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerances will expire and are revoked on August 1, 1998.

DATES: This regulation is effective August 8, 1997. Objections and requests for hearings must be received by EPA on or before October 7, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300517], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300517], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300517]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Pat Cimino, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9357, e-mail: cimino.pat@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for the inert ingredient herbicide safener HOE–107892 (mefenpyr-diethyl) and its 2,4-dichlorophenyl-pyrazoline metabolites HOE–094270 and HOE–113225 in or on wheat grain and wheat straw at 0.01 and 0.05 ppm respectively. These tolerances will expire and are revoked on August 1, 1998. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq*., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq* . The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Herbicide Safener HOE–107892 (mefenpyr-diethyl) on Wheat Grain and Wheat Straw and FFDCA Tolerances

The North Dakota and Montana State Departments of Agriculture requested the use of PUMA 1EC Herbicide for control of green and yellow foxtail (pigeon grass) in durum wheat in North Dakota and Montana. The active ingredient in PUMA 1EC is fenoxaprop-ethyl which has tolerances established for uses on wheat. However, fenoxaprop-ethyl is phytotoxic to durum wheat without the addition of an inert ingredient safener. The herbicide safener HOE–107892 allows the active ingredient, fenoxaprop-ethyl, to control yellow and green foxtail without harming the durum wheat. Although HOE–107892 (mefenpyr-diethyl) is an inert ingredient, tolerances for residues from its use on foods/feeds are required by the FFDCA. EPA has authorized under FIFRA section 18 the use of the Herbicide safener HOE–107892 on wheat grain and wheat straw for control of green and yellow foxtail (pigeon grass) in North Dakota and Montana. After having reviewed the submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of the Herbicide safener HOE–107892 in or on wheat grain and wheat straw. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on August 1, 1998, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on wheat grain and wheat straw after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions EPA has not made any decisions about whether Herbicide safener HOE–107892 meets EPA's registration requirements for use on wheat grain and wheat straw or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of Herbicide safener HOE–107892 by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any States other than North Dakota and Montana to use this pesticide on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for Herbicide safener HOE–107892, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute'', ''short-term'', ''intermediate term'', and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High-end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute

risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all 3 sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup children 1-6 years old was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of the Herbicide safener HOE–107892 and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for HOE–107892 and its 2,4-dichlorophenyl-pyrazoline metabolites HOE–094270 and HOE–113225 on wheat grain and wheat straw at 0.01 and 0.05 ppm respectively. EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by Herbicide safener HOE–107892 are discussed below.

1. *Acute toxicity*. The Agency recommended using the NOEL of 100 milligrams per kilogram per day (mg/kg/day) based on abortions and fetal intrauterine deaths without morphological developmental effects, at the lowest effect level (LEL) of 250 mg/kg/day from the rabbit developmental study. This NOEL is used to evaluate the Margin of Exposure (MOE) from the acute dietary risk to pregnant women 13+ years or older.

2. *Short - and intermediate - term toxicity*. No short- or intermediate-term non-dietary, non-occupational exposure scenario exists for HOE–107892 because no uses currently exist for the safener and only agricultural uses are requested for these section 18s.

3. *Chronic toxicity*. For purposes of this section 18 request use only, EPA has established the RfD for Herbicide safener HOE–107892 at 0.01 mg/kg/day. The temporary RfD is based on the chronic toxicity/carcinogenicity study in mice with a NOEL of 3.0 mg/kg/day (20 ppm) and an uncertainty factor of 300 (due to the absence of full evaluation of the toxicology data base). At the LEL of 1.5 mg/kg/day (100 ppm), dose-related hepatocellular hypertrophy was present in male mice.

4. *Carcinogenicity*. The mouse and rat cancer studies with the safener have not been reviewed and classified by the Agency. Perusal of the cancer studies by the Agency indicates no identifiable cancer concern in the mouse study. However, a possible concern regarding the increased incidence of thyroid follicular cell adenomas and carcinomas combined at the highest dose tested of 5,000 ppm in the rat carcinogenicity study was identified. This study requires an in-depth review by the Agency. Until that time, it is not known if a cancer risk assessment is required or what method of quantification would be appropriate. Therefore, for purposes of these Section 18s, a cancer risk assessment will not be conducted.

B. Exposures and Risks

1. *From food and feed uses.* No permanent tolerances have been established for the inert ingredient herbicide safener HOE–107892. There are no indoor or outdoor residential uses registered for the safener. Risk assessments were conducted by EPA to assess dietary exposures and risks from Herbicide safener HOE–107892 as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The acute dietary exposure endpoints of concern for the herbicide safener HOE–107892 are abortions and fetal intrauterine deaths without morphological developmental effects, which were observed in the rabbit developmental study. The population subgroup of concern is pregnant females 13+ years old. Acute dietary exposure (food only) was calculated using the high end exposure value and TMRC (worst case) assumptions. Therefore, this risk assessment is considered conservative. Despite the potential for acute exposure to the herbicide safener HOE–107892 in drinking water, EPA does not expect the aggregate acute exposure to exceed the Agency's level of concern.

ii. *Chronic exposure and risk.* In conducting exposure assessments for these section 18 requests, EPA used tolerance level residues and assumed that 100% of the crop would be treated with the pesticide (TMRC worst-case analysis assumptions) as described above.

2. *From drinking water.* The Agency's Environmental Fate data base indicates that HOE–107892 is persistent in the environment and has little potential for soil mobility or leaching.

Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause Herbicide safener HOE–107892 to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with Herbicide safener HOE–107892 in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

3. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether Herbicide safener HOE–107892 has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, Herbicide safener HOE–107892 does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that Herbicide safener HOE–107892 has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* As discussed above, the acute dietary exposure endpoint of concern for HOE–107892 is abortions and fetal intrauterine deaths which were observed in the rabbit developmental toxicology study. For the U.S. populations subgroup of concern, females of childbearing age (13+ years old) , an MOE value of 10,000 was calculated using the high end human exposure value of 0.00006 mg/kg/day. The Agency generally considers MOEs over 100 acceptable. This acute dietary (food only) risk assessment used tolerance level residues and assumed 100% crop-treated (TMRC worst-case analysis, described above). Despite the potential for risk from acute exposure to HOE–107892 in drinking water, the Agency does not expect acute aggregate exposure to exceed its level of concern. EPA concludes that there is reasonable certainty that no harm will result from acute aggregate exposure to HOE–107892.

2. *Chronic risk.* Using the conservative TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to Herbicide safener HOE–107892 from food will utilize less than 0.01% of the RfD for the U.S. population and all population subgroups, including infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the

level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to Herbicide safener HOE–107892 in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to Herbicide safener HOE–107892 residues.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

Because no short- or intermediate-term non-dietary, non-occupational exposure scenario exists for HOE–107892, a short- or intermediate-term aggregate risk assessment is not required.

D. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*—a. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of Herbicide safener HOE–107892, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

b. *Developmental toxicity studies.* In the rat developmental toxicity study, the maternal (systemic) NOEL was 1,000 mg/kg/day (highest dose tested). The developmental (pup) NOEL was 1,000 mg/kg/day (highest dose tested).

In the rabbit developmental toxicity study, the maternal (systemic) NOEL of 100 mg/kg/day, was based on decreased body weight gain and food consumption, and abortions in the does at the LOEL of 250 mg/kg/day. The developmental (pup) NOEL was 100 mg/kg/day, based on intrauterine deaths of fetuses without morphological developmental effects at 250 mg/kg/day.

c. *Reproductive toxicity study.* In the rat reproduction study, the parental (systemic) NOEL was 75 mg/kg/day, based on decreased food consumption, body weight, increased spleen weights and increased splenic hematopoiesis at the LOEL of 396 mg/kg/day. The reproductive/developmental (pup) NOEL was 75 mg/kg/day, based on decreased body weight at the LEL of 396 mg/kg/day.

d. *Pre- and post-natal sensitivity.* The rabbit developmental study indicates a concern for pre-natal sensitivity for infants and children and an acute dietary risk assessment was required (discussed below, under acute risk) for pregnant females 13+ years of age. The results of the rat developmental study do not indicate any concerns for pre-natal sensitivity for infants and children. Both the maternal and developmental NOELs were 1,000 mg/kg/day (highest dose tested).

The results of the rat reproduction study did not demonstrate any concerns for post-natal sensitivity for infants and children. The parental and pup NOELs were both 75 mg/kg/day and at the LOELs of 396 mg/kg/day, the decrease in body weight in the pups was also seen in the parental animals.

e. *Conclusion.* Based on current toxicological data requirements, the data base for developmental and reproductive studies for HOE–107892 is complete. The Agency concluded that the developmental and reproductive findings in rats did not demonstrate any pre-natal or post-natal acute risk concerns for infants and children. The Agency concluded that the observed developmental effects in the rabbit study present a pre-natal acute risk concern for infants and children and that an acute risk assessment was required to evaluate a margin of exposure . The acute risk assessment is described in detail below.

2. *Acute risk.* The Agency concluded that the observed developmental effects in the rabbit study, abortions and fetal intrauterine death, present a pre-natal acute risk concern for infants and children. An acute dietary risk assessment evaluating margin of exposure (MOE) for women of childbearing age (13+ years old) is required when the Agency determines that there is a pre- or post- natal acute risk effect of concern. The acute dietary MOE for women of childbearing age is 10,000 based on the rabbit developmental NOEL of 100 mg/kg/day and the high end human exposure value of 0.00006 mg/kg/day. This MOE is much higher than the minimal acceptable MOE of 100 for acute exposure to food. Despite the potential for acute exposure to HOE–107892 in drinking water, the Agency does not expect acute aggregate exposure to exceed it level of concern. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to HOE–107892.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to Herbicide safener HOE–107892 from food will utilize less than 0.01% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to Herbicide safener HOE–107892 in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to Herbicide safener HOE–107892 residues.

4. *Short- or intermediate-term risk.* Because no short- or intermediate-term non-dietary, non-occupational exposure scenario exists for HOE–107892, a short- or intermediate-term aggregate risk assessment is not required.

V. Other Considerations

A. Metabolism In Plants and Animals

For purposes of the Section 18 use only, the nature of the residue for HOE–107892 in wheat is adequately understood. HOE–094270 was the major residue identified in grain, and HOE–094270 and HOE–113225 were the

major residues identified in straw. The residues of concern are HOE–107892 and its metabolites HOE–094270 and HOE–113225.

Because of the lack of quantifiable residues in wheat grain and straw, even at exaggerated treatment rates (up to 6.4x), and considering that this use is only for durum wheat, for purposes of this section 18 use only, the Agency will assume that there will be no quantifiable residues of the safener HOE–107892 or its metabolites in milk, meat, poultry or eggs resulting from this use.

The maximum theoretical concentration factors for wheat bran and shorts are 7.7 and 8.4x respectively. Because residues in wheat grain treated at the 6.4x rate were nondetectable (less than 0.01 ppm), for purposes of this section 18 use only, the Agency will assume that residues in processed wheat commodities will also be nondetectable (less than 0.01 ppm).

B. Analytical Enforcement Methodology

For purposes of this Section 18 use only, adequate enforcement methodology is available to quantify HOE–107892 and major metabolites in wheat grain and straw.

C. Magnitude of Residues

Combined residues of HOE–107892 , HOE–094270 and HOE–113225 are not expected to exceed 0.01 ppm in wheat grain and 0.05 ppm in wheat straw as a result of this Section 18 use. Secondary residues of HOE–107892 are not expected in animal commodities associated with this Section 18 use.

D. International Residue Limits

Italy has established a maximum residue limit (MRL) of 0.05 ppm in or on wheat grain for residues of HOE–109782.

VI. Conclusion

Therefore, tolerances are established for HOE–107892 (mefenpyr-diethyl) and its 2,4-dichlorophenyl-pyrazoline metabolites HOE–094270 and HOE–113225 in wheat grain and wheat straw at 0.01 and 0.05 ppm respectively.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 7, 1997, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Docket

EPA has established a record for this rulemaking under docket control number [OPP–300517] (including any comments and data submitted electronically). 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 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may 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.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408 (d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 180

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

Dated: July 24, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority : 21 U.S.C. 346a and 371.

2. Section 180.509 is added to read as follows :

§ 180.509 HOE–107892 (mefenpyr-diethyl); tolerance for residues.

(a) *General.* [Reserved]

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the herbicide safener HOE–107892 (mefenpyr-diethyl) and its 2,4-dichlorophenyl-pyrazoline metabolites HOE–094270 and HOE–113225 in connection with use of the herbicide safener under Section 18 emergency exemptions granted by the EPA. The tolerances will expire and are revoked on the dates specified in the following table:

Commodity	Parts per million	Expiration/revocation date
Wheat grain	0.01	August 1, 1998
Wheat straw	0.05	August 1, 1998

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 97–20844 Filed 8-7-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300522 FRL–5732–9]

RIN 2070–AB78

Myclobutanil; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of myclobutanil in or on tomatoes . This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on tomatoes. This regulation establishes a maximum permissible level for residues of myclobutanil in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on July 28, 1998.

DATES: This regulation is effective August 8, 1997. Objections and requests for hearings must be received by EPA on or before October 7, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300522], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300522], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP-300522]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9367, e-mail: ertman.andrew@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for combined residues of the fungicide myclobutanil, in or on tomato fruit at 0.3 part per million (ppm), tomato puree at 0.6 ppm and tomato paste at 1.2 ppm. These tolerances will expire and are revoked on July 28, 1998. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq*., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq* . The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Myclobutanil on Tomatoes and FFDCA Tolerances

The state of California requested a specific exemption for the use of myclobutanil on tomatoes to control powdery mildew (*Leveillula taurica*). Powdery mildew is a pathogen that was first identified as a problem on tomatoes in California in 1978. The applicant states that powdery mildew is endemic and well established throughout California and without the use of myclobutanil growers could incur severe economic damage to their crops. EPA has authorized under FIFRA section 18 the use of myclobutanil on tomatoes for control of powdery mildew in California. After having reviewed the submission, EPA concurs that emergency conditions exist for this state.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of myclobutanil in or on tomatoes. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on July 28, 1998, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on tomatoes after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions EPA has not made any decisions about whether myclobutanil meets EPA's registration requirements for use on tomatoes or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of myclobutanil by a state for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any state other than California to use this pesticide on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for myclobutanil, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD).

The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute'', ''short-term'', ''intermediate term'', and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High-end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all 3 sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants <1 year old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action,

EPA has sufficient data to assess the hazards of myclobutanil and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of myclobutanil in or on tomato fruit at 0.3 ppm, tomato puree at 0.6 ppm and tomato paste at 1.2 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by myclobutanil are discussed below.

1. *Short - and intermediate - term toxicity.* For short-term dermal Margin of Exposure (MOE) calculations, the Agency used the systemic NOEL of 100 mg/kg/day from a 21-day dermal toxicity study in rats. This dose was the highest tested in the study. The Agency did not identify an inhalation endpoint.

For intermediate-term MOE calculations, the Agency used the NOEL of 10 mg/kg/day from a 2-generation reproductive toxicity study in rats. At the lowest effect level (LEL) of 50 mg/kg/day, there were decreases in pup body weight, an increased incidence in the number of stillborns, and atrophy of the prostate and testes.

2. *Chronic toxicity.* EPA has established the RfD for myclobutanil at 0.025 mg/kg/day milligrams/kilogram/day (mg/kg/day). This RfD is based on a chronic feeding study in rats using a NOEL of 2.5 mg/kg/day and an uncertainty factor of 100. At the lowest observed effect level (LOEL) of 9.9 mg/kg/day there was testicular atrophy.

3. *Carcinogenicity.* Myclobutanil has been classified as a Group E chemical (no evidence of carcinogenicity for humans) by the Agency.

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.443) for the combined residues of myclobutanil [α-butyl-α-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile] plus its alcohol metabolite [α-(3-hydroxybutyl)-α-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile] (free and bound), in or on a variety of raw agricultural commodities at levels ranging from 5.0 ppm in cherries to 0.02 ppm in eggs. A tolerance has also been established (40 CFR 180.443(b)) for the combined residues of myclobutanil plus its alcohol metabolite (free and bound) and diol metabolite [α-(4-chlorophenyl)-α-(3,4-dihydroxybutyl)-1*H*-1,2,4-triazole-1-propanenitrile], in milk at 0.05 ppm. Risk assessments were conducted by EPA to assess dietary exposures and risks from myclobutanil as follows:

Chronic exposure and risk. In conducting this chronic dietary risk assessment, EPA has made somewhat conservative assumptions -- with the exception of bananas, all commodities having myclobutanil tolerances will contain myclobutanil and metabolite residues and those residues will be at the level of the established tolerance -- which results in an overestimate of human dietary exposure. For bananas an anticipated residue estimate was used. Percent crop-treated estimates were utilized for selected commodities included in the assessment. Thus, in making a safety determination for this tolerance, EPA is taking into account this partially refined exposure assessment.

The existing myclobutanil tolerances (published, pending, and including the necessary Section 18 tolerances) result in an Anticipated Residue Contribution (ARC) that is equivalent to the following percentages of the RfD:

Population Sub-group	ARC_{food} (mg/kg/day)	%RfD
U.S. population (48 states).	0.004255	17%
Nursing infants (<1 year old).	0.006359	25%
Non-Nursing Infants (<1 year old).	0.018836	75%
Children (1-6 years old).	0.011492	46%
Children (7-12 years old).	0.006910	28%
Northeast Region	0.004539	18%
Western Region	0.004848	19%
Hispanics	0.005049	20%
Non-Hispanic Others.	0.004425	18%

The subgroups listed above are: (1) the U.S. population (48 states); (2) those for infants and children; and, (3) the other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 states).

2. *From drinking water.* Myclobutanil is persistent and not considered mobile in soils with the exception of sandy soils. Data are not available for its diol metabolite. There is no established Maximum Contaminant Level for residues of myclobutanil in drinking water. No Health Advisory Levels for myclobutanil in drinking water have been established.

Chronic exposure and risk. Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause myclobutanil to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with myclobutanil in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

3. *From non-dietary exposure.* Myclobutanil is currently registered for use on the following residential non-food sites: outdoor residential and greenhouse use on annuals and perennials, turf, shrubs, trees, flowers. These uses do not constitute a chronic exposure scenario, but may constitute a short- to intermediate-term exposure scenario. However, EPA lacks sufficient residential-related exposure data to complete a comprehensive residential risk assessment for many pesticides, including myclobutanil.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might

include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether myclobutanil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, myclobutanil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that myclobutanil has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Chronic risk.* Using the partially refined exposure assumptions described above under ''Chronic Exposure and Risk'' and taking into account the completeness and reliability of the toxicity data, EPA has concluded that aggregate dietary exposure (food only) to myclobutanil will utilize 17% of the RfD for the U.S. population. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. EPA has determined that the outdoor registered uses of myclobutanil would not fall under a chronic exposure scenario. Despite the potential for exposure to myclobutanil in drinking water, using best scientific judgement EPA does not expect the aggregate exposure of food and water to exceed 100% of the RfD. The Agency concludes that there is a reasonable certainty that no harm will result from aggregate chronic exposure to myclobutanil residues.

2. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Although short-term exposure scenarios may be present, based on the lack of acute toxicological endpoints and the low percent of RfD occupied, in the best scientific judgement of the Agency, aggregate short- and intermediate-term risk will not exceed EPA's level of concern. Additionally, the Agency notes that there are no indoor residential uses of myclobutanil, thus indoor residential exposure is expected to be minimal.

D. Aggregate Cancer Risk for U.S. Population

Myclobutanil was classified by the Agency as a Group E chemical (no evidence of carcinogenicity for humans). Thus, a cancer risk assessment was not conducted.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— a. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of myclobutanil, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

b. *Developmental toxicity studies.* In the developmental study in rats, the maternal (systemic) NOEL was 93.8 mg/kg/day, based on rough hair coat, and salivation at the LOEL of 312.6 mg/kg/day. The developmental (fetal) NOEL was 93.8 mg/kg/day based on incidences of 14th rudimentary and 7th cervical ribs at the LOEL of 312.6 mg/kg/day.

In the developmental toxicity study in rabbits, the maternal (systemic) NOEL was 60 mg/kg/day, based on reduced weight gain, clinical signs of toxicity and abortions at the LOEL of 200 mg/kg/day. The developmental (fetal) NOEL was 60 mg/kg/day, based on increases in number of resorptions, decreases in litter size, and a decrease in the viability index at the LOEL of 200 mg/kg/day.

c. *Reproductive toxicity study.* In the 2-generation reproductive toxicity study in rats, the parental (systemic) NOEL was 2.5 mg/kg/day, based on increased liver weights and liver cell hypertrophy at the LOEL of 10 mg/kg/day. The developmental (pup) NOEL was 10 mg/kg/day, based on decreased pup body weight during lactation at the LOEL of 50 mg/kg/day. The reproductive (pup) NOEL was 10 mg/kg/day, based on the increased incidence of stillborns, and atrophy of the testes, epididymides, and prostate at the LEL of 50 mg/kg/day.

d. *Pre- and post-natal sensitivity*. The pre- and post-natal toxicology data base for myclobutanil is complete with respect to current toxicological data requirements. Based on the developmental and reproductive toxicity studies discussed above, for myclobutanil there does not appear to be an extra sensitivity for pre- or post-natal effects.

e. *Conclusion*. Based on the above, EPA concludes that reliable data support use of the standard 100-fold uncertainty factor and that an additional factor is not needed to protect the safety of infants and children.

2. *Chronic risk*. Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to myclobutanil from food ranges from 25% of the RfD for nursing infants (<1 year old), up to 75% for non-nursing infants (<1 year old). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to myclobutanil in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to myclobutanil residues.

V. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in plants is adequately understood. The residue of concern is myclobutanil plus its alcohol metabolite (free and bound), as specified in 40 CFR 180.443(a) .

B. Analytical Enforcement Methodology

An adequate enforcement method is available to enforce the established tolerances. Quantitation is by GLC using an Nitrogen/Phosphorus detector for myclobutanil and an Electron Capture detector (Ni^{63}) for residues measured as the alcohol metabolite available in PAM II or from the Agency.

C. Magnitude of Residues

Residues of myclobutanil and its alcohol metabolite are not expected to exceed 0.3 ppm in or on tomato fruit, 0.6 ppm in tomato puree or 1.2 ppm in tomato paste as a result of this Section 18 use. Secondary residues are not expected in animal commodities as no feedstuffs are associated with this Section 18 use. Meat/milk/poultry/egg tolerances have been established as a result of other myclobutanil uses.

D. International Residue Limits

There are no Codex, Canadian or Mexican residue limits established for myclobutanil and its metabolites on the commodities included in these Section 18 requests. Thus, harmonization is not an issue for these Section 18 actions.

E. Rotational Crop Restrictions

Information concerning the likelihood of residues in rotational crops is not available for myclobutanil. As tomato fields are normally rotated, the Agency concludes the following restriction should be added to the label for the requested Section 18: Rally treated fields can be rotated at any time to crops which are included on the Rally label. All other crops may be planted 1 year following applications of Rally Agricultural Fungicide.

VI. Conclusion

Therefore, the tolerance is established for combined residues of myclobutanil in or on tomato fruit at 0.3 ppm, tomato puree at 0.6 ppm and tomato paste at 1.2 ppm.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 7, 1997, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Docket

EPA has established a record for this rulemaking under docket control number [OPP–300522] (including any comments and data submitted electronically). 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 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may 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.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are

received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(d). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established under FFDCA section 408 (l)(6), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 180

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

Dated: July 24, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. In § 180.443, in paragraph (b), by revising the introductory text and alphabetically adding the following commodities to the table to read as follows:

§ 180.443 Myclobutanil; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the fungicide myclobutanil in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. These tolerances will expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/Revocation Date
* * *	* *	* *
Tomato, fruit	0.3	July 28, 1998
Tomato, paste	1.2	July 28, 1998
Tomato, puree	0.6	July 28, 1998
* * *	* *	* *

* * * * *

[FR Doc. 97–20846 Filed 8-7-97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50626A; FRL–5735–4]

RIN 2070–AB27

Modification of Significant New Use Rules for Certain Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is modifying significant new use rules (SNURs) for five substances promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for certain chemical substances based on new data. Based on the data the Agency determined that the SNURs should be modified.

DATES: This rule is effective September 8, 1997.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, telephone: (202)

554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), EPA proposed a modification to the SNURS for six chemical substances based on additional data received for those substances. The Agency is issuing the modification for five of these substances. EPA will issue a modification for the remaining substance after it reviews and responds to the comments received for its proposed modification.

I. Background

The Agency proposed the modification of the SNURs for these substances in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1). The background and reasons for the modification of the SNURs are set forth in the preamble to the proposed modifications. The Agency received no public comment concerning the proposed modification for these five substances. As a result, EPA is modifying these SNURs.

II. Rationale for Modification of the Rules

During review of the PMNs submitted for the chemical substances that are the subject of these modifications, EPA concluded that regulation was warranted based on the fact that activities not described in the section 5(e) consent order or the PMN may result in significant changes in human or environmental exposure. The basis for such findings is in the rulemaking records referenced in Unit III of this preamble. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and/or a SNUR was promulgated.

In light of the modification to a consent order, the data submitted in a PMN, or the data submitted in a SNUN, the Agency has determined that modifying these SNURs would not result in significant changes in human or environmental exposure. The modification of SNUR provisions for these substances designated herein is consistent with the provisions of the section 5(e) consent order or data submitted in the PMN/SNUN.

III. Rulemaking Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket number OPPTS–50626A (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

IV. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB). In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special considerations of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency hereby certifies that any promulgation of a SNUR, including this final rule, will not have a significant adverse economic impact on a substantial number of small entities. Because this certification is applicable to all SNURs, it will also serve as the generic certification for the promulgation of any SNUR and EPA will incorporate it by reference in future individual SNUR actions. In addition, this certification and rationale will be provided to the Chief Counsel for Advocacy of the Small Business Administration.

This certification is based on the following rationale. A SNUR applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a ''significant new use.'' By definition of the word ''new,'' and based on all information currently available to EPA, it appears that no small or large entities presently engage in such activity. Since a SNUR only requires that any person who intends to engage in such activity in the future must first notify EPA (by submitting a Significant New Use Notice (SNUN)), no economic impact will even occur until someone decides to engage in those activities. Although some small entities may decide to conduct such activities in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of over 530 SNURs, the Agency has received fewer than 15 SNUNs. Of those SNUNs submitted, none appear to be from small entities. In fact, EPA expects to receive few, if any, SNUNs from either large or small entities in response to any SNUR. Therefore, EPA believes that the economic impact of complying with a SNUR is not expected to be significant, or adversely impact a substantial number of small entities.

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid OMB control number. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burdens requiring additional OMB approval. The public reporting burden for this collection of information is estimated to average 100 hours per response. The burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

V. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: August 1, 1997.

Ward Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. Section 721.3764 is revised to read as follows:

§ 721.3764 Fluorene substituted aromatic amine.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a fluorene substituted aromatic amine (PMN P–91–43) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(iii), (a)(3), (a)(4), (a)(5)(iii), (a)(5)(iv), (a)(5)(v), (a)(5)(vi), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c). However, these requirements do not apply after the PMN substance is adhered onto film or incorporated into prepreg form (resin impregnated substrate).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(iv), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5) during manufacture.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l).

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a) through (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

3. Section 721.5225 is amended by revising paragraph (a)(2)(v) to read as follows:

§ 721.5225 Naphthalene, 1,2,3,4-tetrahycro(1-phenylethyl) (specific name).

(a) *Chemical substance and significant new uses subject to reporting.*
* * *

(2) * * *

(v) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (where n = 1).

* * * * *

4. Section 721.7046 is amended by revising paragraph (a)(1) to read as follows:

§ 721.7046 Formaldehyde, polymer with substituted phenols, glycidyl ether.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as formaldehyde, polymer with substituted phenols, glycidyl ether (PMN P–93–955) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply once the substance is a component of a highly densified tablet formulation of an epoxy molding compound.

* * * * *

5. Section 721.7210 is amended by revising paragraph (a)(1) to read as follows:

§ 721.7210 Epoxidized copolymer of phenol and substituted phenol.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as epoxidized copolymer of phenol and substituted phenol (PMN P–91–598) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply once the substance is a component of a highly densified tablet formulation of an epoxy molding compound.

* * * * *

6. Section 721.8350 is amended by adding paragraph (a)(2)(iv) to read as follows:

§ 721.8350 2-Propenoic acid, 7-oxabicyclo[4.1.0]hept-3-ylmethyl ester.

(a) *Chemical substance and significant new uses subject to reporting.*
* * *

(2) * * *

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

* * * * *

[FR Doc. 97–20980 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AD37

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Three Plants From the Channel Islands of Southern California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines *Cercocarpus traskiae* (Catalina Island mountain-mahogany), *Lithophragma maximum* (San Clemente Island woodland-star), and *Sibara filifolia* (Santa Cruz Island rockcress) to be endangered throughout their respective historical ranges on the Channel Islands of southwestern California, pursuant to the Endangered Species Act of 1973, as amended (Act). *Cercocarpus traskiae* is found primarily in coastal scrub habitats on Santa Catalina Island. *Lithophragma maximum* is found in rock crevices within coastal bluff scrub on San Clemente Island. *Sibara filifolia* is found on talus slopes in coastal scrub on San Clemente Island and may still occur on Santa Catalina Island, although the last sighting of the species on that island was in 1973. These plants are threatened by a variety of factors including grazing, fire, competition from non-native plant species, erosion, and hybridization. This rule implements the Federal protection provisions afforded by the Act for these three plant species.

DATES: Effective September 8, 1997.

ADDRESSES: The file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Carlsbad Field Office, 2730 Loker Avenue West, Carlsbad, California 92008.

FOR FURTHER INFORMATION CONTACT: Gail Kobetich, Field Supervisor, at the above address (telephone 760/431–9440; facsimile 760/431–9624).

SUPPLEMENTARY INFORMATION:

Background

Cercocarpus traskiae (Catalina Island mountain-mahogany), *Lithophragma maximum* (San Clemente Island woodland-star), and *Sibara filifolia* (Santa Cruz Island rockcress) are endemic to the Channel Islands of southern California. These three species are restricted primarily to San Clemente and Santa Catalina Islands. *Cercocarpus traskiae* is currently known only from Santa Catalina Island, although a single plant was discovered in the Santa Monica Mountains in 1993. *Lithophragma maximum* occurs on San Clemente Island. *Sibara filifolia* occurs on San Clemente and Santa Catalina Islands. *Sibara filifolia* was also historically found on Santa Cruz Island.

The Channel Islands are composed of igneous and sedimentary rocks that have been uplifted and folded by tectonic activity (Raven 1963, Thorne

1967, Schaffer 1993). The maritime climate of the islands is characterized by hot, dry summers and mild, wet winters with periodic severe droughts and frequent fog (Minnich 1980, Johnson 1980). The archipelago is made up of two chains of islands. The northern Channel Islands include the islands of San Miguel, Santa Rosa, Santa Cruz and Anacapa. The southern Channel Islands are San Nicholas, Santa Barbara, Santa Catalina and San Clemente (Raven 1967).

The Channel Islands are rich in endemic species as a result of their age and geographic isolation. A number of species have persisted on the islands, although their mainland counterparts have been extirpated by climatic change and other factors over geologic time (Raven 1963).

The decline of insular endemic species, including the three plants discussed herein, began before thorough botanical studies on the islands were completed. The original range and distribution of these endemics are speculative because their original habitats are now dominated by non-native plants. Although the Channel Islands have been occupied by humans for at least 10,000 years, non-native plants have only become naturalized on the islands since their introduction by Euro-Americans during the last 200 years. Overgrazing and trampling of native vegetation by domestic animals facilitated the spread of these non-native plants (Raven 1963, Raven 1967, Thorne 1967, Philbrick 1980). Severe erosion resulting from overgrazing was exacerbated by a series of droughts in the 1860's, the first of several periods of severe stripping of vegetation and soil on the islands (Johnson 1980).

San Clemente Island is the southernmost of the Channel Islands in California. Its terrain is marked by a broad, high plateau surrounded by deeply incised cliffs. The highest elevation on the 145 square kilometer (sq km) (56 square mile (sq mi)) island is 600 meters (m) (1,965 feet (ft)) (Power 1980). San Clemente Island contains the entire historical range of *Lithophragma maximum* and one of two known populations of *Sibara filifolia*.

Goats (*Capra hircus*) were present on San Clemente Island as early as 1827 (Dunkle 1950). The San Clemente Island Sheep and Wool Company leased that island from the U.S. Government from 1877 to 1934 (Raven 1963). The ownership of the island was subsequently transferred to the Department of Defense (Navy). Although the Navy eliminated sheep (*Ovis aries*) grazing in 1934, the goat population proliferated (Kellogg and Kellogg 1994). In addition, the California Department of Fish and Game (CDFG) introduced pigs (*Sus scrofa*) to the island in 1951 and mule deer (*Odocoileus hemionus*) in 1962 (Kellogg and Kellogg 1994). Populations of feral goats ranged from 15,000 to 20,000 about 1930 (Kellogg and Kellogg 1994). The Navy removed all feral goats and pigs by 1992, in an effort to preserve endemic flora and fauna (Kellogg and Kellogg 1994).

Santa Catalina Island is the largest of the southern Channel Islands, measuring 194 sq km (75 sq mi). The terrain is rugged and mountainous, with a maximum elevation of 648 m (2,125 ft) (Power 1980). Due to its proximity to the mainland, the flora of Santa Catalina Island is very similar to the flora of the mainland (Thorne 1967). Habitats on the island include oak woodlands, chaparral, coastal sage scrub, and grasslands (Minnich 1980). Santa Catalina supports the only known extant population of *Cercocarpus traskiae* and is part of the historical range of *Sibara filifolia* (Thorne 1967, Thorne 1969, Wallace 1985). The most recent find, the first in 70 years, of *Sibara filifolia* on Santa Catalina was in 1973. The voucher specimen is at the Rancho Santa Ana Botanic Garden Herbarium, but its existence remained unknown until 1996.

Santa Cruz is the largest of the northern Channel Islands measuring 250 sq km (96 sq mi) with a maximum elevation of 753 m (2,470 ft) (Power 1980). The north side of the island is mountainous and rugged; the topography of the southern side is gentle and rolling. The Nature Conservancy currently owns approximately 90 percent of Santa Cruz Island. The remainder is co-owned by the National Park Service (Schuyler 1987) and a private party. Santa Cruz Island is a historical location of *Sibara filifolia*, although the species has not been seen on the island since 1936.

Cercocarpus traskiae was first described by Alice Eastwood (1898) based on a specimen collected by Blanche Trask in 1897. Dunkle (1940) reduced *C. traskiae* to a variety of *C. betuloides*. Although Martin (1950) subsequently included this taxon as a variety of *C. montanus*, Munz and Keck (1959) retained it as *C. betuloides* var. *traskiae*. Munz (1935, 1968) returned *C. betuloides* var. *traskiae* to species rank, *C. traskiae*. Murray (1982) changed the rank of this taxon to a subspecies of *C. betuloides*; however, *C. traskiae* is currently recognized at the species level by both Munz (1974) and Lis (1993).

Cercocarpus traskiae, a member of the rose family (Rosaceae), is an evergreen shrub or small tree that flowers from March to May. The flowers lack petals and occur in clusters of 4 to 10. The hypanthium (floral structure derived from the fused lower portions of sepals, petals, and stamens) is densely white-woolly, and is approximately 7 to 14 millimeters (mm) (0.5 inch (in.)) long (Lis 1993). The fruit is an achene with a persistent plumose style, which dries in a spiral, typical of the genus. The leathery, clustered leaves are simple, serrate (toothed), and range from 2.5 to 6 centimeters (cm) (1 to 2.5 in.) long. The upper surface of the leaf is glabrous (smooth); the lower surface is densely white-woolly. *Cercocarpus betuloides* var. *blancheae* is relatively common on Santa Catalina Island, and is distinct from *C. traskiae* (Eastwood 1898, Cole and Lu 1979). It is differentiated from *C. traskiae* by the strigose (with stiff, sharp, appressed hairs) undersides of its leaves and by the pubescence of the floral tube. In addition, the leaves of *C. betuloides* var. *blancheae* are not leathery (Eastwood 1898, Lis 1993).

Cercocarpus traskiae is one of California's rarest trees. It is endemic to a particular soil type, derived from sausserite gabbro parent material (Martin 1984). On Santa Catalina Island, *C. traskiae* is currently only found in Wild Boar Gully, a steep-sided, narrow arroyo located in the southwestern portion of the island (Thorne 1967, 1969). *Cercocarpus traskiae* occurs there in coastal sage scrub containing *Eriogonum fasciculatum* (California buckwheat), *Salvia mellifera* (black sage), and *Rhus integrifolia* (lemonade berry). The Santa Catalina Island Conservancy (SCIC), a private corporation which owns 86 percent of the land on Santa Catalina Island, owns all of the habitat occupied by *C. traskiae*.

An estimated 50 individuals of *cocarpus traskiae*re identified from Wild Boar Gully when this taxon was originally discovered (Eastwood 1898). The population has since been reduced to six mature trees (Martin 1984, Rieseberg and Swensen 1996). The SCIC has planted *C. traskiae seedlings in test plots (Rieseberg et al.* 1989). The results of this planting are unknown at this time.

In 1993, a single individual of *Cercocarpus traskiae* was discovered in the Santa Monica Mountains by David Carroll (Rieseberg and Swensen 1996). Although additional individuals may exist in the Santa Monica Mountains, this taxon is not likely to be widespread or common. The single mainland specimen may represent a remnant of an ancestral or sister population of *C. traskiae*, or a hybrid between *C. traskiae* and the mainland variety, *C. betuloides*

var. *betuloides* (Rieseberg and Swensen 1996). It is also possible that this specimen was planted.

Lithophragma maximum was originally described by Rimo Bacigalupi (1963) as *L. maxima* based on a collection by Mrs. Nell Murbarger in 1936 on San Clemente Island. The specific epithet was later corrected to *L. maximum* (Bacigalupi 1979). Taylor (1965) was unaware of *L. maximum* at the time he published his monograph of the genus; however, *L. maximum* has been recognized by Munz (1968, 1974) and Elvander (1993).

Lithophragma maximum is a member of the saxifrage family (Saxifragaceae) and flowers from April to June. It is a rhizomatous, perennial herb with basal leaves and two or three stout flowering stems from 40 to 60 cm (16 to 24 in.) high. Each flower-bearing stem produces 20 or more white, campanulate (bell-shaped) flowers, each about 1 cm (0.5 in.) in length (Bacigalupi 1963). The leaves are palmately compound and arise from the base on slender petioles 15 cm (6 in.) long. *Lithophragma maximum* is differentiated from other species of *Lithophragma* by its trifoliolate compound leaves (Munz 1968, Elvander 1993).

Lithophragma maximum was thought to be extinct until it was rediscovered in 1979 in Bryce and Eagle Canyons by Mitch Beauchamp and Howard Ferguson (Bacigalupi 1979). The number of plants on the island found in Bryce Canyon has fluctuated from 5 to 15 plants since its rediscovery (Bacigalupi 1979, Beauchamp 1987, Mistretta 1992). Three of the 15 plants originally discovered in Eagle Canyon are believed to be extant at this time (Kellogg and Kellogg 1994). Sixteen additional plants were found in Near Death Canyon in 1991. There are currently only 11 known populations, all from the southeastern part of the island in deeply incised canyons. Approximately 200 plants were located during field surveys for this species in the spring of 1996 (M. Elvin, Rancho Santa Ana Botanic Garden, *in litt.* 1996; J. Stone, Naval Air Station, North Island, pers. comm. 1996). These plants were generally found at or near previously known sites.

Sibara filifolia was first collected by E. L. Greene in 1886 and described as *Cardamine filifolia* (Greene 1887a). Greene (1887b) later transferred it to *Arabis filifolia.* Greene (1896) proposed the new genus Sibara to accommodate this species. *Sibara* has been retained by Munz and Keck (1959), Munz (1968, 1974), and Rollins (1993).

Sibara filifolia is a slender annual herb in the mustard family (Brassicaceae) that flowers in April (Munz 1974). It is 13 to 38 cm (5 to 15 in.) tall. The flowers are pink to purplish with spoon-shaped petals 3 to 6 mm (1/8 to 1/4 in.) in length. The pinnately lobed leaves are 2.5 to 5 cm (1 to 2 in.) long, with narrow linear lobes. The fruit is a slender pod (silique), 1.5 to 3 cm (3/5 to 1 in.) long, that contains many wingless seeds. *Sibara filifolia* is distinct from *S. virginica,* which has narrowly winged seeds, and from *S. rosulata* and *S. deserti,* which have white petals. No other species of *Sibara* occur on the Channel Islands.

The type locality for *Sibara filifolia* is Santa Cruz Island (Greene 1887a). It was last seen on Santa Cruz Island in 1936 and was not relocated during the 1985 survey of the island. The species is thought to have once been common as well as wide ranging, because it was collected on two distant islands, Santa Catalina and Santa Cruz. Trask collected *S. filifolia* in 1901 on Santa Catalina Island where she reported it to be common in two locations (Thorne 1967). A more recent (1973) collection of *S. filifolia* from Santa Catalina Island came to light in 1996. Although the status of the population on Santa Catalina is not precisely known, the species has not been reported from there since 1973. M. Hoefs (Wrigley Botanical Garden, Catalina, pers. comm. 1996), one of the original collectors, did not relocate any specimens at the original site during a search for *Sibara filifolia* but noted that the habitat and associated species appear to be in good condition. Although *Sibara filifolia* has not been observed on Santa Catalina Island for 24 years, its extirpation has not been confirmed, and for that reason the Service believes there is a possibility that it still may be present there.

Sibara filifolia, originally known from historical collections on Santa Cruz Island and Santa Catalina Island, had never been known to occur on San Clemente Island until 1986 when two plants were discovered near Pyramid Head by Beauchamp (1987). Prior to this discovery, the species was thought to be extinct. The extent of its original range on San Clemente Island is unknown.

Sibara filifolia presently exists on San Clemente Island only on a sea terrace on the southern part of the island, near Pyramid Head. It grows on volcanic rock scree (talus) in association with *Opuntia prolifera* (cholla), *Selaginella bigelovii* (spike-moss), and *Lotus argophyllus* var. *adsurgens* (San Clemente Island birds-foot trefoil) (Beauchamp 1987, Elvin, *in litt.* 1996). This location conflicts with records of historical localities indicating that *S. filifolia* ''* * * is to be sought in shady places on the northward slope'' on Santa Cruz Island (Greene 1887a). There were fewer than 40 of these plants located on San Clemente Island in the 1996 season (Elvin, *in litt.* 1996; Stone, pers. comm. 1996). These plants were found on a dry rocky saddle with thin soil.

Previous Federal Action

Federal government action on all three of the plant taxa considered in this rule began as a result of section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, and presented to Congress on January 9, 1975, recommended *Cercocarpus traskiae* for endangered status, *Sibara filifolia* as threatened and *Lithophragma maximum* as extinct. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27823), of its acceptance of the report as a petition within the context of section 4(c)(2) of the Act (petition provisions are now found in section 4(b)(3)(A)), and of the Service's intention to review the status of the plant taxa named therein, including *C. traskiae, L. maximum* and *S. filifolia.* On June 16, 1976, the Service published a proposal (41 FR 24523) to list approximately 1,700 vascular plants as endangered species pursuant to section 4 of the Act. *Cercocarpus traskiae* and *Lithophragma maximum* were included in this **Federal Register** notice. Because the list contained only proposed endangered species, *Sibara filifolia* was not included.

General comments received in response to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** notice (43 FR 17909). A revision of the Smithsonian report was published in April 1978 as a book: *Endangered and Threatened Plants of the United States,* Smithsonian Institution and World Wildlife Fund, Washington, DC Acknowledgment of the Service's acceptance of this document as a petition was included in a notice of findings on certain petitions published in the **Federal Register** on February 15, 1983 (48 FR 6752). This document recommended endangered status for *Sibara filifolia, Cercocarpus traskiae,* and *Lithophragma maxima* [sic]. *Lithophragma maximum* was included, although it was considered extinct, because of the possibility it would be rediscovered. The 1978 amendments to the Endangered Species Act amendments required all proposals

over two years old to be withdrawn, although a one-year grace period was given to those proposals already more than two years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal for that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired.

The Service published a notice of review for plants in the **Federal Register** on December 15, 1980 (45 FR 82480). This notice listed the status of *Cercocarpus traskiae, Lithophragma maximum,* and *Sibara filifolia* as category 1 taxa. Category 1 taxa were taxa for which the Service presently had sufficient data in its possession to support preparation of listing proposals. *Sibara filifolia* was marked with an asterisk indicating a possibly extinct species. The status of the three species remained unchanged until February 21, 1990, when the Service published in the **Federal Register** a notice of review for plant taxa (55 FR 6183) in which *Sibara filifolia* was no longer considered possibly extinct, following its rediscovery on San Clemente Island. The status of the three species remained unchanged in a subsequent notice of review published by the Service in the **Federal Register** (58 FR 51143) on September 30, 1993. In the notice of review published by the Service on February 28, 1996 (61 FR 7595), *Cercocarpus traskiae, Lithophragma maximum,* and *Sibara filifolia* were listed as proposed endangered.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Cercocarpus traskiae* and *Lithophragma maximum* because the 1975 Smithsonian report had been accepted as a petition. On October 13, 1983, the Service found that the petitioned listing of these species was warranted, but precluded by other pending listing proposals of higher priority, pursuant to section 4(b)(3)(B)(iii), of the Act. Notification of this finding was published in the **Federal Register** on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The petition was reviewed in October of 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, and 1993.

On July 25, 1995 (60 PR 37988), the Service published a proposal to list *Cercocarpus traskiae, Lithophragma maximum,* and *Sibara filifolia* as endangered species. Publication of the proposed rule constituted the warranted finding for these species. The Service now determines *Cercocarpus traskiae, Lithophragma maximum,* and *Sibara filifolia* to be endangered species with the publication of this rule.

The processing of this final rule follows the Service's listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475). The guidance clarifies the order in which the Service will process rulemakings following two related events: (1) The lifting, on April 26, 1996, of the moratorium on final listings and critical habitat designations imposed on April 10, 1995 (Pub. L. 104–6), and (2) the restoration of significant funding for listing through passage of the omnibus budget reconciliation law passed on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. The guidance calls for prompt processing of final rules containing species facing threats of high magnitude. All three taxa in this rule face high magnitude threats.

Summary of Comments and Recommendations

In the July 25, 1995, proposed rule (60 FR 37987) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. The comment period closed on October 9, 1995. Appropriate State agencies, county and city governments, Federal agencies, scientific organizations, and other interested parties were notified for comment. Public notices announcing the publication of the proposed rule were published in the *San Diego Union-Tribune* and *The Outlook* on August 10, 1995. The Service received one letter of comment during the comment period. No request for a public hearing was received.

In accordance with interagency policy published on July 1, 1994 (59 FR 34270), the Service also solicited the expert opinions of three independent specialists regarding pertinent scientific or commercial data for taxa under consideration for listing. The purpose of such review is to ensure listing decisions are based on scientifically sound data, assumptions, and analyses, including input of appropriate experts and specialists. Lack of response to a request for review is assumed to constitute concurrence. No responses were received from the three independent specialists solicited.

The single letter of comment received specifically addressed the two plant taxa that occur on San Clemente Island. The comments have been organized into nine specific issues. The issues and the Service's responses are summarized as follows.

Issue 1: The commenter stated that *Lithophragma maximum* and *Sibara filifolia* are protected on San Clemente Island through limited access to their habitat as well as through active management.

Service Response: The factors affecting these species were discussed in the proposed rule (60 FR 37987). These included, but are not restricted to, loss of habitat from erosion induced or exacerbated by herbivore damage, and direct decline of the species from herbivore damage. Other natural or man-made factors were considered, including specifically, the presence of invasive exotic plant species, and fires induced by military activities which include bombing.

The Navy has removed the most destructive herbivores, goats and pigs, from San Clemente Island. No feral goats were evident as of June 1992 (Kellogg and Kellogg 1994). This action enhances the status of the native biota in general. It also will greatly improve the prospects for survival of *Lithophragma maximum, Sibara filifolia,* and other sensitive plants. However, both species remain threatened by human-caused fires, bombing, and the spread of invasive non-native plants. The remaining population of *Sibara filifolia,* for example, lies in close proximity to a target area where ship-to-shore bombardment occurs. Limited access to the two species' habitat will not completely alleviate these threats. The Service has not received any plans for the active management of these species.

Issue 2: The commenter suggested that *Lithophragma maximum* would benefit from protection afforded the endangered *Castilleja grisea* (San Clemente Island paintbrush) and *Lotus dendroideus* var. *traskiae* (Trask's Island lotus) because these species ''* * * are located in canyons with the San Clemente Island woodland-star.'' The commenter also asserted that similar protection was afforded *Sibara filifolia* because ''Rare taxa, including the cliff spurge (*Euphorbia misera*), island apple-blossom (*Crossosoma californica*), and San Clemente Island silver hosackia (*Lotus Argophyllus adsurgens*) were observed nearby.''

Service Response: According to Kellogg and Kellogg (1994), Elvin (pers. comm. 1996) and Stone (pers. comm. 1996), *Lithophragma maximum*

occasionally occurs with *Castilleja grisea,* but there is no consistent pattern. Distribution maps show that patterns of occurrence of *Lithophragma maximum, Castilleja grisea,* and *Lotus dendroideus* var. *traskiae* are not coincident over significant portions of their ranges (Kellogg and Kellogg 1994).

Although *Sibara filifolia* may occasionally occur near habitats occupied by rare plant taxa, none of these other taxa are known to be restricted to the same habitat as *Sibara filifolia.* In addition, none of the rare plant taxa mentioned are protected pursuant to the Act and, therefore, do not provide protection to other species found in the same area.

Issue 3: The commenter noted that there are nine historical sightings of *Lithophragma maximum,* and concluded that the Rare Plant Survey for San Clemente Island, set for 1996, would provide more definitive information on the status of the taxa. The commenter also noted that the difficulties associated with access to *L. maximum* locales and habitat may compromise status and distribution assessments of the species.

Service Response: This species apparently is extant at 11 sites on San Clemente Island (Stone, pers. comm. 1996). These sites include three newly discovered sites (Elvin, pers. comm. 1996) and omit a previously reported site of doubtful validity. Based on the Rare Plant Survey and other information available to the Service, the total recorded range is about 4 km (2.5 mi) along the east coast of San Clemente Island, rather than the 7 mi cited by the commenter. A purported historical occurrence of *Lithophragma maximum* at Lemon Tank, near the middle of the island, stems from a confusion between two collections cited by Raven (1963). A collection of *L. maximum* made by Murbarger in 1936 did not identify a specific locality (Bacigalupi 1963), but rather ‘‘ * * * a single canyon on the East side [of the island].’’ Raven (1963) also listed a collection made by Munz at Lemon Tank under *L. maximum* noting that the specimen, which Munz called *Heuchera* in his field notes, was lost. Elvin (pers. com. 1996) believes that the habitat within Lemon Tank is unsuitable for *L. maximum.* Therefore, the evidence to support consideration of Lemon Tank as a historical locality is insufficient.

Recent field work focused, in part, on *Lithophragma maximum* has resulted in the identification of about 200 individuals on San Clemente Island. Although, this estimate does not take into account populations in those canyons not surveyed in 1996, the species is known to exist in low numbers of individuals in a few scattered localities. The Interim Report, Sensitive Plant Status Survey by Junak and Wilken (*in litt.* 1996) does not provide any new information regarding the condition of *Lithophragma maximum,* its microhabitat preferences, or biology. This species occupies grassy benches in steep canyons, and its habitat is subject to loss from increased erosion from natural causes and loss of vegetation cover from fires.

The number of known populations of *L. maximum* is low (11) as is the total number of individuals. Most plant populations are genetically differentiated from one another and maintenance of this diversity is vital to the survival of rare plants (Barrett and Kohn 1991). *Lithophragma maximum* is, therefore, likely to be quite susceptible to genetic stresses (Barrett and Kohn 1991).

Issue 4: The comment was made that two plants of *Sibara filifolia* were discovered on San Clemente Island in 1986 and 50 to 350 plants were found at the site in 1992.

Service Response: Staff of Rancho Santa Ana Botanic Garden conducted field surveys in the Guds region, at the southeast end of the island, in 1996. Sites of previously known populations that had burned in 1995 were surveyed (Stone, pers. comm. 1996). Although no individuals were found at known, previously occupied sites, fewer than 40 plants were found at a new, nearby site. Because the plants were found in an area with thin soil, their seeds may not survive fire (Elvin, pers. comm. 1996). As evidenced by the drastically lower number of individuals from the 1992 estimates to the 1996 counts, this species appears to be susceptible to environmental events, such as fire.

Currently no estimate of the long-term effects of small population size or adverse environmental events exist for plant species (Huenneke 1991). Further, there is no evidence that the plants observed were the result of the germination of the entire seed bank from the previous year. Nevertheless, given the fire history and disturbance pattern of the island and the small number and location of extant plants, this species remains in danger of extinction.

Issue 5: The commenter disagreed that the abundance of exotic plants adversely affects the native plant species of the island and contributes to their slow recovery. The commenter pointed out that the Navy has implemented a native bunchgrass restoration program. This action has resulted in a weed eradication implementation plan. The annual grass, *Avena barbata* (slender wild oat) was mentioned as the eradication target. Eradication of this species is to be followed by reseeding with native bunchgrasses.

Service Response: Exotic plants occur in abundance on San Clemente Island. Exotic species such as *Amsinkia intermedia,* and *Bromus diandrus* occur near *Lithophragma maximum* and may compete with this plant for space or resources, or may otherwise affect the persistence of this species. Exotic species are not abundant on the thin rocky soils currently occupied by *Sibara filifolia,* but do occur on other soil types that historically may have supported this species. Exotic species such as *Avena barbata* could restrict the expansion of the *S. filifolia* population, as they occupy potential habitat for this species.

While the Service is interested in providing input to restoration efforts that may benefit listed or sensitive species, the Service has not received or reviewed the Navy native bunchgrass restoration program or weed eradication implementation plan mentioned by the commenter. Such programs may benefit listed species, however the target weed species, *Avena barbata,* does not occur in the habitat types of *Lithophragma maximum* or *Sibara filifolia,* and neither species are bunchgrasses. Therefore, the weed eradication and native bunchgrass restoration described in the comment letter are not expected to reduce threats to *L. maximum* or *S. filifolia.*

Issue 6: The commenter noted that the proposed rule states that Service-proposed mitigation measures were not adequately implemented. The commenter argued that ‘‘[i]n most instances Service comments result in direct modification of projects and implementation of appropriate mitigation measures.’’ The commenter further noted that a fire management plan and a native bunchgrass restoration program have been implemented.

Service Response: Most of the current impacts to sensitive plant species on San Clemente Island are related directly or indirectly to current human activities. Prior to 1996, the Navy avoided sensitive habitats through an internal site approval process, but did not coordinate with the Service on some programs and projects that had potential effects on listed species. Military activities associated with ongoing training could have long lasting effects on sensitive plant taxa on San Clemente Island. The potential impacts of these activities must be adequately assessed and appropriate mitigation incorporated.

Issue 7: The commenter contended that fire, bombardment, and bulldozing are minimal threats to *Lithophragma maximum* given the fact that the species grows in canyon bottoms. The commenter concluded that bulldozer use is precluded in canyon bottoms and noted that the shore bombardment area (SHOBA) is located on the opposite side of the island. The commenter stated that the same factors hold true for *Sibara filifolia,* although no specific information was provided. The commenter further stated that the Service had misrepresented the threat of fire to the species because of the location of the taxa and the low density of potential fuels.

Service Response: As was discussed previously under Issue 4, a 1995 fire may have eliminated the populations of *Sibara filifolia* known to be extant on San Clemente Island prior to 1996. Based on the history of this species, even if all currently and previously known populations are extant, the total number of individuals present in 1997 would likely be no more than a few hundred. Although the bombardment target areas are on the other side of the island from *S. filifolia* and *L. maximum* populations, the area delineated as the SHOBA includes the entire southern end of the island. No bulldozing activities currently take place or are planned on the sea terraces near the *Sibara filifolia* sites (Stone, pers. comm. 1996), therefore, bulldozing currently remains a minimal threat to *Sibara filifolia.* However, if bulldozing is employed for access or fire suppression, the effects of such an action could easily eliminate the *S. filifolia* population. Fires or bulldozing can also lead to increased erosion above the steep canyons and induce habitat loss for *Lithophragma maximum.* Fires near the upper ends of the canyons could also destroy the dense shrub cover of *Rhus integrifolia* (lemonade berry) and *Prunus ilicifolia* ssp. *lyonii* (Catalina cherry) which often provide cover for *L. maximum* (G. Allan, *in litt.* 1996; Elvin, *in litt.* 1996).

Issue 8: In response to the threat posed by military-associated fires, the commenter contended that the Navy is actively implementing a fire management plan and that fuel breaks had been created around target sites in the SHOBA. According to the commenter, although the Fire Management Plan (FMP) is still being prepared it will prohibit military training using pyrotechnics or live firing during the fire season.

Service Response: The suppression measures recently proposed by the Navy should decrease the spread and severity of wildfires at the southern end of San Clemente Island. However, wildfires and prescribed fires will continue to pose a threat to *Sibara filifolia,* which could be destroyed by fire, as evident from the destructive 1995 fire. Fires could also cause significant loss of vegetative cover and result in increased erosion in the canyon habitats of *Lithophragma maximum.* The development and implementation of a fire management plan will be an integral part of any strategy to protect *L. maximum, S. filifolia,* and the other sensitive biota on the island.

Although some of the vegetation on the island is recovering well after removal of the feral goats, their removal may also allow for a general increase in previously browsed exotic vegetative cover and thus increase the severity of any fire in the area. *Sibara filifolia* apparently has not increased in abundance since feral goat removal (O. Mistretta, Rancho Santa Ana Botanic Garden, *in litt.* 1996).

Issue 9: The commenter recommended postponement of listing or evaluation until the rare plant survey is completed to provide more definitive information on the status of *Lithophragma maximum* and *Sibara filifolia* on San Clemente Island.

Service Response: Following publication of the proposed rule and receipt of the commenter's letter, Junak and Wilken (*in litt.* 1996) conducted the requested rare plant survey and provided results and pertinent discussion to the Service. Based on a review of the interim rare plant survey and other information available to the Service, it is unlikely that finalization of the document will provide significant information indicating that *Lithophragma maximum* and *Sibara filifolia* are more widespread or less vulnerable than previously believed.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Cercocarpus traskiae, Lithophragma maximum,* and *Sibara filifolia* should be classified as endangered species. Procedures found at section 4 of the Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cercocarpus traskiae* Eastw. (Catalina Island mountain-mahogany), *Lithophragma maximum* Bacigal. (San Clemente Island woodland-star), and *Sibara filifolia* (Greene) Greene (Santa Cruz Island rockcress) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Their Habitat or Range

In general, feral animals have caused a loss of habitat for endemic species on all the Channel Islands. Defoliation from overgrazing caused increased erosion resulting in loss of topsoil and the formation of incised canyons (Kellogg and Kellogg 1994). The loss of soil organic matter, and reduction of soil nutrient cycling and water-holding capacity promoted the invasion of non-native plants.

The decline of the native flora of Santa Catalina Island began with the proliferation of introduced herbivores. Goats were introduced to the island as early as 1827 (Thorne 1967). Goats are known to consume coarse vegetation such as shrubs and trees, including *Cercocarpus traskiae* (Coblentz 1980). Sheep ranching became important on the island in the 1850's (Minnich 1980). Sheep eat herbaceous vegetation that would have included *Sibara filifolia.* Other non-native herbivores introduced to Santa Catalina Island included pigs, bison, and deer. Pigs uprooted seedlings and soil in some canyons and may have impacted both *Sibara filifolia* and *Cercocarpus traskiae* (Thorne 1967).

Although the Santa Catalina Island Company eliminated sheep grazing in the 1950's (Thorne 1967), the population of feral goats and pigs continued to increase. A goat and pig management program has reduced the number of feral herbivores, but the threat to native species still remains (Dave Garcelon, Institute For Wildlife, Santa Catalina Island, pers. comm. 1994) (see Factor C). Pigs continue to degrade the habitat of *Cercocarpus traskiae* on Santa Catalina Island by preventing surface litter from accumulating. Surface litter holds moisture and seeds on the steep slopes. Pigs also create a network of bare trails with compacted soils. The vegetation loses its tiered, overlapping structure because shrubs become isolated by surrounding trails (Martin 1984). A noticeable increase in seedlings of all types have been observed since the numbers of pigs and goats have declined (Rieseberg and Swensen 1996).

San Clemente Island is currently used as an artillery practice range and as a ship-to-shore bombing area (Kellogg and Kellogg 1994). Fires due to natural events or as a result of military activities can significantly decrease the plant cover. This can lead to increased

erosion, which is a serious, persistent problem on the island (Kellogg and Kellogg 1994). An indirect effect of fire is the possible alteration of the climax vegetation components and associated habitat. The direct effects of fire on the plant populations is discussed under Factor E.

The decline of the flora on Santa Cruz Island, including extirpated populations of *Sibara filifolia,* is primarily due to overgrazing by sheep and other non-native herbivores. Sheep, cattle, and horses were introduced to Santa Cruz Island in 1853; pigs may have been introduced at the same time (Brumbaugh 1980). The population of sheep has ranged from 20,000 to 50,000 or more (Brumbaugh 1980, Schuyler 1987). Cycles of defoliation and erosion are evident in the stratigraphic studies of deposits from debris slides and correlate with the introduction of sheep to the island and periods of drought (Brumbaugh 1980). Most feral herbivores have been removed, but pigs remain and sheep currently remain on the east end of the island (see Factor C).

B. Overutilization for Commercial, Recreational, or Educational Purposes

Due to their extreme rarity on Santa Catalina Island, *Cercocarpus traskiae* and *Sibara filifolia* may become vulnerable to collecting on the island as a result of increased publicity following the publication of a listing proposal and final rule. The rarity of *C. traskiae* and *S. filifolia* suggests that any unauthorized collection or even unintentional overutilization could result in extinction or extirpation. The focus of many evolutionary biologists on the biology of islands (Rieseberg and Swensen 1996) ensures that interest in these insular species will continue, necessitating careful control over access to known or potential localities on the islands of Santa Catalina and Santa Cruz. Overutilization is not known to be applicable for *Lithophragma maximum* and *Sibara filifolia* on San Clemente Island, where public access is restricted by the Navy.

C. Disease or Predation

Feral herbivores continue to threaten the survival of *Cercocarpus traskiae* (and, probably, *Sibara filifolia*) on Santa Catalina Island and threaten the possible reappearance of *Sibara filifolia* on Santa Cruz Island. Non-native mule deer and goats likely consume endemic plants including *Cercocarpus traskiae.* Severe browsing may kill plants directly and prevent successful reproduction by surviving individuals (Thorne 1967).

The decline of *Cercocarpus traskiae* is primarily due to grazing by feral goats and pigs. Pigs are limiting the recovery of *C. traskiae* because they uproot new seedlings while searching for food. Previously these animals nearly drove this taxon to extinction (Rieseberg *et al.* 1989). Fencing was installed around two individuals in the late 1970s (Rieseberg 1991). In 1985, this fencing was improved and enlarged to exclude pigs, and perimeter fencing was added to limit access by other non-native animals (Rieseberg 1991). As a result, seedling counts increased from 1 in 1984 to 70 seedlings in 1988 (Rieseberg 1991). In 1994, however, a total of only 54 seedlings was found. Most of the *C. traskiae* trees do not have individual pig-proof fencing around them and the perimeter fencing does not exclude pigs. Approximately 2,000 pigs remained on Santa Catalina Island at the time of publication of the proposed rule. It appears that the SCIC pig removal program has waned since 1994; the current estimate of the numbers of pigs on Santa Catalina Island is 2,000 to 3,000 animals (Garcelon, pers. comm. 1996).

Although managers for the SCIC have removed more than 8,000 goats from the island, 300 to 400 goats remained on the island at the time of publication of the proposed rule in 1994. Due, in part, to decreased management since 1994, the current estimate of the goat population on Santa Catalina Island is up to 1,000 to 1,500 animals (Garcelon, pers. comm. 1996). Similarly, populations of introduced mule deer are increasing, currently estimated at 500 to 700 animals. Although reduced predation by goats resulted in successful basal sprouting of *Cercocarpus traskiae,* a continued increase in goat and deer populations would likely reverse this trend. Perimeter fencing along Wild Boar Gully limits the access of deer and goats to *Cercocarpus traskiae,* but it does not entirely exclude them.

Sibara filifolia may have been extirpated from Santa Cruz Island by overgrazing. Although some areas have been fenced, sheep and pigs continue to re-invade these areas and their numbers appear to be increasing. Although *Sibara filifolia* could be rediscovered on Santa Cruz Island, grazing by non-native animals may prevent its re-establishment or proliferation.

D. The Inadequacy of Existing Regulatory Mechanisms

Existing regulatory mechanisms that could provide some protection for *Cercocarpus traskiae, Lithophragma maximum,* and *Sibara filifolia* include: (1) Listing under the California Endangered Species Act (CESA); (2) the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA); (3) the Act in those cases where these taxa occur in habitat occupied by other listed species; and (4) local laws and regulations.

State and Local Laws, Regulations, and Ordinances: The California Fish and Game Commission has listed *Cercocarpus traskiae* and *Lithophragma maximum* as endangered under the Native Plant Protection Act (NPPA) (Division 2, chapter 10, section 1900 *et seq.* of the California Fish and Game (CFG) Code) and the CESA (Division 3, chapter 1.5, section 2050 *et seq.*). Although NPPA and CESA prohibit the ''take'' of State-listed plants (chapter 10, section 1908 and chapter 1.5, section 2080, CFG Code), these existing statutes appear to be inadequate to protect against the taking of such plants via habitat modification or land use change by the landowner. After the CDFG notifies a landowner that a State-listed plant grows on his or her property, the CFG Code requires only that the landowner notify the agency ''at least 10 days in advance of changing the land use to allow salvage of such plant'' (chapter 10 section 1913). *Sibara filifolia* is not State-listed and has no protection under these laws.

The CEQA (California Public Resources Code, section 21000 *et seq.*) requires that the potential environmental impacts of proposed projects be disclosed to the public. The public agency with primary authority or jurisdiction over the project is designated as the lead agency, and is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. Section 15065 of the CEQA Guidelines requires a finding of significance if a project has the potential to ''reduce the number or restrict the range of a rare or endangered plant or animal.'' Once significant impacts are identified, the lead agency may either require mitigation or determine that ''overriding social and economic considerations'' make mitigation infeasible (California Public Resources Code, Guidelines, section 15093). In the latter case, projects may be approved that cause significant environmental damage, such as destruction of endangered plant species or their habitat. Small projects on private lands, such as road building or fence installation, often qualify for exemption under CEQA as categorically exempt activities. Also, ''negative declarations'' can allow a State agency to overlook the existence of listed plants at project sites.

The majority of the occurrences of these species are on Federal land and

are not subject to CEQA. *Cercocarpus traskiae* and the Santa Catalina Island occurrence of *Sibara filifolia* are on private land owned by the SCIC and subject to the provisions of CEQA. Regardless, the Service does not anticipate future project proposals that may adversely affect listed species because SCIC lands are dedicated for conservation purposes. However, the current threats posed by the naturally expanding feral goat, pig, and mule deer populations on Santa Catalina Island would not be addressed by CEQA review.

Federal Laws and Regulations: Candidate or other sensitive species may be afforded protection if they exist with species already listed as threatened or endangered under the Act. However, the ''Recovery Plan for the Endangered and Threatened Species of the California Channel Islands' (Service 1984) was prepared prior to the rediscovery of *Sibara filifolia* on San Clemente Island. The plan also did not include specific measures designed to protect *Lithophragma maximum*. Although *Castilleja grisea,* a listed species, occasionally occurs with *Lithophragma maximum,* this situation is not consistent or widespread (Stone, pers. comm. 1996). The locations of the extant populations of the three species which are the subject of this rule do not consistently coincide with those of other federally listed plant or animal species on the islands (Kellogg and Kellogg 1994; Elvin, pers. comm. 1996). Therefore, Federal protection under the Act does not currently extend to these three species. Although the Navy has removed herbivores that were adversely affecting some of the listed taxa from San Clemente Island, natural threats and direct and secondary impacts from activities such as fires, bombing, and bulldozing continue (Kellogg and Kellogg 1994; Mistretta, pers. comm. 1996; Elvin, *in litt.* 1996).

The Service acknowledges the efforts of the Navy to reduce the likelihood and spread of wildfires on San Clemente Island. The primary target area at China Canyon will be defoliated to reduce fuel loads on-site to prevent the spread of fire into San Clemente Island loggerhead shrike (*Lanius ludovicianus mearnsi*) habitat. No incendiary devices will be used at this site during the period of the fire season that overlaps with the breeding season of the shrike. In addition, a firebreak will be created upslope from the defoliated target area. The secondary target area at Pyramid Cove is used infrequently, but the Navy will also defoliate a portion of this area. Only those defoliated areas will be used during the fire season. These measures, when fully implemented, will reduce the chance of wildfires. However, the number of plants of *Sibara filifolia* and *Lithophragma maximum* are so low that fire remains a threat to their persistence and recovery. An existing agreement between the U.S. Forest Service and the Navy to provide mutual support to suppress wildfires will add a level of protection beyond existing conditions. The Forest Service will provide aerial resources for fire fighting; however, the difficulties associated with getting firefighting equipment to island locations and the possible occurrence of concurrent fires on the mainland, especially during fire season, may limit the benefits of this agreement. Details of the San Clemente Island fire management plan, as they pertain to *Sibara filifolia* and *Lithophragma maximum* remain unresolved.

Like CEQA, NEPA requires disclosure of the environmental effects of projects under Federal jurisdiction. *Sibara filifolia* and *Lithophragma maximum* are found on San Clemente Island, which is federally owned. However, under NEPA, the Service's comments are only advisory. Project proponents are not required to necessarily avoid, minimize, or mitigate impacts to these species under NEPA.

E. Other Natural or Manmade Factors Affecting Their Continued Existence

As a consequence of habitat degradation on the islands, the proportion of invasive exotic plant species to native and endemic species has increased. On San Clemente Island, 98 species of alien plants are currently known (Kellogg and Kellogg 1994). Of these alien plants, ten were noted in 1886 (Lyon 1886), 66 in 1963 (Raven 1963), and 81 in 1985 (Wallace 1985). The abundance of exotic plants continues to adversely affect the endemic plant species of the island and contributes to their slow recovery from previous predation by feral animals (Kellogg and Kellogg 1994; Mistretta, *in litt.* 1996). The disparity between the reported historical occurrences of *Sibara filifolia* on shady north-facing slopes and the current presence of the species on grass-free, south-facing slopes, suggests that alien grasses may prevent the expansion of *S. filifolia* into otherwise suitable habitat (Greene 1887a, Kellogg and Kellogg 1994).

Lithophragma maximum is thought to have existed on the plateau area of San Clemente Island before the introduction of non-native grasses (Kellogg and Kellogg 1994). The remaining habitat of *L. maximum* persists only within steep canyons. Erosion threatens not only the individual plants but the entire habitat that supports them. During the winter of 1979–1980, large portions of canyon walls were observed to have sloughed taking large numbers of endemic plants with them. (Beauchamp and Ferguson 1980).

Fires, some apparently related to military activities, and erosion have contributed to the decline of *Lithophragma maximum, Sibara filifolia,* and other native species endemic to San Clemente Island and continue to threaten their existence (Kellogg and Kellogg 1994; Elvin, *in litt.* 1996; Mistretta, *in litt.* 1996). The natural fire frequency of San Clemente Island is not known and fire is not definitely known to be the primary mechanism of natural disturbance on the island (Kellogg and Kellogg 1994). Keeley (1982) found that the natural occurrence of fire increased with elevation and distance away from the coast (further inland); two factors that would point away from natural fire being a common occurrence on islands. Considerable fire damage apparently destroyed the known population of *Sibara filifolia* on San Clemente Island in 1995 (Stone, pers. comm. 1996; Mistretta, *in litt.* 1996). Chance fires could drastically reduce or eliminate all of the remaining individuals of the species and destroy the seed bank as well, preventing reestablishment of the last confirmed extant population (Elvin, *in litt.* 1996).

Fire destroys vegetative cover to varying degrees, which can lead to secondary effects such as increased soil instability and erosion. Degraded plant communities can result in excessive erosion (Kellogg and Kellogg 1994), particularly for areas near canyons where changes in hydrologic patterns may result from enlarged bare areas above canyon walls. Increased runoff can lead to slope failure and slumping of material into canyon bottoms. As stated above, erosion of steep canyons on San Clemente Island threatens *Lithophragma maximum* and may be exacerbated by fire in the surrounding areas.

On Santa Catalina Island, *Cercocarpus traskiae* would likely suffer high mortality from fire. Members of the genus *Cercocarpus* are long-lived, a trait typical of shrubs in low fire frequency areas (Minnich 1980). The effects of a severe fire on this species would be significant because so few mature individuals remain and the species is not known to be a stump-sprouter following fire events. On Santa Catalina Island, grazing by feral herbivores would inhibit the establishment of any new shoots which sprout following fire (Minnich 1980).

Cercocarpus traskiae is threatened by hybridization with the locally common *C. betuloides* var. *blancheae.* Because only six mature individuals of *C. traskiae* are known to exist, genetic swamping of the species would be the probable outcome of hybridization. The uniqueness of the species would be compromised or lost due to the influx of genetic variability from the larger population. Rieseberg *et al.* (1989) have recommended elimination of mature hybrids as a means of preserving the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these three plant species in determining to issue this final rule. Based on this evaluation, the preferred action is to list *Cercocarpus traskiae, Lithophragma maximum,* and *Sibara filifolia* as endangered. *Cercocarpus traskiae* and *Sibara filifolia* are known from no more than two populations and fewer than 40 individuals. *Lithophragma maximum* has a dissected distribution pattern of about 200 known individuals from 11 populations. All three species are imperiled due to degradation of habitat, fire, predation by feral animals, competition with exotic plant species, erosion, and hybridization. *Cercocarpus traskiae, Lithophragma maximum,* and *Sibara filifolia* are in danger of extinction throughout all or a significant portion of their ranges, and therefore meet the Act's definition of endangered. Critical habitat is not being proposed for these species at this time for reasons discussed below.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat for *Cercocarpus traskiae, Lithophragma maximum,* and *Sibara filifolia* is not prudent at this time. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species; or (2) such designation of critical habitat would not be beneficial to the species.

As discussed under Factor B, *Cercocarpus traskiae* and *Sibara filifolia* on Santa Catalina Island may become threatened by over-collecting, an activity difficult to regulate. ''Taking'' is only regulated by the Act with respect to plants in cases of (1) removal and reduction to possession of federally listed plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging-up, damaging, or destroying of federally listed plants on non-federal lands in knowing violation of any State law or regulation, including State criminal trespass law. All known populations of *C. traskiae* are on privately owned lands with little or no Federal involvement. The SCIC, the landowner, is aware of the presence of *C. traskiae,* supports the proposal to list the species, and is currently working to protect the population. In addition, the publication of precise maps and descriptions of critical habitat in the **Federal Register**, would make the few remaining plants more vulnerable to incidents of vandalism or collection and could contribute to the decline of the species. Therefore, the designation of critical habitat for *C. traskiae* (and *S. filifolia,* should its presence on Santa Catalina Island be confirmed) could contribute to the decline of the species.

The Service also determines that designation of critical habitat is not prudent for *Sibara filifolia* or *Lithophragma maximum.* Critical habitat designation provides protection only on Federal lands or on private lands when there is Federal involvement through authorization or funding of, or participation in, a project or activity. Extant populations of *Sibara filifolia* and *Lithophragma maximum* occur on Federal lands on San Clemente Island (except, as noted above, for the occurrence of *Sibara filifolia* on Santa Catalina Island) and are managed by the Navy. These populations are subject to section 7 consultation and recovery planning under the Act. Section 7(a)(2) of the Act requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by such agency, does not jeopardize the continued existence of a federally listed species, or does not destroy or adversely modify designated critical habitat. For those species that occur wholly or primarily on Federal lands or in areas subject to Federal regulation, and that exist in small numbers and/or have a limited geographic distribution, any action that would potentially have a significant impact to the species may result in a ''jeopardy'' biological opinion in a section 7 consultation. Due to the limited, insular ranges of *Sibara filifolia* and *Lithophragma maximum* and their small population sizes, determinations for ''jeopardy'' and ''adverse modification'' likely would involve similar scopes and analyses. The Navy has begun meeting with the Service to discuss management of listed and other sensitive species on San Clemente Island, including *Lithophragma maximum* and *Sibara filifolia* populations. Protection of their habitat will be addressed through the consultation and recovery processes. Therefore, designation of critical habitat would provide no additional benefits beyond those that these taxa would receive by virtue of their listing as endangered species. All other Federal and State agencies involved have been notified of the location and importance of protecting habitat of these two taxa. Therefore, due to the increased risk of vandalism or collection, and the lack of benefit to the species, the Service finds that designation of critical habitat is not prudent at this time for *Cercocarpus traskiae, Sibara filifolia,* and *Lithophragma maximum.*

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages public awareness and results in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition from willing sellers and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate

their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

The U.S. Army Corps of Engineers may have jurisdiction under section 404 of the Clean Water Act for some habitats that support these plants. Nationwide permits (61 FR 65784) are not valid where a federally listed endangered or threatened species would be directly or indirectly affected by the proposed project. When a proposed project may affect a listed species, consultation is required pursuant to section 7 of the Act prior to the authorization of any permit. In addition, the Navy owns San Clemente Island and administers lands containing *Sibara filifolia* and *Lithophragma maximum* and authorizes, funds, or otherwise conducts activities that may affect these species; these actions also are subject to review by the Service under section 7 of the Act.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, damaging, or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. It is anticipated that few trade permits would ever be sought or issued for these species since they are not in cultivation or common in the wild.

It is the policy of the Service, published on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range. *Sibara filifolia* and *Lithophragma maximum* are known to occur on lands under the jurisdiction of the Navy. In general, the collection, damage, or destruction of listed species on these lands is prohibited, except as authorized under section 7 or section 10(a)(1)(A) of the Act. Such activities on non-Federal lands, as would be the case for *Cercocarpus traskiae,* and Santa Catalina Island specimens of *Sibara filifolia,* would constitute a violation of section 9, if activities were conducted in knowing violation of State law or regulations or in violation of State criminal trespass law. The Service is not aware of any otherwise lawful activities currently being conducted or proposed by the public that would be affected by this listing and result in a potential violation of section 9.

Questions whether specific activities would constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Carlsbad Field Office (see **ADDRESSES** section). Requests for copies of the regulations concerning listed plants (50 CFR 17.61 and 17.71) and general inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–6241; facsimile 503/231–6243).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments or Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements.

References Cited

A complete list of all references cited herein is available upon request from the U.S. Fish and Wildlife Service, Carlsbad Field Office (see **ADDRESSES** section).

Author: The primary author of this document is Dr. Gary D. Wallace, Carlsbad Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Cercocarpus traskiae	Catalina Island mountain-mahogany.	U.S.A. (CA)	Rosaceae	E	624	NA	NA
*	*	*	*	*	*	*	
Lithophragma maximum.	San Clemente Island woodlandstar.	U.S.A. (CA)	Saxifragaceae	E	624	NA	NA
*	*	*	*	*	*	*	
Sibara filifolia	Santa Cruz Island rockcress.	U.S.A. (CA)	Brassicaceae	E	624	NA	NA
*	*	*	*	*	*	*	

Dated: July 21, 1997.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 97–20879 Filed 8–7–97; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 62, No. 153
Friday, August 8, 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 AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 71

[Docket No. 96–088–1]

Interstate Movement of Animals Exposed to Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to change the regulations governing the interstate movement of animals in order to clarify the regulations. In particular, we want to make it clear that our interstate movement restrictions pertain not only to animals that are actually infected with communicable diseases of livestock or poultry but also to animals that have been exposed to those diseases. As currently worded, the regulations could be interpreted as pertaining only to infected animals. However, to prevent disease spread, we must also restrict the interstate movement of animals that have been exposed to certain diseases.

DATES: Consideration will be given only to comments received on or before October 7, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–088–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–088–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Roberta Duhaime, Staff Officer, Emergency Programs, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231, (301) 734–8069; or E-mail: rduhaime@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in subchapter C of chapter I, title 9, of the Code of Federal Regulations contain provisions designed to prevent the dissemination of livestock or poultry diseases in the United States and to facilitate the control and eradication of such diseases. The regulations in 9 CFR part 71 (referred to below as the regulations) include general prohibitions on the interstate movement of animals that could spread livestock or poultry diseases.

To prevent the spread of certain livestock or poultry diseases, the Animal and Plant Health Inspection Service must prevent the interstate movement of any animals capable of spreading the causative agents of the diseases. Communicable livestock or poultry diseases can be spread through many means, including physical contact between animals, contact with bodily secretions, and respiration. The causative agents can be spread both by animals that are infected with the disease as well as by exposed animals showing no clinical signs of disease. These exposed animals may either be incubating disease or may be carriers of disease (the animal carries in its system the causative agent of a disease to which the animal is immune).

We are concerned that, as currently worded, the interstate movement restrictions in the regulations could be interpreted as pertaining only to infected animals. Because communicable diseases may be spread also by exposed animals, we are proposing to make several changes to the regulations, as described below, for clarification. We believe these proposed changes would enhance our ability to prevent the spread of certain diseases of livestock and poultry.

In many places in the regulations, references are made to prohibitions on the interstate movement of animals ''affected with'' certain diseases. We are concerned that the term ''affected with'' could be interpreted to mean only ''infected with'' instead of ''infected with or exposed to,'' as is our intended meaning. We have always considered that ''affected with'' means ''infected with or exposed to'' and that the interstate movement restrictions pertain both to animals that have been exposed to communicable livestock or poultry diseases as well as infected animals. To eliminate confusion about what is meant by the term ''affected with,'' we are proposing to add a definition of ''affected with'' to the list of definitions in § 71.1. We would define ''affected with'' as meaning ''infected with or exposed to.''

In four places in the regulations, reference is made to ''diseased'' animals. These references occur in the headings for §§ 71.2 and 71.3, in § 71.3(d), and in § 71.14. As with the term ''affected with,'' we are concerned that use of the term ''diseased'' in the regulations implies that we are concerned only with infected animals. Because, for the reasons stated above, we are concerned about the interstate movement of animals that have been exposed to disease as well as the interstate movement of infected animals, we are proposing to change the references to ''diseased'' animals to animals ''affected with disease.'' With the proposed addition of a definition for ''affected with'' to § 71.1, this wording change would make it clear that we are referring to both infected and exposed animals in these four references.

In § 71.13, there is a reference to poultry or other animals ''infected with any contagious, infectious, or communicable disease or to have been exposed to such infection'' and another reference to poultry or other animals ''infected with or which have been exposed to the infection of such disease''. These two references clearly indicate that the requirements of § 71.13 apply to both infected and exposed animals. However, for the purpose of ensuring consistent terminology throughout the regulations, we are proposing to change these two references, respectively, to ''affected with any contagious, infectious, or communicable disease'' and ''affected with such disease''.

We are proposing to make further changes to the regulations to remove redundancies. For example, § 71.3(d)(3) begins with the words ''Sheep affected with or exposed to . . . .'' Because, as described previously, the proposed definition of ''affected with'' would include the words ''exposed to,'' the

words ''exposed to'' in § 71.3(d)(3) would become redundant. In addition, §§ 71.4(b) and 71.6(a) include the words ''affected with, or carrying the infection of,'' and the latter part of that phrase would become unnecessary with the addition to § 71.1 of the proposed definition for ''affected with.''

Finally, § 71.3(f) states that, ''Before offering cattle or other livestock or poultry for interstate transportation, transporting them interstate, or introducing them into any stockyards or upon routes of traffic for interstate transportation, all persons, companies, or corporations are required to exercise reasonable diligence to ascertain whether such animals or poultry are affected with any contagious, infectious, or communicable disease, or have been exposed to the contagion or infection of any such disease by contact with other animals or poultry so diseased or by location in pens, cars, or other vehicles, or upon premises that have contained animals or poultry so diseased.'' We are proposing several changes to this sentence. We are proposing to remove the words ''or have been exposed to the contagion or infection of any such disease'' and make other minor changes consistent with our proposed definition for ''affected with'' as described above.

In addition, we are proposing to amend this sentence for clarification. We believe that this sentence, as currently written, could be misinterpreted as meaning that all that is required of a person who plans to ship livestock interstate is for the person to assess the animals' health status prior to making the movement. However, in actuality, if an individual finds after making such an assessment that an animal is infected with or has been exposed to any of the diseases regulated by 9 CFR, chapter I, subchapter C, the individual is then required to comply with the movement requirements or restrictions specified for that particular disease. For example, if a cattle owner determines that a cow to be moved interstate is infected with bovine piroplasmosis, then, in accordance with § 71.3(a), the owner would be prohibited from moving the cow interstate. As another example, if a cow reacts to a test recognized by the Secretary of Agriculture for brucellosis, the cow could be moved interstate only in accordance with 9 CFR part 78.

To clarify that § 71.3(f) is meant to be an adjunct to other interstate transportation requirements, we are proposing to add to the paragraph the following sentence: ''Any animals found to be affected with any disease listed in subchapter C of this chapter may be moved interstate only in accordance with all applicable regulations specified in subchapter C of this chapter for animals affected with that disease.''

Throughout the regulations, we are also proposing to delete references to ''poultry'' after the term ''animal'' because ''animal'' includes ''poultry.''

Executive Order 12866 and Regulatory Flexibility Act

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

The purpose of this proposed rule is merely to clarify current regulations pertaining to the interstate movement of animals. We do not anticipate that these changes would have any economic impact on any regulated entities.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

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

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 71

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

Accordingly, 9 CFR part 71 would be amended as follows:

PART 71—GENERAL PROVISIONS

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

Authority: 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 71.1, the definition of *affected with* would be added, in alphabetical order, to read as follows:

§ 71.1 Definitions.

* * * * *

Affected with. Infected with or exposed to.

* * * * *

§ 71.2 [Amended]

3. In § 71.2, the section heading would be revised to read ''*Secretary to issue rule governing quarantine and interstate movement of animals affected with disease.*''

4. Section 71.3 would be amended as follows:

a. By revising the section heading to read as set forth below.

b. In paragraph (a), by removing the words ''or poultry''.

c. In paragraph (b), by removing the words ''or poultry''.

d. In paragraph (d), introductory text, by removing the word ''diseased'' and adding the words ''affected with disease'' in its place.

e. In paragraph (d)(3), by removing the words ''or exposed to''.

f. By revising paragraph (f) to read as set forth below.

§ 71.3 Interstate movement of animals affected with diseases of livestock or poultry generally prohibited.

* * * * *

(f) Before offering animals for interstate transportation, transporting them interstate, or introducing them into any stockyards or upon routes of traffic for interstate transportation, all persons are required to exercise reasonable diligence to ascertain whether such animals are affected with any contagious, infectious, or communicable disease of livestock or poultry by contact with other animals or by location in pens, cars, or other vehicles, or upon premises that have contained animals affected with the disease. Any animals found to be affected with any disease listed in subchapter C of this chapter may be moved interstate only in accordance with all applicable regulations specified in subchapter C of this chapter for animals affected with that disease.

§ 71.4 [Amended]

5. In § 71.4, paragraph (b) would be amended by removing the words '', or carrying the infection of,''.

§ 71.6 [Amended]

6. In § 71.6, paragraph (a) would be amended by removing the words ‘‘, or carrying the infection of,’’.

7. In § 71.13, the undesignated regulatory text would be revised to read as follows:

§ 71.13 Inspection of shipments in transit by APHIS inspector.

All persons having control of the interstate transportation of animals shall, when directed by an APHIS inspector, stop the same in transit for inspection, and if any of such animals are found upon such inspection to be affected with any contagious, infectious, or communicable disease of livestock or poultry, the person having control of the transportation of such animals shall, upon receipt of an order from an APHIS inspector, cease the transportation of such animals unless such transportation can be accomplished in accordance with the regulations in this subchapter governing the interstate movement of animals affected with such disease, and in all cases after the discovery of such infection or exposure thereto such animals shall be handled in accordance with such regulations.

8. In § 71.14, the section heading and the undesignated regulatory text would be revised to read as follows:

§ 71.14 Slaughter of animals to prevent spread of disease; ascertainment of value and compensation.

When, in order to prevent the spread of any contagious, infectious, or communicable disease of livestock or poultry, it becomes necessary to slaughter any animals affected with the disease and the purchase of such animals by the United States is authorized by law and an appropriation is available therefor, the value of the animals shall be ascertained and compensation made therefor in accordance with the orders or regulations of the Secretary of Agriculture.

Done in Washington, DC, this 4th day of August, 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–20995 Filed 8–7–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 96–052–2]

Horses From Mexico; Quarantine Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations regarding the importation of horses from Mexico to remove the requirement that such horses be quarantined for not less than 7 days in vector-proof quarantine facilities before being imported into the United States. We believe that this action is warranted because Mexico has reported no cases of Venezuelan equine encephalomyelitis (VEE) in the past year, and it appears that horses imported into the United States from Mexico without a 7-day quarantine would not pose a risk of transmitting VEE to horses in the United States.

DATES: Consideration will be given only to comments received on or before October 7, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–052–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–052–2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231, (301) 734–3276.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as ‘‘the regulations’’) govern the importation into the United States of specified animals and animal products, including horses from Mexico, to prevent the introduction into the United States of various animal diseases.

On July 31, 1996, we published an interim rule in the **Federal Register** (61 FR 39852–39853, Docket No. 96–052–1) in which we required that horses imported into the United States from Mexico be quarantined for not less than 7 days in a vector-free facility. Prior to our interim rule, horses from Mexico were not required to be held in quarantine for any specified number of days, but were required, instead, to be quarantined only long enough to complete the testing required by the regulations.

A 7-day quarantine became necessary when the government of Mexico reported that Venezuelan equine encephalomyelitis (VEE) had been detected in horses in that country. VEE is an equine viral disease, transmitted primarily by mosquitoes and other hematophagous (blood-feeding) insects, particularly flying insects, and results in a high mortality rate in animals infected with the disease. Although tests exist for the presence of VEE in horses, the tests currently available may yield positive results for horses that have been vaccinated for VEE but are not otherwise infected with the disease. The most efficient method for initial identification of horses that may be infected with VEE is observation of the horses for clinical signs of the disease. The clinical signs most commonly exhibited by horses infected by VEE are marked fever, depression, and incoordination, followed by death. A horse will usually exhibit signs of VEE within 2–5 days after contracting the disease. Seven days is considered the length of time necessary to ensure that any clinical signs of VEE manifest themselves.

In this document, we are proposing to remove the requirement that horses from Mexico be quarantined for not less than 7 days. We believe that the removal of this requirement is warranted because Mexico appears to be free of VEE. Horses imported from Mexico would still be required to be held in quarantine until it has been determined that the animals are free of exotic pests and diseases.

The last case of VEE in Mexico was reported in July 1996. Following the initial outbreak of VEE in the Mexican State of Oaxaca in June 1996, the Government of Mexico instituted emergency measures to locate, contain, and eradicate the disease. These emergency measures included the following: activation of the country’s animal health emergency group; organization of groups such as regional livestock associations and State authorities; establishment of quarantines in areas in which the

disease was known to exist; vaccinations of horses in affected areas; traceback of horses that might have been moved from affected areas before quarantine measures were established; and increased surveillance in States surrounding the affected areas. Based on these considerations, the Government of Mexico has requested that the U.S. Department of Agriculture consider Mexico to be free of VEE.

Based on the documentation submitted by the Government of Mexico, it appears that no horses in that country are infected with VEE. (This documentation is available, upon written request, from the person listed under **FOR FURTHER INFORMATION CONTACT**.) Therefore, we are proposing to amend § 92.324 of the regulations to remove the requirement that horses intended for importation from Mexico be quarantined for not less than 7 days before being imported into the United States.

We are also proposing to remove the requirement in § 92.324 that horses from Mexico intended for importation into the United States through land border ports be quarantined in Mexico at a facility approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS) and constructed so as to prevent the entry of mosquitoes and other hematophagous insects. This requirement was necessary when VEE was known to exist in horses in Mexico, but we believe that it is unnecessary now that Mexico appears to be free of VEE.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

We are proposing to amend the regulations regarding the importation of horses from Mexico to remove the requirement that such horses be quarantined for not less than 7 days in vector-proof quarantine facilities before being imported into the United States. We believe that this action is warranted because Mexico has reported no cases of VEE in the past year, and it appears that horses imported into the United States from Mexico without a 7-day quarantine would not pose a risk of transmitting VEE to horses in the United States. Horses imported from Mexico would still be required to be held in quarantine until it has been determined that the animals are free of exotic pests and diseases.

Horses enter the United States from Mexico for a variety of reasons, including for breeding, competition, racing, research, and slaughter. During fiscal year 1996, about 7,359 horses were imported into the United States from Mexico. In fiscal year 1995, there were about 15,317 horses imported from Mexico.

Under current restrictions placed on imported Mexican horses due to an outbreak of VEE in that country in 1996, horses intended for importation into the United States from Mexico must be held in a vector-proof quarantine facility for seven days prior to entering the United States. Because Mexico has been determined to be free of VEE, this rule proposes to eliminate the requirement for a 7-day quarantine at a facility approved by the Administrator of APHIS and constructed so as to prevent the entry of mosquitoes and other hematophagous insects. Horses imported from Mexico would continue to be required to be held in quarantine until it has been determined that the animal is free of exotic pests and diseases. This quarantine period generally lasts three or four days, based on the turnaround time at the laboratory where blood tests are performed.

Horses intended for importation into the United States from Mexico are quarantined in Mexican facilities operated by the Mexican Cattleman's Association. Different fees are assessed by the six State chapters which operate facilities along the United States/Mexico border. We estimate that the quarantine charge at vector-proof facilities is between $5.00 and $35.00 per head per day for the current 7-day quarantine, or $35 to $250 per animal imported. Quarantine charges at the other facilities, which are not vector-proof, that would again be eligible to quarantine horses intended for importation into the United States if Mexico is recognized as free of VEE average $3.00 per head per day. A 4-day quarantine would cost importers $12.00 per animal imported. Therefore, importers could potentially save between $23 and $238 per animal imported in quarantine charges. Of course, there are other amenities at some of the vector-proof facilities that could still draw some importers to those facilities. At fiscal year 1996 import levels, the elimination of the VEE quarantine could decrease the quarantine costs of domestic importers by between $169,257 and $1.75 million annually.

In addition, the removal of the VEE restriction would eliminate the need for daily visits during the quarantine period to the quarantine facility by APHIS' veterinary medical officers (VMOs) and animal health technicians (AHTs) to conduct temperature checks of the animals to be imported. APHIS charges hourly user fees for inspection services conducted outside the United States. The published hourly fee for VMOs and AHTs is $56.00. The agency estimates that it takes 3 hours for APHIS personnel to travel to Mexican quarantine facilities and complete the temperature checks. The elimination of these checks would save the importer about $1,176 per shipment. Since slaughter horse imports from Mexico average about 40 head per shipment, this is a savings of about $29.40 per head. Other types of imported horses from Mexico average about two head per shipment, for a savings of $588 per head. At fiscal year 1996 import levels, the elimination of the user fees for horse inspection for VEE in Mexico would decrease the cost of importation by about $2.5 million annually.

The Regulatory Flexibility Act requires that the Agency specifically consider the economic impact associated with rule changes on small entities. The Small Business Administration (SBA) has set forth size criteria by Standard Industrial Classification (SIC) which can be used as a guide in determining which economic entities meet the definition of a small business. The SBA's definition of a small business engaged in the wholesale trading of livestock is one that employs no more than 100 persons. Currently, there are 1,992 domestic entities that trade livestock wholesale. About 1,965 of these entities are classified as small by the SBA. The exact number of domestic wholesale livestock traders currently importing Mexican horses cannot be determined. However, entities, whether large or small, engaged in importing Mexican horses would be positively impacted by this rule change.

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

Executive Order 12988

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

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 92

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

Accordingly, 9 CFR part 92 would be amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 92 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 92.308 [Amended]

2. In § 92.308, paragraph (a)(1) would be amended by removing the reference to ''§ 92.317'' and adding in its place the reference to ''§§ 92.317 and 92.324''.

§ 92.324 [Amended]

3. Section 92.324 would be amended by removing the words '', for not less than 7 days and'' and by removing the words ''approved by the Administrator and constructed so as to prevent the entry of mosquitoes and other hematophagous insects''.

§ 92.326 [Amended]

4. In § 92.326, the first sentence would be amended by removing the words ''92.323, and 92.324'' and adding in their place the words ''and 92.323''.

Done in Washington, DC, this 4th day of August 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–20994 Filed 8–7–97; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Medical Use of Byproduct Material; Working Group for Revision

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Establishment of working group and notice of meeting.

SUMMARY: A working group consisting of representatives from the U.S. Nuclear Regulatory Commission, the Organization of Agreement States (OAS), and the Conference of Radiation Control Program Directors (CRCPD) has been established in response to Commission approval of the staff's proposed plan for revising 10 CFR part 35, associated guidance documents, and the Commission's 1979 ''Medical Policy Statement,'' if necessary. With this approval, the NRC staff has begun developing draft rule language and alternatives, using an entirely modality-based approach, to help focus the public input and the discussions during facilitated public meetings. During this process, the staff is examining the applicability of risk-informed, performance-based regulations and less prescriptive approaches to regulation of nuclear material used for medical purposes. The working group will meet at NRC Headquarters in Rockville, Maryland, on August 19 and August 20, 1997, to review the early draft staff documents and to discuss the major regulatory issues associated with the medical use of byproduct material.

DATES: The Working Group will meet on August 19 and 20, 1997, from 9:00 a.m. to 5:00 p.m.

ADDRESSES: U.S. Nuclear Regulatory Commission, One White Flint North, Auditorium, 11555 Rockville Pike, Rockville, MD, 20852–2738.

FOR FURTHER INFORMATION CONTACT: Cathy Haney, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, MS T8F5, Washington, DC 20555, telephone (301) 415–6825, e-mail cxh@nrc.gov.

SUPPLEMENTARY INFORMATION: NRC has examined the issues surrounding its medical use program in great detail during the last four years. This process started with NRC's 1993 internal senior management review report; continued with the 1996 independent external review report by the National Academy of Sciences, Institute of Medicine; and culminated in NRC's Strategic Assessment and Rebaselining Project (SA). In particular, medical oversight was addressed in the SA Direction-Setting Issue Paper Number 7 (DSI 7) (released September 16, 1996). In its ''Staff Requirements Memorandum (SRM)—COMSECY–96–057, Materials/Medical Oversight (DSI 7),'' dated March 20, 1997, the Commission directed staff to revise Part 35, associated guidance documents, and, if necessary, the Commission's 1979 ''Medical Policy Statement.'' The Commission SRM specifically directed the restructuring of Part 35 into a risk-informed, more performance-based regulation.

A June 30, 1997, SRM informed the staff of the Commission's approval, with comments, of the staff's proposed program in SECY–97–131, Supplemental Information on SECY–97–115, ''Program for Revision of 10 CFR Part 35, 'Medical Uses of Byproduct Material,' and Associated **Federal Register** Notice,'' dated June 20, 1997. After this approval, the NRC staff initiated development of draft rule language, using an entirely modality-based approach. The modality approach places all requirements for a given type of treatment into a single section of the regulation, including: (a) Who or what organization is licensed; (b) what type of license is issued; (c) the necessary technical requirements, such as surveys and calibration; (d) the training and experience requirements; (e) the event recording and reporting requirements; and (f) the quality improvement and management objectives.

Per NRC Management Directive 6.3, ''The Rulemaking Process,'' the rulemaking will be conducted using a group approach. A governmental working group consisting of representatives of NRC, OAS, and CRCPD has been established to develop rule text alternatives, including draft guidance documents. State participation in the process will enhance development of corresponding rules in State regulations, and provide an opportunity for early State input and will allow the State staff to assess potential impacts of NRC draft language on the regulation of non-Atomic Energy Act materials used in medical diagnosis, treatment, or research, in the States.

At the initial meeting of the working group, on August 19–20, 1997, the group will review the initial draft input developed by the NRC staff, focusing its discussion on the major regulatory issues associated with the medical use of byproduct material.

Committee Organization and Operations

Cathy Haney, NRC, Office of Nuclear Material Safety and Safeguards, will serve as chairman. Other members are from the NRC's Office of Nuclear Material Safety and Safeguards; Office of Nuclear Regulatory Research; Office of the General Counsel, and Office of State Programs; and from OAS and CRCPD.

Committee Meetings

The working group will meet, as needed, in the Washington, DC, area, or at other locations agreed upon by the working group members. Meetings will be announced in advance, through the NRC Public Meeting Notice System and, with some exceptions, will be open for public observation. Persons attending working group meetings will be welcome to provide input to the working group for its consideration, either in written form or orally, at times specified by the working group chair.

Dated at Rockville, Maryland, this 4th day of August 1997.

For the Nuclear Regulatory Commission.

Donald A. Cool,

Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–20974 Filed 8–7–97; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R–0980]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to amend its Regulation D, Reserve Requirements of Depository Institutions, to allow U.S. branches and agencies of foreign banks and Edge and Agreement corporations to choose whether to aggregate reserves on a nationwide basis in a single account at one Reserve Bank or to continue to have separate accounts on a same-state/same-District basis as they do today. The amendments would also update and clarify the pass-through account rules in Regulation D for all institutions. These amendments would facilitate interstate banking and eliminate certain restrictions applicable to pass-through accounts.

DATES: Comments must be submitted on or before September 12, 1997.

ADDRESSES: Comments, which should refer to Docket No. R–0980, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oliver Ireland, Associate General Counsel, (202/452–3625) or Stephanie Martin, Senior Attorney (202/452–3198), Legal Division. For the hearing impaired *only*, contact Diane Jenkins, Telecommunications Device for the Deaf (TDD) (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: To facilitate interstate banking, the Federal Reserve Banks will begin to implement a new account structure on January 2, 1998, that will provide a single Federal Reserve account for each domestic depository institution. This structure will enable the Federal Reserve Banks to establish a single debtor-creditor relationship with each chartered entity, thereby providing an effective means for Reserve Banks to carry out their risk management responsibilities, and will improve the efficiency of account management for depository institutions. To determine the Federal Reserve Bank where a bank with interstate branches will hold an account, the Board adopted amendments to its Regulation D (12 CFR part 204, Reserve Requirements of Depository Institutions) and Regulation I (12 CFR part 209, Issue and Cancellation of Capital Stock of Federal Reserve Banks) (62 FR 34613, June 27, 1997). These amendments define a domestic depository institution's location for purposes of Federal Reserve membership and reserve account maintenance.

U.S. branches and agencies of the same foreign bank and Edge and Agreement corporations [1] of the same parent bank were not included in the new single-account structure or in the final amendments to Regulations D and I, pending further consideration of legal and operational issues. The Board is now proposing amendments to Regulation D under which the Federal Reserve Banks will offer a single account to these institutions on an optional basis. Under this proposal, foreign banks and Edge corporations could choose either to designate one office to hold a single account at one Reserve Bank or to continue to have separate accounts on a same-state/same-District basis as they do today. The Board is also proposing changes to the pass-through account rules in Regulation D to accommodate the single-account option and to make other changes applicable to all institutions that will simplify and clarify the pass-through rules.

The Board believes making a single account optional rather than required for families of foreign bank branches is reasonable in light of certain operational, legal, and supervisory differences between U.S. branches and agencies of foreign banks and domestic banks.[2] For example, certain foreign banks have historically managed their U.S. offices as independent entities that do not necessarily coordinate lending and investment decisions from a central office. Further, each office of a foreign bank family must have a separate license, either state or federal. The majority of U.S. offices of foreign banks are state-licensed and not federally insured and are thus would be liquidated separately based on the law of each licensing state. In addition, U.S. bank supervisory authorities treat U.S. branches of foreign banks as independent units for other purposes, such as asset maintenance requirements. As a result of these differences, U.S. branches of foreign banks may be placed at a disadvantage if they were required, in the short term, to adopt a single account structure.

To ensure stability in account relationships and to move the foreign banks and Edge corporations toward the preferred long-run account structure, the optional single account, where possible, would be a one-way election. That is, once an entity selects a single account it would not be permitted to switch back to multiple accounts without the Board's approval. The single account would be available to U.S. branches of foreign banks and Edge corporations effective January 2, 1998.

[1] Edge corporations are organized under section 25A of the Federal Reserve Act (12 U.S.C. 611–631), and Agreement corporations have an agreement or undertaking with the Board under section 25 of the Federal Reserve Act (12 U.S.C. 601–604a). For purposes of this docket, the term ''Edge corporation'' includes Agreement corporations. Similarly the term ''branch'' of a foreign bank includes both branches and agencies.

[2] The distinguishing characteristics of U.S. branches of foreign banks do not necessarily apply to Edge corporations. As a result, the legal, supervisory, and risk management treatment of multiple offices of the same Edge corporation differs from that of multiple U.S. offices of foreign banks. Unless otherwise noted, the following points apply mainly to U.S. branches of foreign banks. Because of the historical parallel regulatory treatment of these entities, however, the account structure for U.S. branches of foreign banks applies to Edge corporations as well.

Amendments to Regulation D

Eligible Pass-Through Correspondents

Under the International Banking Act of 1978, branches of foreign banks are treated as separate banks for reserve purposes, which implies that each branch has a separate reserve liability. Reserves may be held in the form of vault cash, a balance held directly with a Federal Reserve Bank, or in a pass-through account. Regulation D allows foreign bank branches and Edge corporations to pass their reserves through an account of another office of the same institution, subject to the pass-through rules applicable to all depository institutions.

The Board proposes to expand this provision to clarify that a foreign bank or Edge corporation family may choose any eligible institution as a pass-through correspondent, such as a domestic depository institution or a branch of another foreign bank, in addition to an office of its own family. Although the Board believes that these entities will generally choose one of their own offices as the pass-through correspondent, allowing the choice is comparable to the treatment of domestic depository institutions under Regulation D. If a foreign bank chooses to have a single Federal Reserve account, it would likely aggregate all of the reserves of its nationwide branches in that account, i.e., the account would hold the reserves of the account-holding branch and function as a pass-through account for the reserves of the remaining branches.

Account Maintenance

To accommodate the single account, the Board is proposing amendments to the pass-through provisions in Regulation D. Section 204.3(i)(3) currently requires a pass-through correspondent to maintain pass-through accounts at each Federal Reserve Bank in whose District the respondent institutions are located. The Board proposes to remove the requirement that pass-through accounts must be held in the District where the respondent is located. This proposal would apply to pass-through accounts for all depository institutions as well as for foreign bank branches and Edge corporations.

Regulation D also provides that, when respondents are located in the same District as the pass-through correspondent, the correspondent may choose to maintain its own reserves and the passed-through reserves in a single commingled account or in two separate accounts. Under the Board's proposal, correspondents would hold pass-through balances in a single commingled account, along with the pass-through correspondent's own reserves (if any) at the Reserve Bank in whose District the pass-through correspondent is located. The Board specifically requests comment on whether correspondents should continue to have the option of separate accounts for their own reserves and the reserves they hold on a pass-through basis. The Board believes that separate accounts are probably not necessary, as subaccounts could suffice for purposes of segregating correspondent transactions.

Regulation D is currently unclear as to whose money is in the pass-through account, that is, whether the pass-through account is a Reserve Bank liability to the pass-through correspondent or to the respondent.[3] The proposed amendments to § 204.3(i)(3) would clarify that the balances held by the pass-through correspondent are the property of the correspondent and represent a liability of the Reserve Bank solely to the correspondent, regardless of whether the funds represent the reserve balances of another office or institution that have been passed through the correspondent.

These proposed changes regarding account maintenance would apply to pass-through accounts for all depository institutions, in addition to those for foreign bank branches and Edge corporations.

Reporting

For those foreign banks or Edge corporations that choose to have a single Federal Reserve account, the Board is soliciting comment on an amendment to § 204.3(a)(1) of Regulation D to allow the family to submit an aggregated report of deposits for all offices. The submission of a single aggregated report would be similar to the current Regulation D reporting rule, which requires foreign bank and Edge corporation offices in the same state and same Federal Reserve District to aggregate deposits for purposes of reserve-related reports. The current same-state/same District aggregation provides a convenience for offices that maintain reserves in the same Federal Reserve account or pass-through account by allowing them to submit a single report to the Reserve Bank that holds the account. Nationwide aggregation would extend the same convenience to foreign banks and Edge corporations who opt for a single nationwide account by allowing them to file a single report. It would be most consistent with current reporting arrangements if this single report was sent to the Reserve Bank that holds the account with the family's reserves.

The Board also requests comment on whether reporting changes are necessary for all depository institutions that hold their reserves in pass-through accounts. Current § 204.3(i)(2) of Regulation D requires depository institutions to file reports of deposits with the Reserve Bank in whose District the institution is located, regardless of whether the institution maintains reserves in its own account or in a pass-through account. The Reserve Bank notifies the reporting institution of its reserve requirements and also notifies the pass-through correspondent, if one exists. Each respondent is responsible for reporting; the pass-through correspondent is not responsible for reporting errors made by the respondent, but it *is* responsible for maintaining the required reserve balances in accordance with the reports. Under the proposed pass-through rules, a depository institution located in one Federal Reserve District could hold reserves in a pass-through account located in another District. In this situation, it may be appropriate for that depository institution's deposit reports to ''follow the money,'' that is, for the depository institution to send its deposit report to the Reserve Bank that holds the account, rather than the Reserve Bank of the institution's District.

In addition, the Board requests comment on whether it is appropriate for all reports of all institutions (depository institutions as well as foreign bank branches and Edge corporations), including both supervisory and monetary reports, to go to the Reserve Bank that holds the account where that institution's reserves are held. On the one hand, requiring reports to follow the money could provide an efficient means of administering reserve requirements because only one Reserve Bank would be responsible for determining the accuracy of the reports and assessing deficiency penalties. On the other hand, if the Reserve Bank in whose District the institution is located is responsible for supervising the institution, having the institution submit supervisory reports to another Reserve Bank could effect the depth and timeliness of the supervising Reserve Bank's knowledge of the institution's condition.[4] Currently, this

[3] The call report instructions are more clear, stating that, from the perspective of the Federal Reserve Bank, pass-through balances are treated as balances due to the correspondent, not to the respondent.

[4] However, split reporting (requiring a depository institution to file supervisory reports with one Reserve Bank and other reports with another Reserve Bank) would lead to inefficiencies in other areas for both the depository institution and the

Continued

dichotomy would exist only for foreign bank branches, as the Federal Reserve Act requires each member bank to hold reserves directly with the Reserve Bank of its District and does not permit member banks to hold reserves through a pass-through correspondent.

Low Reserve Tranche And Exemption Amounts

Current Regulation D provides that foreign bank and Edge corporation families share one low reserve tranche and exemption amount among all related offices.[5] Regulation D sets out separate provisions (§ 204.3 (a)(1) and (a)(2)) for foreign bank branches and Edge corporations covering allocation of the low reserve tranche. The regulation also contains a separate provision (§ 204.3(a)(3)) on allocation of the reserve exemption, which applies to depository institutions as well as foreign bank branches and Edge corporations. Proposed § 204.3(a)(2) would combine the existing provisions on allocation of the low reserve tranche and the reserve exemption among offices of depository institutions, foreign bank branches, and Edge corporations. These allocation rules would continue to apply to offices of the same institution that report deposits separately, such as branches of a foreign bank that choose to continue filing on a same-state/same-District basis and depository institutions that are in transition from a multiple to a single reporting and account structure. No allocations would be necessary for institutions that hold reserves in a single account.

Location of Institution

As noted above, in June the Board amended § 204.3(b) to set forth where a domestic depository institution is located for purposes of determining the Federal Reserve Bank where the institution will maintain its reserve balances. Specifically, an institution is considered to be located in the Federal Reserve District specified in its charter or organizing certificate, or, if no such location is specified, the location of its head office. The Board can make exceptions to the general rule for a particular institution after considering certain criteria. The Board proposes to apply the same rule to foreign bank branches and Edge corporations. For foreign banks and Edge corporations that choose a single account structure and pass all reserves through one office, the location of the office that is the pass-through correspondent would determine which Reserve Bank holds the account.

Services

Section 204.3(i)(5) contains provisions regarding the services available to pass-through correspondents and respondents. The Board proposes to remove these provisions from Regulation D. The terms of services offered by the Reserve Banks are covered in Regulation J (12 CFR part 210) and the Reserve Banks' operating circulars.

Technical Changes

In addition to the sections discussed above, the Board is also proposing editorial and conforming amendments to §§ 204.3(i) and 204.9(b) of Regulation D.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b)), a description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule, are contained in the supplementary material above. The proposed rules require no additional reporting or recordkeeping requirements and do not overlap with other federal rules.

Another requirement for the initial regulatory flexibility analysis is a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposal will apply to all institutions subject to the regulations, regardless of size. The proposal would not impose any significant burden on any institution, but rather would provide increased flexibility for many institutions. Approximately 90 foreign banks and 10 Edge corporations that currently have multiple Federal Reserve accounts would have the option of consolidating their reserves in a single account under the proposal. Approximately 36 pass-through correspondents for domestic depository institutions would no longer have to hold pass-through accounts at multiple Federal Reserve Banks under the proposal.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed revised rule under the authority delegated to the Board by the Office of Management and Budget. The proposed rule contains no new collections of information and proposes no substantive changes to the existing collections of information pursuant to the Paperwork Reduction Act. The collection of information requirements that could be affected by this proposal are found in 12 CFR 204. All types of depository institutions file these information collections, but only a small subset of respondents, Edge corporations and U.S. branches of foreign banks, has the potential to be affected by the reporting burden reductions implicit in this proposal.

Edge corporations and U.S. branches of foreign banks currently file deposits and Eurocurrency reports (FR 2900 and FR 2951; OMB No. 7100–0087) aggregated by each state and Federal Reserve District in which their offices are located. If offices of the same institution are located in more than one state/District, they must file an additional report annually (FR 2930; OMB No. 7100–0088) to allocate the single low reserve tranche and exemption they share.

As noted in the sections above, U.S. branches of the same foreign bank and Edge corporations of the same parent bank could choose to establish a single Federal Reserve account beginning January 2, 1998. Respondents with a single account would file one FR 2900 report and one FR 2951 report, aggregated nationwide, with the Reserve Bank that holds the account. Since no allocations are necessary for institutions that hold reserves in a single account, these respondents would no longer be required to file FR 2930. Thus the proposed changes could reduce FR 2900, FR 2951, and FR 2930 reporting burden for these U.S. branches of foreign banks and Edge corporations. This in turn would reduce at least somewhat the total burden for the affected information collections.

The Federal Reserve invites comments on the effect on reporting burden of the proposed changes. Copies of such comments may also be sent to the Office of Management and Budget, Paperwork Reduction Project (7100–0087 and 7100–0088), Washington, DC 20503.

Federal Reserve. The depository institution would have to deal with more than one Reserve Bank on reporting and data editing issues. For the Federal Reserve, each Reserve Bank collecting data from a particular depository institution would have to become knowledgeable about that institution's structure, operations, and balance sheet in order to perform effective data editing and analysis.

[5] The amount of an institution's net transaction accounts in the low reserve tranche ($0 to $49.3 million) carries a lower reserve requirement (3 percent) than the amount above the tranche (which carries a 10 percent requirement). The first $4.4 million of any institution's reservable liabilities are exempt from reserve requirements.

List of Subjects in 12 CFR Part 204

Banks, banking, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 12 CFR part 204 is proposed to be amended as set forth below.

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

2. Section 204.3 is amended as follows:

a. Paragraphs (a)(1) and (a)(2) are revised and paragraph (a)(3) is removed;

b. In paragraph (b) as revised at 62 FR 34616 effective October 1, 1997, the last sentence of paragraph (b)(1) is removed and paragraph (b)(2)(i) is revised; and

c. Paragraph (i) is revised to read as follows:

§ 204.3 Computation and maintenance.

(a) * * *

(1) *United States branches and agencies of foreign banks; Edge and Agreement corporations.* (i) A foreign bank's United States branches and agencies and an Edge or Agreement corporation's offices shall prepare and file a report of deposits on an aggregated basis either:

(A) For each group of branches and agencies, or each group of offices, operating within the same state and within the same Federal Reserve District; or

(B) For all branches and agencies, or all offices, operating in the United States.

(ii) A foreign bank or an Edge or Agreement corporation that elects to aggregate deposits for all branches and agencies, or all offices, operating in the United States may not subsequently elect to aggregate deposits in another manner without the Board's approval.

(2) *Allocation of low reserve tranche and exemption from reserve requirements.* A depository institution, a foreign bank, or an Edge or Agreement corporation shall, if possible, assign the low reserve tranche and reserve requirement exemption prescribed in § 204.9(a) to only one office or to a group of offices filing a single aggregated report of deposits. The amount of the reserve requirement exemption allocated to an office or group of offices may not exceed the amount of the low reserve tranche allocated to such office or offices. If the low reserve tranche or reserve requirement exemption cannot be fully utilized by a single office or by a group of offices filing a single report of deposits, the unused portion of the tranche or exemption may be assigned to other offices or groups of offices of the same institution until the amount of the tranche (or net transaction accounts) or exemption (or reservable liabilities) is exhausted. The tranche or exemption may be reallocated each year concurrent with implementation of the indexed tranche and exemption, or, if necessary during the course of the year to avoid underutilization of the tranche or exemption, at the beginning of a reserve computation period.

(b) * * *

(2) (i) For purposes of this section, a depository institution, a U.S. branch or agency of a foreign bank, or an Edge or Agreement corporation is located in the Federal Reserve District that contains the location specified in the institution's charter, organizing certificate, or license or, if no such location is specified, the location of its head office, unless otherwise determined by the Board under paragraph (b)(2)(ii) of this section.

* * * * *

(i) *Pass-through rules*—(1) *Procedure.* (i) A nonmember depository institution, a U.S. branch or agency of a foreign bank, or an Edge or Agreement corporation required to maintain reserve balances (respondent) may select only one institution to pass through its required reserves. Eligible institutions through which respondent required reserve balances may be passed (correspondents) are Federal Home Loan Banks, the National Credit Union Administration Central Liquidity Facility, and depository institutions, U.S. branches or agencies of foreign banks, and Edge and Agreement corporations that maintain required reserve balances at a Federal Reserve office. In addition, the Board reserves the right to permit other institutions, on a case-by-case basis, to serve as pass-through correspondents. The correspondent chosen must subsequently pass through the required reserve balances of its respondents directly to a Federal Reserve Bank. The correspondent placing funds with a Federal Reserve Bank on behalf of respondents will be responsible for account maintenance as described in paragraphs (i)(3) and (i)(4) of this section.

(ii) Respondents or correspondents may institute, terminate, or change pass-through arrangements for the maintenance of required reserve balances by providing all documentation required for the establishment of the new arrangement or termination of the existing arrangement to the Federal Reserve Banks involved within the time period provided for such a change by those Reserve Banks.

(2) *Reports.* (i) Every depository institution that maintains transaction accounts or nonpersonal time deposits is required to file its report of deposits (or any other required form or statement) with the Federal Reserve Bank of its District, regardless of the manner in which it chooses to maintain required reserve balances.

(ii) The Federal Reserve Bank receiving such reports shall notify the reporting depository institution of its reserve requirements. Where a pass-through arrangement exists, the Reserve Bank will also notify the pass-through correspondent of its respondent's required reserve balances.

(iii) The Board will not hold a correspondent responsible for guaranteeing the accuracy of the reports of deposits submitted by its respondents to a Federal Reserve Bank.

(3) *Account maintenance.* A correspondent that passes through required reserve balances of respondents shall maintain such balances, along with the correspondent's own required reserve balances (if any), in a single commingled account at the Federal Reserve Bank in whose District the correspondent is located. The balances held by the correspondent in an account at a Reserve Bank are the property of the correspondent and represent a liability of the Reserve Bank solely to the correspondent, regardless of whether the funds represent the reserve balances of another institution that have been passed through the correspondent.

(4) *Responsibilities of parties.* (i) Each individual depository institution, U.S. branch or agency of a foreign bank, or Edge or Agreement corporation is responsible for maintaining its required reserve balance either directly with a Federal Reserve Bank or through a pass-through correspondent.

(ii) A pass-through correspondent shall be responsible for assuring the maintenance of the appropriate aggregate level of its respondents' required reserve balances. A Federal Reserve Bank will compare the total reserve balance required to be maintained in each account with the total actual reserve balance held in such account for purposes of determining required reserve deficiencies, imposing or waiving charges for deficiencies in required reserves, and for other reserve maintenance purposes. A charge for a deficiency in the aggregate level of the

required reserve balance will be imposed by the Reserve Bank on the correspondent maintaining the account.

(iii) Each correspondent is required to maintain detailed records for each of its respondents in a manner that permits Federal Reserve Banks to determine whether the respondent has provided a sufficient required reserve balance to the correspondent. A correspondent passing through a respondent's reserve balance shall maintain records and make such reports as the Board or Reserve Bank requires in order to insure the correspondent's compliance with its responsibilities for the maintenance of a respondent's reserve balance. Such records shall be available to the Reserve Banks as required.

(iv) The Federal Reserve Bank may terminate any pass-through relationship in which the correspondent is deficient in its recordkeeping or other responsibilities.

(v) Interest paid on supplemental reserves (if such reserves are required under § 204.6) held by a respondent will be credited to the account maintained by the correspondent.

§ 204.9 [Amended]

3. In section 204.9, the reference in paragraph (b) to ''§ 204.3(a)(3)'' is revised to read ''§ 204.3(a)(2)''.

By order of the Board of Governors of the Federal Reserve System, August 4, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–20957 Filed 8–7–97; 8:45 am]

BILLING CODE 6210–01–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 201

[AID Reg. 1]

RIN 0412–AA–34

Rules and Procedures Applicable to Commodity Transactions Financed by USAID: Inspection and Price Provisions

AGENCY: Agency for International Development, IDCA.

ACTION: Proposed rule.

SUMMARY: The U.S. Agency for International Development (USAID) proposes to amend the regulation to implement the requirement for preshipment inspection of commodities and to simplify the current rules on maximum prices for commodities. USAID previously employed post-audit procedures to assure that commodities and related services financed under its programs were not over priced by suppliers. The purpose of preshipment inspection is to complete the price review prior to shipment, rather than after the fact, and when determined necessary, to complete a physical inspection of the commodities being financed. The purpose of the proposed amendment to the price rules for commodities is to make it easier for suppliers to understand and bring it into line with commercial practices used by preshipment inspection firms that will be contracted to carry out the preshipment inspection program.

DATES: Comment Deadline: October 7, 1997.

ADDRESSES: Send comments to Kathleen J. O'Hara, Office of Procurement Policy Division (M/OP/PP), USAID, Room 1600 A, Washington, DC 20523–1435.

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: As part of USAID's re-engineering process, a decision has been taken to revise the procedure it uses to assure that the prices paid to suppliers under transactions financed by Commodity Import Programs are fair and reasonable. Currently, this is being done through a post-audit function within USAID. The purpose of this proposed amendment is to implement a preshipment inspection program which would essentially replace the post-audit function. The preshipment inspection services will be carried out by a private contractor, under a contract with USAID.

The specific changes being proposed would add a definition for ''preshipment inspection,'' amend the coverage on responsibilities of importers and suppliers to add requirements concerning preshipment inspection, add a new § 201.48 establishing the requirement for preshipment inspection, and add the requirement for a ''clean'' inspection report to the list of documents that the supplier must furnish in order to receive payment from USAID in § 201.52(a).

Preshipment inspection will include a price review, and USAID proposes to revise its rules on maximum prices for commodities to be more in line with the commercial practices used by the preshipment inspection firms. The basic prevailing market price test would be reformulated; the method for constructing an allowable price in the absence of comparable sales in § 201.63(e) would be removed since it does not agree with commercial practices established between preshipment inspection firms and the World Trade Organization; and the supplier's comparable export price test in § 201.63 (c) would also be removed. Various changes in subpart G, Price Provisions, implement the new rules.

USAID has determined that this proposed 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 proposed rule will not have a significant economic impact on a substantial number of small entities, and, therefore, a Regulatory Flexibility Analysis is not required. The additional documentation requirement will be submitted to OMB for approval as required 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 proposed to be amended as follows:

1. The authority citation continues to read as follows:

Authority: 22 U.S.C. 2381.

2. Section 201.01 is amended to add a new paragraph (dd) as follows:

§ 201.01 Definition.

* * * * *

(dd) *Preshipment inspection* means a review by the designated USAID contractor of all costs associated with a transaction and, where applicable, a physical inspection of the commodity, including packaging and packing.

3. Section 201.21 is amended by removing ''and, where appropriate,'' from the end of paragraph (c); by removing the period from the end of paragraph (d) and adding ''; and'' in its place; and by adding a new paragraph (e) as follows:

§ 201.21 Notice to supplier.

* * * * *

(e) The USAID requirement in § 201.31(j) for preshipment inspection, when applicable.

4. Section 201.31 is amended to add a new paragraph (j) as follows:

§ 201.31 Suppliers of commodities.

* * * * *

(j) *Preshipment inspection.* As applicable, the supplier shall be responsible for coordinating the preshipment inspection of the

commodity with the contractor designated by USAID. In the case of a physical inspection of the commodity, the supplier shall make the commodity available to the contractor's inspector and, when applicable, in a condition for operational testing. The supplier shall provide reasonable assistance to the inspector in completing the inspection, to include, but not limited to, unpacking, packing, weighing, etc. Any costs associated with making the commodity available for inspection will be for the account of the supplier.

5. Section 201.48 is added to read as follows:

§ 201.48 Preshipment inspection of commodities.

For each shipment under a purchase contract with an f.o.b. value in excess of $100,000, a preshipment documentary inspection is required. For each shipment under a purchase contract with an f.o.b. value in excess of $1,000,000, a full preshipment inspection, to include a physical inspection, is required unless USAID determines in writing to limit the inspection to a review of the documentation for the transaction. USAID may also require documentary and/or physical inspections in other situations.

6. Section 201.52 is amended to remove ''(8)'' in paragraph (a), introductory text, and add ''(9)'' in its place and to add a new paragraph (a)(9) to read as follows:

§ 201.52 Required documents.

(a) * * *

(9) *Pre-shipment inspection report.* When required in the letter of credit, direct letter of commitment, or other payment document, one signed original of the ''clean'' inspection report, issued by the inspection firm designated by USAID to undertake preshipment inspections.

* * * * *

7. Section 201.60 is amended by revising paragraph (c) as follows:

§ 201.60 Purpose and applicability of this subpart.

* * * * *

(c) *Compliance.* Compliance with this subpart G and with any additional price requirement contained in the implementing document shall be a condition to the financing by USAID of procurement transactions under this part. Preshipment inspection of the commodities will include a price review for compliance. Additionally, USAID may post-audit transactions to determine that there has been compliance.

8. Section 201.63 is amended by removing paragraphs (c), (d) and (e); by redesignating paragraphs (f) and (g) as paragraphs (c) and (d), respectively; by removing ''(f)(1)'' from the newly redesignated paragraph (c)(2) and adding ''(c)(1)'' in its place, and by revising paragraphs (a) and (b) as follows:

§ 201.63 Maximum prices for commodities.

(a) *Prevailing export market price.* (1) The purchase price of a commodity shall not exceed the prevailing export price range in the country of supply for comparable goods sold under comparable terms of sale. If there are no export sales of comparable goods, then the purchase price shall not exceed the prevailing domestic price range in the country of supply for comparable goods, adjusted upward or downward by the appropriate export differential. The prevailing price range, whether export or domestic, shall be determined through analysis of prices during a reference period prior to the date the purchase price for the USAID-financed transaction was fixed. The analysis identifies the applicable range of prices which the ex-factory or f.o.b. price of the commodity shall not exceed.

(2) The purchase price of a commodity from a source outside the United States shall also not exceed the prevailing export price range in the United States for comparable goods sold under comparable terms of sale, as determined in paragraph (a)(1) of this section, adjusted for differences in the cost of transportation to destination when applicable.

(b) Paragraph (a) of this section shall not apply to the purchase price:

(1) In any sale under formal competitive bid procedures; or

(2) In any sale of a commodity generally traded on an organized commodity exchange.

* * * * *

9. In § 201.64, paragraph (a) is revised to read as follows:

§ 201.64 Application of the price rules to commodities.

(a) *Calculation of commodity prices on a common basis.* In testing whether the purchase price of a commodity complies with the requirements of § 201.63(a) it is necessary to insure that the price being tested as well as the prices being used as a test or measurement are calculated on the basis of delivery alongside or on board the vessel or other export conveyance. Therefore, in addition to the price of the commodity at an internal point in the source country, prices will include transportation from that point to the port of export in the source country and, to the extent not already included in the price at the internal point, inspection, export packing, forwarder's fees at customary rates, the cost of placing the commodities on board the vessel or export conveyance (unless this cost is covered in the export freight), and other necessary costs customary in the trade.

§ 201.64 [Added]

9. In § 201.64, paragraph (b)(1) is amended by removing ''(c), (d) and (e),'' and paragraph (c) is amended by removing ''(f)(1)'', ''(f)(1)(i)'' and ''(f)(2)'' from wherever they appear in and adding ''(c)(1)'', ''(c)(1)(i)'' and ''(c)(2)'', respectively, in their places.

Dated: June 26, 1997.

Marcus L. Stevenson,

Procurement Executive.

[FR Doc. 97–20718 Filed 8–7–97; 8:45 am]

BILLING CODE 6116–71–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–139–FOR]

Indiana Abandoned Mine Land Reclamation Plan

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Indiana abandoned mine land reclamation plan (hereinafter referred to as the ''Indiana plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Indiana plan pertaining to procedures for ranking and selecting reclamation projects, coordination with other programs, reclamation of private land, public participation policies, organization of designated agency, Applicant/Violator System (AVS) requirements, flora and fauna of southwestern Indiana, and the emergency reclamation program. The amendment is intended to revise the Indiana plan to be consistent with the corresponding Federal regulations and SMCRA.

DATES: Written comments must be received by 4:00 p.m., e.s.t., September 8, 1997. If requested, a public hearing on the proposed amendment will be

held on September 2, 1997. Requests to speak at the hearing must be received by 4:00 p.m., e.s.t. on August 25, 1997.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Andrew R. Gilmore, Indianapolis Field Office, at the address listed below

Copies of the Indiana plan, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Indianapolis Field Office.

Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone: (317) 226–6700.

Indiana Department of Natural Resources, 402 West Washington Street, Room C256, Indianapolis, Indiana 46204, Telephone: (317) 232–1547.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Telephone: (317) 226–6700.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Plan

On July 29, 1982, the Secretary of the Interior approved the Indiana plan. Background information on the Indiana plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the July 26, 1982, **Federal Register** (47 FR 32110). Subsequent actions concerning the Indiana plan and amendments to the plan can be found at 30 CFR 914.20 and 914.25.

II. Description of the Proposed Amendment

By letter dated July 23, 1997 (Administrative Record No. IND–1579), Indiana submitted a proposed amendment to its plan pursuant to SMCRA. Indiana submitted the proposed amendment in response to a September 26, 1994, letter (Administrative Record No. IND–1583) that OSM sent to Indiana in accordance with 30 CFR 884.15(d) and at its own initiative. The full text of the proposed program amendment submitted by Indiana is available for public inspection at the locations listed above under **ADDRESSES**. A brief discussion of the proposed amendment is presented below.

1. Miscellaneous Changes

Indiana made editorial and clarifying language changes throughout its plan. The changes include the following: (1) Revising the current organizational structure for management of the Indiana abandoned mined lands reclamation program, (2) changing each reference to the ''Soil Conservation Service/SCS'' to the ''Natural Resources Conservation Service/NRCS,'' (3) changing references to statute citations to reflect recent recodification of the Indiana Surface Coal Mining and Reclamation Act, and (4) changing various provisions to reflect revised grant procedures implemented by OSM that do not require specific project submissions at the time of grant application.

2. Reclamation Project Ranking and Selection Procedures, 884.13(c)(2)

a. Indiana added an additional example of a Priority II AML problem. Potential sites may now include ''any water body adversely affected by acid drainage derived from coal mine sources which has reduced recreational or aesthetic value and for which there is local support for reclamation.''

b. Indiana deleted the former Priority IV designation of ''AML problems which present a potential for research and demonstration projects related to mine reclamation'' and renumbered former Priority V and VI as priority IV and V, respectively.

c. Indiana added the following new provision: ''Remined Sites—Any site that is eligible for AML reclamation fund expenditures, that is remined or reaffected by mining, remains eligible for AML reclamation after bond release or bond forfeiture.''

3. Coordination with Other Programs, 884.13(c)(3)

a. Indiana removed the language ''Division of Reclamation annual plans will be developed with SCS as funding is made available''.

b. Indiana removed the existing language in the emergency policy provision, and added the new language ''Indiana's implementation of the Emergency Reclamation Program is defined in the attached Amendment E.R.P.''

4. Reclamation of Private Land, 884.13(c)(5)

a. Indiana removed the minimum 30-day time period for allowing the landowner to repay the amount of a proposed lien, and added the requirement that the landowner shall be allowed a reasonable time to prepay the amount of a proposed lien.

b. Indiana added a new provision that allows the landowner, within 60 days of the lien being filed, to petition under local law to determine the increase in market value of the land as a result of the reclamation work.

5. Public Participation Policies, 884.13(c)(7)

a. Indiana added the following new public participation policy statement: ''The publication 'Citizens guide to Indiana's Abandoned Mine Land Program' is widely circulated to all interested citizens.''

b. Indiana removed the existing language pertaining to the intergovernment review process (EO 12372) and added the language ''This direct contact has replaced the E.O. 12372 requirements that Indiana has chosen not to apply to the AML program.''

c. Indiana deleted the paragraph specifying the public meeting format.

6. Organization of the Designated Agency, 884.13(d)(1)

a. Indiana deleted the paragraph on the ''Geological Survey Division.''

b. The organizational chart of the Department of Natural Resources was revised to reflect the current organization.

c. Under the heading ''Pay Requests and Change Orders,'' Indiana removed the paragraph on payment to engineering firms.

d. The organizational chart of the Division of Reclamation was revised to reflect the current organization.

7. Purchasing and Procurement, 884.13(d)(3)—Applicant/Violator System (AVS) Requirements

Indiana added a new provision, entitled ''Indiana AML Applicant/Violator System (AVS) Program,'' to address requirements and procedures for AVS checks on potential AML contractors.

8. Flora and Fauna of Southwestern Indiana, 884.13(f)(3)

a. Indiana removed its reference to only Priority II sites and added the requirement that sites be evaluated to determine the presence of wetlands, endangered species, or other environmental concerns.

b. *Significant Features Review*—This provision was revised to clarify interaction with other Divisions in identifying important natural features and to clarify policy on potential conflicts with endangered species or unique natural features.

9. Reclamation Review Checklist

Indiana made various revisions to the reclamation review checklist. These revisions include adding the consideration of impacts to State Nature Preserves, State Forests, State Reservoirs, and State endangered or threatened species and deleting the consideration of historic and cultural resources and Federal threatened and endangered species.

10. Amendment E.R.P. (Emergency Reclamation Program)

Indiana deleted the table of contents and its reference to 30 CFR 884.13(c)(5) and (6) and revised the restoration program organizational structure chart and the description of responsibilities for the emergency program coordinator.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.15(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approved criteria of 30 CFR 884.14. If the amendment is deemed adequate, it will become part of the Indiana program.

Written Comments

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

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.s.t. on August 25, 1997. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Public Meeting

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

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and 30 CFR Part 884.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State or Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

Unfunded Mandates

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

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 31, 1997.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 97–21034 Filed 8–7–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[SPATS No. OK–022–FOR]

Oklahoma Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Oklahoma regulatory program (hereinafter the ''Oklahoma program'') under the

Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to Oklahoma's regulations pertaining to normal husbandry practices. The amendment is intended to revise the Oklahoma program to improve operational efficiency.

This document sets forth the times and locations that the Oklahoma program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m., c.d.t., September 8, 1992. If requested, a public hearing on the proposed amendment will be held on September 2, 1997. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t. on August 25, 1997.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

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

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.

Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105, Telephone (405) 521–3859.

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

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program

On January 19, 1981, the Secretary of the Interior conditionally approved the Oklahoma program. Background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 19, 1981, **Federal Register** (46 FR 4902). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 936.15 and 936.16.

II. Description of the Proposed Amendment

By letter dated July 3, 1997 (Administrative Record No. OK–978), Oklahoma submitted a proposed amendment to its program pursuant to SMCRA. Oklahoma submitted the proposed amendment at its own initiative. Oklahoma proposes to amend the Oklahoma Administrative Code (OAC) for surface mining operations at OAC 460:20–43–46(c)(4) and underground mining operations at OAC 460:20–45–46(c)(4) by adding criteria for normal husbandry practices in the State. The full text of the proposed program amendment submitted by Oklahoma is available for public inspection at the locations listed above under **ADDRESSES**. A brief discussion of the proposed amendment is presented below.

Oklahoma is proposing normal husbandry practices for reseeding, fertilizing, liming, weed and pest control, mulching, irrigation, pruning, transplanting and replanting trees and shrubs, removal and reclamation of temporary structures, and repair of rills and gullies.

To determine if husbandry practices used by the surface and underground mining operations are normal husbandry practices, Oklahoma will judge management practices on mined lands against the recommended practices for unmined lands provided by the Oklahoma State University (OSU) and the United States Department of Agriculture Natural Resources Conservation Service (NRCS). OSU has established and publishes recommended fertility and management practices for row crops, hayland, and grazingland that are tailored for soil conditions, crop rotations, tillage and application practices. OSU has extension offices throughout the State to provide more site specific recommendations, if needed. Oklahoma will use guidelines prepared by the NRCS in determining whether rill and gully repair on mined lands is augmentative or non-augmentative.

OAC 460:20–43–46(c)(4)(A) and 460:20–45–46(c)(4)(A) specify that Oklahoma will consider limited reseeding and associated fertilizing and liming as non-augmentative if the area is small in relation to the permit area, watershed, or surface property boundary, whichever is smaller. The reclaimed area must meet postmining land use and bond release requirements.

At OAC 460:20–43–46(c)(4)(B) and 460:20–45–46(c)(4)(B), approved agricultural practices published by the OSU Cooperative Extension Service, including fertilizing, liming, weed and pest control, and mulching, are not considered augmentation.

At OAC 460:20–43–46(c)(4)(C) and 460:20–45–46(c)(4)(C), on all lands with a postmining land use other than cropland, any areas reseeded or replanted as a part or result of a normal husbandry practice must be small in size and limited in extent of occurrence, or a part of a hay management plan. A hay management plan is an agricultural practice described by the OSU Cooperative Extension Service.

OAC 460:20–43–46(c)(4)(D) and 460:20–45–46(c)(4)(D) specify that the repair of rills and gullies will not be considered an augmentation practice if the occurrences and treatment of such rills and gullies constitute a normal conservation practice in the region. In the coal mining region of Oklahoma, the normal range of precipitation during fall or spring seeding seasons may result in the formation of rills and gullies during the initial establishment of permanent vegetative cover for any land use. Continued treatment of rills and gullies after initial vegetative establishment would be considered an augmentative practice that would restart the liability period. Oklahoma also defines the treatment of rills and gullies requiring permanent reseeding of more than 10 acres in a contiguous block or 10 percent of a permit area initially seeded during a single year to be an augmentative practice. This section also specifies the types of treatment for repair of rills and gullies, including seeding, mulching, and erosion control measures.

At OAC 460:20–43–46(c)(4)(E) and 460:20–45–46(c)(4)(E), liming, fertilizing, mulching, seeding or stocking following the reclamation of temporary haul roads, temporary sediment or hydraulic control structures, areas disturbed by the installation or removal of oil and gas wells or utility lines, and areas where the vegetation was disturbed by vehicular traffic not under the control of the permittee will not be considered augmentation.

OAC 460:20–43–46(c)(4)(F) and 460:20–45–46(c)(4)(F) specify that irrigation, reliming, and refertilizing revegetated areas; reseeding cropland; and renovating pastureland by overseeding with legumes after Phase II bond release shall be considered normal husbandry practices if the amount and frequency of these practices do not exceed normal husbandry practices

used on unmined land within the region.

At OAC 460:20–43–46(c)(4)(G) and 460:20–45–46(c)(4)(G), other normal husbandry practices that may be conducted on postmining land uses of fish and wildlife habitat, recreation, and forestry without restarting the liability period are disease, pest, and vermin control; pruning; and transplanting and replanting trees and shrubs in accordance with OAC 460:20–43–46(b)(3) and 460:20–45–46(b)(3).

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Oklahoma program.

Written Comments

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

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on August 25, 1997. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

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

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

Public Meeting

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

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12988

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

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

Unfunded Mandates

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

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 1, 1997.

Russell W. Frum,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 97–21033 Filed 8–7–97; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[AK 17–1705; FRL–5872–4]

Clean Air Act Reclassification; Fairbanks, Alaska, Carbon Monoxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to find that the Fairbanks North Star Borough, Alaska, carbon monoxide (CO) nonattainment area has not attained the CO national ambient air quality standards (NAAQS) by December 31, 1995, the Clean Air Act (CAA) mandated attainment date for moderate nonattainment areas. This proposed

finding is based on EPA's review of monitored air quality data for compliance with the CO NAAQS. If EPA takes final action on this proposed finding, the Fairbanks CO nonattainment area will be reclassified by operation of law as a serious nonattainment area. The intended effect of such a reclassification would be to allow the State additional time to submit a new State implementation plan (SIP) providing for attainment of the CO NAAQS by no later than December 31, 2000, the CAA attainment deadline for serious CO areas.

DATES: Written comments on this proposal must be received by September 8, 1997.

ADDRESSES: Written comments should be addressed to M. Livingston, Environmental Protection Agency, Office of Air Quality (OAQ 107), Docket AK 17–1705, 1200 6th Avenue, Seattle, WA 98101. Information supporting this action is available for inspection during normal business hours at the following locations: EPA, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington 98101, and the Alaska Department of Environmental Conservation (ADEC), 410 Willoughby, Suite 105, Juneau, Alaska 99801–1795.

FOR FURTHER INFORMATION CONTACT: Montel Livingstone, (206) 553–0180.

Comment Line: A special CO Fairbanks Air Quality comment line will be available during normal business hours. The number may be accessed directly by dialing (206) 553–1388, or it may be accessed through a toll free telephone number 1–800–424–4372, extension 1388.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Requirements and EPA Actions Concerning Designation and Classification.

The CAA Amendments of 1990 were enacted on November 15, 1990. Under section 107(d)(1)(C) of the CAA, each CO area designated nonattainment prior to enactment of the 1990 Amendments, such as the Fairbanks area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the CAA, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either ''moderate'' or ''serious'' depending on the severity of the area's air quality problem. CO nonattainment areas with a design value between 9.1–16.4 parts per million (ppm), such as the Fairbanks area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56694 (November 6, 1991). States containing CO moderate nonattainment areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit State implementation plans (SIPs) designed to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995. [1]

B. Reclassification to a Serious Nonattainment Area

1. EPA has the responsibility, pursuant to sections 179(c) and 186(b)(2) of the CAA, of determining, within six months of the applicable attainment date whether the Fairbanks area has attained the CO NAAQS. Under section 186(b)(2)(A), if EPA finds that the area has not attained the CO NAAQS, it is reclassified as serious by operation of law. Pursuant to section 186(b)(2)(B) of the Act, EPA must publish a notice in the **Federal Register** identifying areas which it determines failed to attain the standard and therefore must be reclassified as serious by operation of law. [2] EPA makes attainment determinations for CO nonattainment areas based upon whether an area has two years (or eight consecutive quarters) of clean air quality data. [3] Section 179(c)(1) of the CAA states that the attainment determination must be based upon an area's ''air quality as of the attainment date.'' Consequently, EPA will determine whether an area's air quality has met the CO NAAQS by December 31, 1995, based upon the most recent two years of air quality data entered into the Aerometric Information Retrieval System (AIRS) data base.

EPA determines a CO nonattainment area's air quality status in accordance with 40 CFR part 50.8 and EPA policy. [4] EPA has promulgated two NAAQS for CO: an 8-hour average concentration and a 1-hour average concentration. Because there were no violations of the 1-hour standard recorded in the Fairbanks area in 1994 and 1995, this document addresses only the air quality status of the Fairbanks area with respect to the 8-hour standard. The 8-hour CO NAAQS requires that not more than one non-overlapping 8-hour average per year per monitoring site can exceed 9.0ppm (values below 9.5 are rounded down to 9.0 and they are not considered exceedances). The second exceedance of the 8-hour CO NAAQS at a given monitoring site within the same year constitutes a violation of the CO NAAQS.

2. SIP Requirements for Serious CO Areas: CO nonattainment areas reclassified as serious under section 186(b)(2) of the CAA are required to submit, within 18 months of the area's reclassification, SIP revisions demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000. The serious CO area planning requirements are set forth in section 187(b) of the CAA. EPA has issued two general guidance documents related to the planning requirements for CO SIPs. The first is the ''General Preamble for the Implementation of Title I of the CAA Amendments of 1990'' that sets forth EPA's preliminary views on how the Agency intends to act on SIPs submitted under Title I of the CAA. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). The second general guidance document for CO SIPs issued by EPA is the ''Technical Support Document to Aid the States with the Development of Carbon Monoxide State Implementation Plans,'' July 1992. If the Fairbanks' area is reclassified to serious, the State would have to submit a SIP revision to EPA that, in addition to the attainment demonstration, includes: (1) A forecast of vehicle miles travelled (VMT) for each year before the attainment year and provisions for annual updates of these forecasts; (2) adopted contingency measures; and (3) adopted transportation control measures and strategies to offset any growth in CO emissions from growth in VMT or

[1] The moderate area SIP requirements are set forth in section 187(a) of the CAA Amendments of 1990 and differ depending on whether the area's design value is below or above 12.7ppm. The Fairbanks area has a design value below 12.7ppm. 40 CFR part 81.302.

[2] Language in the 1996 budget legislation, section 308, H.R. 1099, U.S. House of Representatives, dated April 15, 1996, restricted EPA from taking the action for Fairbanks, AK proposed here. ''Sec. 308. None of the funds appropriated under this Act may be used to implement the requirements of section 186(b)(2), section 187(b) or section 211(m) of the Clean Air Act . . . with respect to any moderate nonattainment area in which the average daily temperature is below 0 degrees Fahrenheit. The preceding sentence shall not be interpreted to preclude assistance from the Environmental Protection Agency to the State of Alaska to make progress toward meeting the CO standard in such areas and to resolve remaining issues regarding the use of oxygenated fuels in such areas.''

[3] See generally memorandum from Sally L. Shaver, Director, Air Quality Strategies and Standards Division, EPA, to Regional Air Office Directors, entitled ''Criteria for Granting Attainment Date Extensions, Making Attainment Determinations, and Determinations of Failure to Attain the NAAQS for Moderate CO Nonattainment Areas,'' October 23, 1995 (Shaver memorandum).

[4] See memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations,'' June 18, 1990. See also Shaver memorandum.

number of vehicle trips. See CAA sections 187(a)(7), 187(a)(2)(A), 187(a)(3), 187(b)(2), and 187(b)(1). Upon reclassification, contingency measures in the moderate area plan for the Fairbanks area must be implemented.

C. Attainment Date Extensions

If the State does not have the two consecutive clean years of data necessary to show attainment of the NAAQS, it may apply, under section 186(a)(4) of the CAA, for a one year attainment date extension. EPA may, in its discretion, grant such an extension if the State has: (1) Complied with the requirements and commitments pertaining to the applicable implementation plan for the area, and (2) the area has measured no more than one exceedance of CO NAAQS at any monitoring site in the nonattainment area in the year preceding 1996, the extension year. Because the Fairbanks nonattainment area had three exceedances in 1995, the area did not qualify for an extension.

II. This Action

By today's action, EPA is proposing to find that the Fairbanks CO nonattainment area failed to demonstrate attainment of the CO NAAQS by December 31, 1995. This proposed finding is based upon air quality data showing violations of the CO NAAQS during 1995.

Ambient Air Monitoring Data: The following table lists the monitoring sites in the Fairbanks CO nonattainment area where the 8-hour CO NAAQS was exceeded during 1995, based on data validated by the Alaska Department of Environmental Conservation and entered into the AIRS data base.

1995 CARBON MONOXIDE SUMMARY TABLE

Address of Monitoring Site	2nd maximum 8-hour average value	Date	Number of readings exceeding 8-hour standard
675 7th Ave. ..	10.6	1/03/95	3
2nd and Cushman	11.8	1/04/95	9
17th and Gilliam Way	11.6	12/29/95	7

Fairbanks had no violations of the CO NAAQS in 1996. Although one exceedance occurred in 1996 (9.8 ppm at the 2nd and Cushman site), it did not constitute as a CO violation in Fairbanks because a violation of the CO NAAQS means two exceedances of the 8-hour CO NAAQS at a given monitoring site within the same year. However, two CO NAAQS violations have been recorded in Fairbanks to-date in 1997, respectively on January 11, 1997, at the monitoring site located at 2nd and Cushman and on January 16, 1997, at the monitoring site located at 17th and Gilliam Way. This data has been validated by ADEC and entered into the AIRS data base.

In a letter to EPA dated February 11, 1997, the State of Alaska questioned whether or not Fairbanks should be reclassified to serious nonattainment status given that (1) there were no CO violations of the NAAQS in 1996, and (2) a Memorandum of Understanding had been signed, dated January 23, 1997, between ADEC and the Municipality of Fairbanks which deals directly with the CO nonattainment problem. In a letter to the State of Alaska dated March 24, 1997, EPA Region 10 pointed out that while further delay of reclassification is not possible, the progress achieved thus far in Fairbanks to improve air quality and decrease the ambient levels of CO can form the base on which to build and continue movement towards attaining the CO NAAQS. As noted above, even though 1996 was a clean year for Fairbanks, two violations were recorded in January 1997. It is important to continue developing control strategies to further reduce CO concentrations in order to attain the CO standard. EPA explained that reclassification is mandated under section 186(b) of the CAA and the Administrator does not have authority to decide otherwise once EPA determines the area has failed to meet the CO NAAQS.

Because the 1995 exceedances are valid for use in determining the attainment status of the Fairbanks area, EPA is proposing to find, based on the 1995 CO violations discussed above, that the area did not attain the CO NAAQS by December 31, 1995.

III. Executive Order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule 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.'' The Agency has determined that the finding of failure to attain proposed today would result in none of the effects identified in section 3(f). Under section 186(b)(2) of the CAA, findings of failure to attain and reclassification of nonattainment areas are based upon air quality considerations and must occur by operation of law in light of certain air quality conditions. They do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local or tribal governments or communities.

IV. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *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 economic 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 discussed in section III of this document, findings of failure to attain and reclassification of nonattainment areas under section 186(b)(2) of the CAA do not in and of themselves create any new requirements. Therefore, I certify that today's proposed action does not have a significant impact on small entities.

V. Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local or tribal governments in the aggregate. EPA believes, as discussed above, that the proposed finding of failure to attain and reclassification of the Fairbanks nonattainment area are factual determinations based upon air quality considerations and must occur by

operation of law and, hence, do not impose any Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act.

List of Subjects in 40 CFR Part 81

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

Authority: 42 U.S.C. 7401–7671q.

Dated: August 1, 1997.

Chuck Findley,

Acting Regional Administrator.

[FR Doc. 97–20969 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 439

[FRL 5872–6]

Notice of Availability; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Pharmaceutical Manufacturing Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: On May 2, 1995, EPA proposed Clean Water Act (CWA) effluent limitations guidelines, new source performance standards, and pretreatment standards for the introduction of pollutants into publicly owned treatment works to reduce the discharge of pollutants from the pharmaceutical manufacturing industry (60 FR 21592). This document describes new information the Agency has obtained since the proposal, provides detailed information concerning regulatory options under the CWA which were identified in the April 2, 1997 (62 FR 15753) Maximum Achievable Control Technology (MACT) Standard Clean Air Act (CAA) proposal, and presents the results of analyses of old and newly acquired data and suggested modifications to the proposal. This document also solicits public comments regarding any of the information presented in this document and the record supporting this notice of data availability.

DATES: Comments on this document are solicited and will be accepted until September 22, 1997. Comments are to be submitted in triplicate, and also in electronic format (diskettes) if possible.

ADDRESSES: Comments are to be submitted to Dr. Frank H. Hund at the following address: Engineering and Analysis Division (4303), EPA, 401 M Street, S.W., Washington, D.C. 20460.

The data and analyses being announced today are available for review in the EPA Water Docket at EPA Headquarters at Waterside Mall, room M2616, 401 M Street, SW, Washington, DC 20460. For access to the Docket materials, call (202) 260–3027 between 9:00 a.m. and 3:30 p.m. for an appointment. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For additional technical information, contact Dr. Frank H. Hund at the following address: Engineering and Analysis Division (4303), EPA, 401 M Street, S.W., Washington, D.C. 20460, telephone number (202) 260–7182. For information on economic impacts, contact Mr. William Anderson at the same address, telephone number (202) 260–5131.

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I. Summary of the CWA Regulatory Options Identified in the Maximum Achievable Control Technology (MACT) Standard Proposal and Purpose of This Notice

On May 2, 1995 (60 FR 21592), EPA proposed regulations to reduce discharges to navigable waters of toxic, conventional, and nonconventional pollutants in treated wastewater from the Pharmaceutical Manufacturing Category. In that proposed rule the Agency indicated that it would be proposing a Maximum Achievable Control Technology (MACT) standard for the Pharmaceutical Manufacturing Industry. Under the CAA on April 2, 1997 at 62 FR 15753, EPA proposed MACT Standards to control emissions of Hazardous Air Pollutants (HAPs) from storage tanks, process vents, equipment leaks and wastewater (the MACT proposal). In the preamble to the MACT proposal (62 FR 15760), EPA also indicated it was considering modifications to its effluent guidelines proposal of May 2, 1995 in order to avoid duplicative regulations.

For direct discharging fermentation (subcategory A) and chemical synthesis (subcategory C) facilities, EPA discussed changing its model BAT technology basis for Volatile Organic Pollutants (VOCs), which include many of the HAPs intended for control by the MACT Standards, from in-plant steam stripping followed by advanced biological treatment to advanced biological treatment. This change was based on the

fact that the MACT Standards control many of the wastestreams containing VOCs. Since the MACT Standards use steam stripping as the technology basis, certain costs previously associated with steam stripping in the effluent guidelines proposal are now being considered as part of the costs of the MACT Standards. However, for a small number of the wastewater streams that are not controlled by the MACT Standards, additional costs associated with steam stripping will be identified as costs resulting from compliance with the effluent limitations guidelines and standards.

For PSES, three modifications to the 1995 proposal were discussed. Option 1 would be compliance with the wastewater MACT Standards with the addition of some effluent monitoring. Options 2 and 3 were intended to control the additional discharge of VOCs not controlled by the MACT Standards. Option 2 would require compliance with the wastewater MACT Standards as well as compliance with additional pretreatment standards for volatile HAPs and non-HAPs not covered by the MACT Standards and basing the pretreatment standards on the MACT percent reduction approach. Option 3 would require the same compliance as Option 2 except that the additional pretreatment standards would be based on the performance database for the same control technology as the 1995 proposed PSES for VOCs. For the purpose of this notice, EPA has dropped Option 2 since it considers the data supporting Option 3 to be adequate for developing pretreatment standards, and has incorporated several scenarios into Option 3. Hereafter, the options being discussed include option 1 as discussed above and the option scenarios derived using Option 3.

Thus, the new PSES/PSNS option designations and descriptions are: Option 1—compliance with the MACT Standards plus some regular monitoring, Option 2—compliance with the MACT Standards plus additional PSES based on the performance database for the 1995 proposed PSES for all VOCs except alcohols and related pollutants, and Option 3—same as option 2 except the additional pollutants include alcohols and related pollutants. EPA has received numerous comments and data submissions concerning the 1995 proposal and in this notice, EPA is making these new data submissions available for comment and is providing a discussion of the results of analyses performed relating to specific issues raised by commenters. EPA will also solicit information and comments on a variety of other issues or questions.

II. Data Acquired Since the May 2, 1995 Proposal

Since the proposal, EPA has acquired a significant amount of data and information from the industry, and the Agency has included these new data and information in Section 13.1 of the supporting record of this Notice in order that the new data can be reviewed by interested parties. The Agency solicits comments based on reviews of these data. The new data submitted include: (1) Technology performance data for Biochemical Oxygen Demand (BOD_5), Chemical Oxygen Demand (COD), and Total Suspended Solids (TSS) for advanced biological treatment systems; (2) nitrification in biological treatment systems data for ammonia; (3) advanced biological treatment systems data for organic pollutants; (4) steam stripping performance data for volatile organic pollutants; and (5) technology performance data for treatment of cyanide. Below are summaries of each type of new data and the results of additional analysis of these data by the Agency.

A. Individual Plant Submissions

1. Biological and Advanced Biological Treatment Data (Biochemical Oxygen Demand (BOD_5), Chemical Oxygen Demand (COD), Total Suspended Solids (TSS) and Ammonia)

Additional BOD_5, COD, and TSS data were submitted with comments on the proposed CWA effluent limitations guidelines and standards from five facilities. The data from three of the facilities represent additional years of data that supplement the 1990 year data that were previously part of the best CWA technology performance database. Data from one other facility represent a new source of BOD_5, COD, and TSS performance data, while data from the fifth facility included only one data pair and were not included in the long-term means determination.

Performance data on ammonia nitrification from one facility were used as the basis of ammonia limitations at proposal. This facility has provided additional multi-year effluent ammonia data. Also since proposal, EPA has collected additional ammonia nitrification data from three other facilities. One facility did not show a period of consistent nitrification and data from this facility were therefore not included. The other new ammonia data from biological treatment have been added to the existing ammonia database.

In response to the various CWA proposal comments related to BOD_5, COD, TSS, and ammonia, EPA has incorporated the newly submitted data with the data used for the proposal and revised its proposed limitations for the various parameters. These revised limitations and, in some cases, alternate control levels are discussed further in Section II.B.1 below. EPA requests comments on the newly submitted data (see Notice Record Section 13.1.1).

2. Biological and Advanced Biological Treatment Organics Data

New organics biological treatment performance data were submitted with CWA proposal comments from six facilities. Four of these facilities represented performance of advanced biological treatment. Advanced biological treatment was defined in the CWA proposal as, ''treatment systems that consistently surpass, on a long-term basis, 90% BOD_5 reduction and 74% COD reduction in pharmaceutical manufacturing wastewater, as required by the existing BPT effluent limitations guidelines (40 CFR Part 439)''. The additional data include some information on 45 organic pollutants and describe the removal performance with respect to 16 of the pollutants for which limitations were proposed. Removal performance for the remaining 29 organic pollutants was not provided, however. In response to the various CWA proposal comments related to the proposed organics limitations, EPA has incorporated the newly submitted data with the data used for the proposal and has revised its proposal limitations for the various parameters. Those revised limitations and, in some cases, alternative control levels are discussed further in Section II.B.2 below. EPA requests comments on the newly submitted data (see Notice Record Section 13.1.2) and their use.

3. Steam Stripping Performance Data

New data representing the performance of steam stripping technology in removing volatile organic pollutants were submitted with CWA proposal comments by three facilities. The additional data reflect treatment by four stream strippers of 23 of the pollutants for which standards were proposed. In response to the CWA proposal comments related to steam stripping of volatile organics, EPA has incorporated the newly submitted data with the data used at proposal and revised its proposal pretreatment standards for the various parameters. These revised standards and, in some cases, alternate control levels are discussed in Section II.B.3. below. EPA

requests comments on the newly submitted data (see Notice Record Section 13.1.3) and their use.

4. Technology Performance Data for Cyanide

EPA received additional cyanide treatment performance data from three facilities. Two of these facilities use alkaline chlorination treatment and one of these facilities uses hydrolysis treatment. For one facility, the new data include the individual effluent data points corresponding to the facility's Section 308 Questionnaire average 1990 effluent cyanide concentration. For the second facility, the new data include (1) part of the raw 1990 data used in developing the facility's Section 308 Questionnaire average effluent cyanide concentration (the other part of the raw 1990 data used in the reported averages could not be located by the plant) and (2) additional 1994 cyanide destruction data. For the third facility, the new data include 1994 cyanide destruction data. In response to the CWA comments related to cyanide, EPA has incorporated the newly submitted data with the data used at proposal and revised its proposed limitations and standards for cyanide. These revised standards and, in some cases, alternate control levels are discussed in Section II.B.4. below. EPA requests comments on the newly submitted data (see Notice Record Section 13.1.4) and their use.

B. Data Editing Criteria and Limitations

After considering comments on the proposed CWA effluent limitations guidelines and standards, EPA has developed data editing criteria and methodologies for developing alternative limitations. The new data editing criteria and methodologies address comments on the proposed limitations; these comments and the approach(s) to respond to them are discussed below.

1. Biological and Advanced Biological Treatment Data (Biochemical Oxygen Demand (BOD_5), Chemical Oxygen Demand (COD), Total Suspended Solids (TSS) and Ammonia)

The data used in determining limitations for BOD_5, COD and TSS, were selected based on the following criteria which were discussed in the proposal. First, the treatment at the facility must qualify as advanced biological treatment as defined in section II.A.2. Next, the facilities must treat a majority (49% or more by volume) of pharmaceutical process wastewater in relation to other process wastewater. Finally, the treatment facilities must be representative of conventional treatment technologies. Using these criteria facilities were selected to provide data used in determining limitations for BOD_5, COD and TSS.

The data used in determining limitations for ammonia were selected based on biological nitrification. Facility input and nitrate levels helped to determine which facilities nitrified. Some of these facilities only experienced occasional nitrification. For these cases, the data representing nitrification were extracted from the data which did not. These data sets were used in determining limitations for ammonia.

EPA received several comments indicating that in developing the proposed BPT limitations on BOD_5, COD, and TSS, EPA did not take into account significant amounts of non-process water present in the effluent of some best performing facilities. In evaluating this comment, EPA has recalculated long-term means, limitations, and facility effluent concentrations for BOD_5, COD, and TSS from biological treatment using the following methodology. If 25% or more of the treated plant flow was non-process wastewater, then the non-process wastewater flow was assumed to be dilution water and the plant performance data were then reaveraged using the corrected parameter concentrations. The 25% or more non-process wastewater cutoff was chosen because dilution above this level would cause any concentration data reported to reflect too much uncertainty for the data to determine the performance of the technology used as a basis of effluent numerical limits. This is the same cutoff of acceptable dilution relied on in the Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) regulation.

In applying this methodology to best performers in the BPT database, EPA revised the performance from three facilities. The resulting limitations are less stringent than the proposed limitations and are presented in Table 1. These limitations would be converted to mass standards by the permit authority using the pharmaceutical process wastewater flow of the facility and not the end-of-pipe treatment flow. EPA requests comments on the newly calculated BPT limitations for BOD_5 and TSS, the newly calculated BAT limitations for COD and ammonia, and the methodology used to calculate them (see Notice Record Section 14.6.1).

TABLE 1.—LONG-TERM MEAN CONCENTRATIONS AND BPT AND BAT EFFLUENT LIMITATIONS

Pollutant parameter	Long-term mean concentration(mg/l)	BPT/BAT effluent limitations	
		Maximum for any one day (mg/l)	Monthly average (mg/l)
Subcategory A/C:			
BOD_5	125.0	647.0	202.0
COD*	951.0	2,150.0	1,210.0
TSS	347.0	1,980.0	594.0
Ammonia*	2.1	9.2	3.8
Subcategory B/D:			
BOD_5	13.7	64.4	21.1
COD*	72.4	282.0	110.0
TSS	33.8	164.0	52.4

*BAT Limitations.

2. Biological and Advanced Biological Treatment Organics Data

The data used in determining the BAT limitations for organic pollutants were selected based on the following criteria which were discussed in the proposal. First, the treatment at the facility must qualify as advanced biological treatment as defined in section II.A.2. Next, the facilities must treat a majority (49% or more by volume) of pharmaceutical process wastewater in relation to other process wastewater. Then, pollutant data sets must contain detected influent values which are greater than ten times the detection level of the pollutant in the effluent. In the proposal, data sets that showed influent levels of pollutants 10 times effluent levels were considered to show evidence of treatment. EPA excluded pollutant data sets which did not show pollutant removal through treatment or which had pollutant effluent values greater than influent values. Additionally, EPA excluded data sets which consisted of average pollutant influent values which were low (i.e., less than 10 times the long term mean of the effluent value for that pollutant), thus, did not represent technology performance. Finally, EPA received several comments stating that data sets with a small number of data points should not be used in limitations and standards development. Therefore, EPA excluded data sets with less than three data points. From these criteria, data were selected to be used in determining limitations for organic pollutants.

Several commenters on the CWA proposal indicate that in developing the proposed BAT limitations on nonconventionals, EPA did not take into

account significant amounts of non-process water present in the effluent of some best performing facilities. In evaluating this comment, EPA has recalculated long-term means, limitations, and facility effluent concentrations for nonconventionals from biological treatment using the following methodology. If 25% or more of the treated plant flow was non-process wastewater, then the non-process wastewater flow was assumed to be dilution water and the plant performance data were then reaveraged using the corrected pollutant concentrations.

The new candidate BAT limitations based on advanced biological treatment were developed using the data editing criteria listed above and incorporating the dilution water corrections. They are in Table 2. These limitations would be converted to mass standards by the permit authority using the pharmaceutical process wastewater flow of the facility and not necessarily the total end-of-pipe treatment facility discharge flow. EPA requests comments on the newly calculated candidate BAT limitations and the methodology used to calculate them (see Notice Record Section 14.6.2).

TABLE 2.—LONG-TERM MEAN CONCENTRATIONS AND BAT EFFLUENT LIMITATIONS

Pollutant code and pollutant name	Long-term mean concentration (mg/L)	BAT effluent limitations	
		Maximum for any one day (mg/L)	Monthly average (mg/L)
003—Acetonitrile	0.05	0.2	0.09
010—n-Amyl Acetate	0.3	1.1	0.5
011—Amyl Alcohol	1.1	3.7	1.8
012—Aniline	0.03	0.1	0.05
015—Benzene	0.002	0.009	0.004
025—2-Butanone (MEK)	0.04	0.2	0.08
026—n-Butyl Acetate	0.3	1.1	0.5
027—n-Butyl Alcohol	1.1	3.7	1.8
029—tert-Butyl Alcohol	1.1	3.7	1.8
035—Chlorobenzene	0.03	0.1	0.05
037—Chloroform	0.01	0.02	0.01
048—o-Dichlorobenzene	0.03	0.1	0.05
051—1,2-Dichloroethane	0.05	0.4	0.1
055—Diethylamine	0.01	0.05	0.02
060—N,N-Dimethylacetamide	0.01	0.05	0.02
062—N,N-Dimethylaniline	0.03	0.1	0.05
064—N,N-Dimethylformamide	0.01	0.05	0.02
066—Dimethyl Sulfoxide	0.05	0.2	0.1
067—1,4-Dioxane	0.8	8.4	2.6
070—Ethanol	1.1	3.7	1.8
071—Ethyl Acetate	0.3	1.1	0.5
077—Ethylene Glycol	1.1	3.7	1.8
079—Formaldehyde	0.3	1.2	0.5
080—Formamide	0.01	0.05	0.02
084—n-Heptane	0.005	0.02	0.009
087—n-Hexane	0.01	0.03	0.02
093—Isobutyraldehyde	0.3	1.2	0.5
094—Isopropanol	0.8	3.3	1.4
095—Isopropyl Acetate	0.3	1.1	0.5
096—Isopropyl Ether	0.8	8.4	2.6
097—Methanol	1.7	5.0	2.6
101—Methyl Cellosolve	1.1	3.7	1.8
102—Methylene Chloride	0.1	0.9	0.3
103—Methyl Formate	0.3	1.1	0.5
105—4-Methyl-2-Pentanone (MIBK)	0.1	0.4	0.2
113—Petroleum Naphtha	0.01	0.06	0.02
114—Phenol	0.01	0.05	0.02
115—Polyethylene Glycol 600	0.8	8.4	2.6
117—n-Propanol	1.1	3.7	1.8
118—Acetone	0.1	0.4	0.2
124—Pyridine	0.03	0.1	0.05
129—Tetrahydrofuran	0.8	8.4	2.6
130—Toluene	0.01	0.06	0.02
136—Triethylamine	0.01	0.05	0.02
139—Xylenes	0.005	0.02	0.01

3. Steam Stripping Performance Data

The steam stripping data used in determining the new candidate PSES limitations for volatile organic pollutants shown in Table 3 were selected based on the following criteria which also were discussed in the CWA proposal:

- All data point pairs with influent concentrations below detection limit were deleted;
- All data points that were collected from a flash tank or distillation pot were deleted;
- All data point pairs with a negative percent removal or that showed no removal after treatment were deleted;

• All data point pairs with an influent lower than the long term means shown in Table 3 were deleted;

• All data point pairs collected from a steam stripper with inadequate steam to feed ratios or an inadequate number of equilibrium stages in the stripper were deleted;

• Effluent concentrations that were reported below the detection limit were assumed to have a concentration equal to the detection limit; and

• Data which came from a single wastewater stream at one facility that was deemed to have an atypical matrix, i.e., did not lend itself to BAT performance, were not used. Similarly, other data points which were not considered representative of BAT technology performance were not used.

The data sets used in the development of the limitations are included in the record for this notice. The new candidate PSES (Table 3) are based on air stripping for ammonia and steam stripping for VOCs, and were developed using the data editing criteria listed above. EPA requests comments on the newly calculated candidate PSES and the methodology used to calculate them (see Notice Record Section 14.6.3).

TABLE 3.—LONG-TERM MEAN CONCENTRATIONS AND PSES EFFLUENT STANDARDS

Pollutant code and pollutant name	Long-term mean concentration (mg/L)	PSES effluent standards	
		Maximum for any one day (mg/L)	Monthly average (mg/L)
009—Ammonia as N	9.9	12.9	10.9
010—n-Amyl Acetate	4.1	20.7	8.2
011—Amyl Alcohol	11.8	47.4	20.6
012—Aniline	1,240	3,160	1,760
015—Benzene	0.2	3.0	0.6
025—2-Butanone (MEK)	121	1,440	430
026—n-Butyl Acetate	4.1	20.7	8.2
027—n-Butyl Alcohol	1,240	3,160	1,760
029—tert-Butyl Alcohol	11.8	47.4	20.6
035—Chlorobenzene	0.2	3.0	0.6
037—Chloroform	0.01	0.1	0.03
048—o-Dichlorobenzene	4.1	20.7	8.2
051—1,2-Dichloroethane	4.1	20.7	8.2
055—Diethylamine	4.1	20.7	8.2
062—N,N-Dimethylaniline	11.8	47.4	20.6
067—1,4-Dioxane	1,240	3,160	1,760
070—Ethanol	355	1,900	724
071—Ethyl Acetate	4.1	20.7	8.2
080—Formamide	11.8	47.4	20.6
084—n-Heptane	0.2	3.0	0.6
087—n-Hexane	0.2	3.0	0.6
093—Isobutyraldehyde	4.1	20.7	8.2
094—Isopropanol	11.8	47.4	20.6
095—Isopropyl Acetate	4.1	20.7	8.2
096—Isopropyl Ether	4.1	20.7	8.2
097—Methanol	1,240	3,160	1,760
101—Methyl Cellosolve	0.2	3.0	0.6
102—Methylene Chloride	0.2	3.0	0.6
103—Methyl Formate	4.1	20.7	8.2
105—4-Methyl-2-Pentanone (MIBK)	4.1	20.7	8.2
113—Petroleum Naphtha	1,240	3,160	1,760
117—n-Propanol	355	1,900	724
118—Acetone	4.1	20.7	8.2
124—Pyridine	43.1	569	163
129—Tetrahydrofuran	1.5	9.2	3.4
130—Toluene	0.1	0.3	0.1
136—Triethylamine	4.1	20.7	8.2
139—Xylenes	0.2	3.0	0.6

4. Technology Performance Data for Cyanide

Commenters indicated that the hydrogen peroxide technology basis used to determine the CWA proposal limitations and standards for cyanide when used to oxidize cyanide in certain mixtures containing organic synthesis waste products, could cause equipment explosions and accordingly raised plant safety concerns. Other commenters have indicated that the technology basis for cyanide limitations and standards should not be limited to hydrogen peroxide oxidation technology since it may not be appropriate to all cyanide treatment situations. In addressing these comments, EPA has reevaluated all of the cyanide destruction data in its data base. Data representing the performance of hydrogen peroxide, alkaline chlorination, and hydrolysis technologies were reevaluated from a performance standpoint. EPA has excluded from consideration those data sets that consist of only one data point pair and those datasets for which the influent or effluent cyanide concentrations are unknown. The Agency is developing two sets of possible limitations, the one based on hydrogen peroxide oxidation technology, and the other based on alkaline chlorination technology. EPA is considering promulgating two sets of limitations, one of these based on hydrogen peroxide technology would be used by the great majority of facilities.

Facilities with a potential safety hazard would be required to comply with limitations based on alkaline chlorination. We invite comments on parameters to define which cyanide limits would apply. Some commenters have suggested that cyanide wastestreams with high organic content as evidenced by high COD and TOC (total organic carbon) would be more appropriately controlled by limitations based on alkaline chlorination. EPA requests data to define these levels and any other data persons believe relevant to determining the performance and safety aspects of these technologies (see Notice Record Section 14.6.4).

Technology	Long-term mean concentration (mg/L)	Maximum for any one day (mg/L)	Monthly average (mg/L)
Hydrogen peroxide oxidation	0.24	0.8	0.4
Alkaline chlorination	4.8	22.9	9.8

C. EPA and PhRMA Sampling Results

In August of 1996, EPA and the Pharmaceutical Research and Manufacturers Association (PhRMA) conducted sampling at the Barceloneta POTW in Barceloneta, Puerto Rico. The purpose of the sampling visit was to obtain data on the removal of alcohols (methanol, ethanol and isopropanol) and other oxygenates in the primary treatment works of a POTW. Specifically, EPA was attempting to determine the extent to which these compounds volatilize in the grit chambers and primary clarifiers of a POTW prior to the secondary (biodegradation) treatment process. The Barceloneta POTW was selected for sampling because the influent of this POTW was known to contain measurable quantities of alcohols and other pollutants for which pretreatment standards were proposed in May, 1995. In addition to the wastewater sampling for the alcohols and other pollutants, EPA conducted a separate biodegradation study to determine the extent to which the alcohol pollutants were being aerobically biodegraded in the aerated grit chambers. Split samples were obtained by PhRMA representatives for some of the wastewater samples as well as the biodegradation samples. The data from this sampling episode are being considered by EPA in its pass-through determination for alcohols.

The results of the sampling study are summarized in Table 4 below. EPA sampling results indicate that most of the methanol is lost in the grit chambers through volatilization while most of the ethanol and isopropanol are lost through aerobic biodegradation. Based on an evaluation of the results of the sampling episode, EPA believes that the losses of the methanol, ethanol, and isopropanol in the primary treatment units are due to volatilization. In a follow-up study, PhRMA conducted an anaerobic biodegradation study on primary clarifier influent and has suggested that the losses of the alcohols in the primary clarifier may be due to anaerobic degradation either chemical or biochemical. In this study, PhRMA attempted to measure the decrease in alcohol concentration under anoxic (anaerobic conditions). EPA's analysis of these data indicates that the level of uncertainty connected with the analytical measurements is much greater than the differences in concentration of alcohol over time. EPA has included both study reports in the supporting documentation for this notice (see Notice Record Section 13.2.4) and solicits comments on both study reports.

TABLE 4.—PERCENT LOSSES OF ALCOHOLS IN PRIMARY TREATMENT

Pollutant	Average influent Mass, lbs	Average grit chamber effluent mass, lbs	Average primary clarifier effluent mass, lbs	Overall percent loss, primary treatment	Volatization loss, range EPA	Volatization loss, range PhRMA
Methanol	9,046	7,964	7,314	19.1	14.2–16.1	12.5–15.9
Ethanol	10,593	9,325	7,908	25.3	4.1–8.8	3.9–8.9
Isopropanol	5,054	4,756	4,476	11.4	0.0–5.1	0.0–3.9

Based on the results shown above, EPA believes that there is general agreement between the EPA results and the results measured by analyzing the samples obtained by PhRMA on the overall percentage losses through volatization of the three pollutants, methanol, ethanol, and isopropanol. The general ranges of volatization losses of these three pollutants are 12.5–16.1% for methanol, 3.9–8.9% for ethanol, and 0.0–5.1% for isopropanol. Results of the estimates of volatization for these three pollutants, along with those for four other VOCs (acetone, chloroform, methylene chloride, and toluene) were used to develop an alternative method of evaluating pass-through. The use of these results are discussed in Section II. B. below.

II. Analysis of Best Available Technology (BAT) and Pretreatment Standards for Existing Sources (PSES) Options Identified in the Maximum Achievable Control Technology (MACT) Proposal

In section seven of the preamble to the proposal (62 FR 15760), EPA identified options for controlling the load of VOCs not controlled by the proposed MACT wastewater standards. EPA outlined options for controlling the remaining load generated by direct and indirect dischargers. In Section I options were identified and modifications to them based on analysis subsequent to the MACT Standards proposal were described. In the sections that follow, the Agency will discuss in more detail the current status of these options, discuss the reasoning behind any modifications and provide preliminary information on annual cost estimate and loading removal results.

A. BAT Option

In the MACT proposal preamble, EPA indicated that in view of the MACT proposed wastewater standards, it was considering changing the BAT technology basis for subcategories A and C to advanced biological treatment only from in-plant steam stripping plus

advanced biological treatment. EPA believes that this revised approach is still appropriate and has estimated the annual costs to meet CWA requirements to be $3.8 million (1990 dollars). These costs represent a significant difference from the VOC control costs ($30.6 million, 1990 dollars) for the May 1995 proposed BAT option which included in-plant steam stripping costs. This decrease in costs is due simply to the fact that the main responsibility for VOC control and its costs at these facilities will be incurred under the CAA MACT rule. EPA has estimated that the removal of VOCs achieved by the proposed MACT wastewater standards and the BAT option currently being considered is of the same degree or greater than that achieved by the original proposed CWA option, alone.

The costs cited above (3.8 million 1990 dollars) associated with the effluent guidelines compliance with BAT for direct dischargers are mainly to achieve compliance with end-of-pipe organic limitations, but also contain some costs for cyanide, ammonia and COD control. These costs also include costs for two steam strippers for VOC control not controlled by the MACT Standards. The end-of-pipe long-term means used in the compliance cost estimation were developed after consideration of comments and newly received data and were discussed in greater detail in section B.2. of this notice.

B. PSES Analysis

EPA has received a significant number of comments on its pass-through analysis and its decision to propose regulations for water soluble organic compounds such as methanol and ethanol. In the 1995 CWA proposal, EPA performed a pass-through analysis on all pollutants for which regulations were proposed including the alcohols and other water soluble organic compounds using the BAT and POTW removal data available then. Since the proposal additional information has been obtained, including the Barceloneta sampling episode analysis results discussed above, and an alternative pass-through analysis has been conducted; these are discussed below.

1. Pass-Through

In performing its pass-through analysis for water soluble volatiles (e.g., methanol) and other pollutants prior to the proposal of the CWA pharmaceutical effluent limitations guidelines and standards, EPA compared the average pollutant removal achieved by well operated POTWs achieving secondary treatment (based on data available then) to the pollutant removal achieved by application of the proposed BAT technology. For the VOCs, including water soluble volatiles, the percent removal analysis did not use numerical percent removals since there were no data on actual treatment (biodegradation versus volatization). However, since volatization occurs in both BAT and POTW biological treatment systems, and since no data concerning the relative amounts of volatization in these systems were available, volatilization was assumed to be equal between the two for the purposes of the pass-through analysis done in 1995 to support the proposed CWA requirements. Some commenters on that proposal have indicated that EPA underestimated the amount of biodegradation of methanol and other water soluble pollutants, and overestimated the extent to which the pollutants volatilize in sewers, POTW headworks, and secondary treatment works. In order to address these and other comments concerning water soluble organic pollutants, EPA sampled the Barceloneta, Puerto Rico POTW which was discussed above in Section II.C. Additionally, EPA has received some data concerning the issue of volatization of water soluble organics and will be discussing these data below.

a. New Data Related to Pass-Through. Since proposal EPA has received and reviewed the results of computer-based modeling which attempted to simulate the behavior of water soluble organics in sewer systems, and has conducted modeling on the water soluble and other pollutants using data from the Barceloneta POTW study. The latter modeling efforts were conducted in order to obtain a realistic estimate of how much volatization of volatile organic pollutants occurs throughout the entire POTW system. The computer modeling study report entitled ''Emissions of High-Solubility VOCs from Municipal Sewers'' is part of the supporting record for this notice (see Notice Record Section 13.1.5). The results of this study indicate that volatilization of methanol and ethanol in closed sewers is expected to be minimal with maximum emission rates of 0.03 and 0.19% being projected under most sewer conditions. However, under open sewer conditions, volatilization percentages of methanol and ethanol could be as high as 6.5 and 20%, respectively.

Using the influent concentration data obtained from the Barceloneta, PR sampling visit, EPA has modeled the relative degrees of volatilization and biodegradation in the overall treatment works of this plant. EPA's modeling results using the WATER8 model program and its biodegradation and volatization rate constants are shown below in Table 5.

TABLE 5.—WATER 8 MODELING RESULTS FOR PRIMARY AND SECONDARY TREATMENT

[In percent]

Pollutant	Volatization in primary	Biodegradation in primary	Volatization in secondary	Biodegradation in secondary	Overall volatization	Overall biodegradation
Methanol	2.1	0.0	2.0	90.8	4.0	90.5
Ethanol	2.2	0.0	0.5	97.7	2.7	92.9
Isopropanol	4.2	0.0	10.8	74.0	14.3	77.0
Acetone	8.0	0.0	3.2	94.9	10.7	84.8
Chloroform	40.9	0.0	58.7	40.5	71.2	23.9
Methylene Chloride	38.9	0.0	70.4	28.6	78.2	17.8
Toluene	46.1	0.0	36.9	62.7	60.4	32.4

Note: Volatilization and biodegradation percentages may not add up to 100% since some of the compound remains in the effluent and some goes out with the sludge.

Results of this modeling for methanol, ethanol, and isopropanol shows less volatization in the primary treatment portion than the empirical data from the Barceloneta POTW sampling shown in Table 4.

b. Possible Alternative Pass-Through Analysis. EPA has conducted a pass-through analysis for all pollutants which are considered to be candidates for regulation at this time by comparing well operated secondary treatment POTW median percent removals with the BAT percent removals. This method of conducting the pass-through analysis includes the volatization in the percent removals and assumes that they are equal for both POTW and BAT removal processes. The results of this analysis, using a strict comparison of removal percentages, indicate that 33 pollutants pass through POTWs. Nonetheless, while this analysis may be appropriate for moderately soluble volatile organics such as chloroform, methylene chloride, and toluene, where volatization rates at POTWs are higher (see Table 5 results), the analysis may not be appropriate for biodegradable water soluble volatile organics mentioned earlier in the previous section. The assumption that the BAT and POTW volatization percentages are equal may not be accurate for these pollutants. It is possible that the BAT volatization could be greater than POTW volatization due to higher influent concentrations at pharmaceutical facility treatment works, and, as a result, some or all of these compounds may not be determined to pass through the POTW. However, given the higher biodegradability of the water soluble volatile compounds, its expected that the biodegradation will be the predominant removal pathway in biological and advanced systems at both POTWs and direct discharger BAT plants and, thus, one could conclude that these compounds do not pass-through. Additionally, EPA has identified other pollutants for which it has proposed pretreatment standards that have lower Henry's law constants (less tendency to volatilize than acetone) which along with the alcohols in question may or may not pass through POTWs. These pollutants are formamide, N,N-dimethylaniline, pyridine, 1,4 dioxane, aniline and petroleum naphtha. Consequently, the Agency is contemplating incorporation of the alcohol pass-through scenarios into the options selection for the final rule. EPA requests data from any BAT level direct dischargers regarding volatization of these compounds in their biological treatment system, especially in the primary portion of their facility. EPA also solicits comment on the differences between the Water8 model results and the empirical data in estimating volatization and biodegradation in the primary portion of biological treatment works and on the use of these results in the pass-through analysis (Section 14.14).

2. Preliminary Costs and Loading Removals Assuming Two Different Pass-Through Scenarios for Modified Options

Based on the use of the alternate pass-through analysis approaches, EPA has developed compliance cost and pollutant removal estimates for two categorical pretreatment options, one involving regulation of alcohols and related pollutants and the other with no regulation of alcohols and related pollutants via categorical pretreatment standards. The alcohols and related pollutants in question are methanol, ethanol, n-propanol, isopropanol, n-butyl alcohol, tert-butyl alcohol, amyl alcohol, formamide, N,N-dimethylaniline, pyridine, 1,4-dioxane, aniline, and petroleum naphtha. For Option 2, under which alcohols and related pollutants would not be regulated under PSES, EPA estimates annual compliance costs of $40.0 million (1990 dollars) for A/C subcategory facilities and organic pollutant removals of 6.9 million pounds per year. For B/D subcategory facilities EPA estimates annual compliance costs of $8.4 million and organic pollutant removals of 3.3 million pounds per year. For Option 3, where alcohols and related pollutants would be regulated, EPA estimates annual compliance costs of $44.6 million for A/C subcategory facilities and organic pollutant removals of 11.9 million pounds per year. For B/D subcategory facilities, EPA estimates annual compliance costs of $10.8 million per year and organic pollutant removals of 5.4 million pounds per year.

Several commenters suggested that EPA exclude small facilities based on their flow and concentration from categorical pretreatment standards. While EPA has not decided whether it is appropriate to exclude small facilities from these categorical pretreatment standards, because the economic analysis for the final rule will be redone and may show increased economic impacts on small facilities when completed, EPA has conducted two alternative cost scenarios under which small facilities would be excluded from PSES for VOCs. If small facilities (those that discharge less than 10,000 lbs per year of regulated pollutants) are excluded from these pretreatment standards, the Option 2 annual compliance costs are $36.5 million and 6.5 million pounds per year for A/C subcategory facilities and $5.0 million and 2.6 million pounds per year for subcategory B/D facilities. The Option 3 costs and removals for non-excluded A/C facilities are $40.7 million and 11.5 million pounds per year while the costs and removals for non-excluded B/D facilities are $6.6 million and 4.1 million pounds per year. EPA estimates that assuming the 10,000 pound per year cut-off, 34 A/C facilities and 67 B/D facilities would be excluded from pretreatment standards for organic pollutants. The cost and removal information is summarized in Table 6 below.

TABLE 6.—PSES COSTS AND REMOVALS

Option/subcategory	Scenario	Total annual costs (million/yr)	Total annual organics removal million lbs/yr
2/A/C	No small plant exclusion	$40.0	6.9
2/A/C	34 small plants excluded	36.5	6.5
3/A/C	No small plant exclusion	44.6	11.9
3/A/C	34 small plants excluded	40.7	11.5
2/B/D	No small plants exclusion	8.4	3.3
2/B/D	67 small plants excluded	5.0	2.6
3/B/D	No small plants exclusion	10.8	5.4
3/B/D	67 small plants excluded	6.6	4.1

The costing methodology used as well as the individual plant cost estimates may be found in Section 14.8 of the supporting documentation for this notice. The long-term mean concentrations used to calculate

pollutant removals may also be found in the supporting documentation. Individual facilities are encouraged to examine the input data used to make cost and loadings estimates for their facility and verify their accuracy based on 1990 Questionnaire responses.

IV. Results of Analyses of Pre-Proposal and Newly Acquired Data With Respect to Various Comment Issues

Since proposal the Agency has been evaluating comments made with respect to various regulatory issues and analyzing existing and newly submitted data in the context of the proposal comments. As a result of these analyses, EPA is considering approaches on specific issues that differ from the positions taken by EPA at proposal. The issues and new approaches to them are discussed below. A more complete discussion of the analyses performed with respect to each issue may be found in the supporting documentation for this notice.

A. New Source Performance Basis

EPA received comments on its subcategory A/C new source performance standards for the pollutant parameters BOD^5, COD and TSS which are based on the performance data from one facility. The commenters indicated that the production range of this facility is too narrow to adequately represent new source A/C facilities. In response to this comment, EPA is reassessing the Subcategory A/C NSPS for BOD_5, COD, and TSS using data from two best performer facilities (Facility 30701 and Facility 31121). EPA is also reassessing the Subcategory C NSPS for BOD_5, COD, and TSS that would be based on activated carbon pretreatment of Subcategory C wastewaters only, followed by advanced biological treatment. EPA requests comment on the appropriateness of using the additional plant data.

B. Ammonia Limitations and Standards

EPA has received additional ammonia treatment performance data representative of steam stripping and biological nitrification technologies. With respect to the proposed BAT ammonia limitations, EPA is evaluating revised limitations based on an expanded nitrification database. The Agency is costing two stage nitrification for those facilities with 1990 Questionnaire response data which indicate an end-of-pipe ammonia as N (Nitrogen) concentration above the long-term mean developed from the expanded database. EPA has converted the ammonium hydroxide loadings data from the 1990 Questionnaire into an ammonia as N end-of-pipe concentration for this purpose.

At proposal, EPA developed a PSES for ammonia for indirect A/C facilities based on air stripping performance data. In the proposal preamble, the Agency indicated that they believed that steam stripper treatability performance would be as good as or better than the demonstrated air stripping performance. Newly submitted steam stripping performance data for ammonia as N (Nitrogen) supports this belief and shows better performance and lower effluent concentrations than the air stripping data used to develop the proposed PSES (see Section 13.1.3 of the Record). Therefore, EPA does not currently intend to revise the proposal. EPA solicits comment on the new BAT nitrification data.

The BAT technology basis for controlling ammonia is nitrification at biological or advanced biological treatment systems and some POTWs with biological or advanced biological treatment have nitrification. Accordingly, EPA is requesting comments on its intention to allow the pass-through analysis to consider whether nitrification is part of the POTW technology in determining whether ammonia discharges from pharmaceutical industrial users pass-through POTWs. Additionally, EPA is requesting information from pharmaceutical facilities with higher current ammonia loadings than were shown in their 1990 questionnaire responses and information from facilities on the availability of land for two-stage nitrification treatment. (See Sections VI C and D.)

C. Pollutant Exclusions

EPA received several comments questioning the reasoning behind the regulation of certain pollutants as well as the overall rationale for selecting pollutants for regulation. Other commenters indicated that EPA was regulating too many pollutants. In response, EPA has reviewed the loadings bases for all of the pollutants selected for regulation and has determined that in the case of eight pollutants, insufficient amounts of the pollutants are being discharged to justify national regulation. These pollutants are diethyl ether, cyclohexane, chloromethane, dimethylamine, methylamine, furfural, 2-methylpyridine and trichlorofluoromethane. EPA's revised pollutants to regulate analysis is presented in Section 14.4 of the record for this rule.

D. Use of Surrogate Pollutants

In an effort to respond to comments concerning excessive monitoring for regulated organic pollutants, EPA is considering permitting facilities that discharge more than one regulated organic pollutant be allowed to monitor for surrogate pollutants. Plants would be allowed to monitor for a surrogate pollutant(s) only if they certify that the other pollutants are receiving the same degree of treatment as the surrogate pollutant(s) and all of the pollutants discharged are in the same treatability class(s) as the surrogate pollutant(s). Treatability classes have been identified for both steam stripping and biological treatment technologies, the PSES and BAT technology bases for limitations controlling the organics. Individual plants may choose to certify by selecting a pollutant for monitoring in a given treatability class and providing documentation for approval by the permit or pretreatment authorities that the other pollutants in that treatability class are treated to the same extent as the monitored pollutant. This documentation should include appropriate engineering documentation that demonstrates that all of the regulated pollutants in a given treatability class are being treated using identical treatment. The permit or pretreatment authorities may require the surrogate pollutant to be the pollutant present in the highest concentration. EPA has also developed a list of surrogate pollutants for guidance for the permit or pretreatment authority based on the following criteria: (1) the number of facilities discharging the pollutant, i.e., the larger the number of facilities discharging the pollutant, the more appropriate would be its use as a surrogate; (2) the total quantity of a pollutant discharged, i.e., the more a pollutant is discharged the more suitable it is for use as a surrogate, and (3) the number of streams containing a pollutant, i.e., the more streams containing a pollutant, the more suitable for use as a surrogate. Both the treatability classes and the suggested surrogate pollutants are presented in Tables 7 and 8.

TABLE 7.—POTENTIAL SURROGATES FOR DIRECT DISCHARGERS (BIOTREATMENT)

Compound	Number of facilities reporting constituent	Quantity discharged (lbs/yr)
Alcohols		
Ethanol	**97**	**6,802,384**
Isopropanol	**85**	**4,565,370**
Methanol	**82**	**15,388,273**
n-Butyl alcohol	18	675,189
Phenol	12	10,974
Ethylene glycol	10	225,188
Amyl alcohol	6	197,635
tert-Butyl alcohol	5	121,408
n-Propanol	5	12,238
Aldehydes		
Formaldehyde	**27**	**334,527**
Isobutyraldehyde	2	35,659
Alkanes		
n-Heptane	**12**	**28,044**
n-Hexane	**9**	**11,265**
Petroleum naphtha	3	261,137
Amides & Amines		
N,N-Dimethylformamide	**22**	**494,837**
Triethylamine	**15**	**633,225**
N,N-Dimethylacetamide	7	1,046,333
Diethylamine	7	219,374
Formamide	4	7,544
Aromatics		
Toluene	**43**	**783,364**
Xylenes	**14**	**53,724**
Pyridine	10	212,581
Chlorobenzene	4	5,616
Aniline	4	4,603
o-Dichlorobenzene	2	21,499
N,N-Dimethylaniline	2	19,155
Benzene	1	121,400
Chlorinated Alkanes		
Methylene chloride	**47**	**3,590,640**
Chloroform	**17**	**409,317**
1,2-Dichloroethane	**6**	**27,559**
Esters & Ethers		
Ethyl acetate	**27**	**390,584**
Tetrahydrofuran	**17**	**478,669**
Isopropyl acetate	9	184,550
Polyethylene glycol 600	8	31,219
1,4-Dioxane	6	24,927
n-Amyl acetate	5	293,408
Isopropyl ether	5	12,387
n-Butyl acetate	3	512,926
Methyl formate	3	157,727
Ketones		
Acetone	**55**	**4,573,766**
MIBK	9	635,677
2-Butanone (MEK)	**4**	**17,426**
Miscellaneous		
Ammonia (aqueous)	**32**	**1,365,741**
Acetonitrile	**16**	**433,041**
Dimethyl sulfoxide	**14**	**753,157**
Methyl cellosolve	**4**	**758,637**

Notes: Compounds in bold represent the surrogate parameters for each individual category. Miscellaneous compounds have no particular surrogate compound identified. Compounds sorted in order of # of facilities reporting constituent, in each individual category.

TABLE 8.—POTENTIAL SURROGATES FOR INDIRECT DISCHARGERS (STEAM STRIPPING)

Compound	Number of facilities reporting constituent	Quantity discharged (lbs/yr)	Henry's law constant (atm/gmole/m^3)
High Strippability			
Methylene chloride	**47**	**3,590,640**	**2.68E–03**
Toluene	**43**	**783,637**	**5.93E–03**
Chloroform	**17**	**409,317**	**3.39E–03**
Xylenes	14	53,724	5.10E–03
n-Heptane	12	28,044	2.8E+00
n-Hexane	9	11,265	1.55E+00
Methyl cellosolve	**4**	**758,637**	**2.90E–03**
Chlorobenzene	4	5,616	3.93E–03
Benzene	1	121,400	5.55E–03
Medium Strippability			
Acetone	**55**	**4,573,766**	**3.67E–05**
Ammonia (aqueous)	**32**	**1,365,741**	**3.28E–04**
Ethyl Acetate	**27**	**390,584**	**1.20E–04**
Tetrahydrofuran	**17**	**478,669**	**1.10E–04**
Triethylamine	**15**	**633,225**	**1.38E–04**
MIBK	9	635,677	9.40E–05
Isopropyl acetate	9	184,550	3.17E–04
Diethylamine	7	219,374	1.10E–04
1,2-Dichloroethane	6	27,559	1.10E–03
n-Amyl acetate	5	293,408	3.91E–04
Isopropyl ether	5	12,387	2.24E–03

TABLE 8.—POTENTIAL SURROGATES FOR INDIRECT DISCHARGERS (STEAM STRIPPING)—Continued

Compound	Number of facilities reporting constituent	Quantity discharged (lbs/yr)	Henry's law constant (atm/gmole/m³)
2-Butanone (MEK)	4	17,426	4.36E–05
n-Butyl acetate	3	512,926	4.68E–04
Methyl formate	3	157,727	8.10E–05
Isobutyraldehyde	2	35,659	1.47E–04
o-Dichlorobenzene	2	21,499	1.94E–03
Low Strippability			
Ethanol	**97**	**6,802,384**	**6.26E–06**
Isopropanol	**85**	**4,565,370**	**8.07E–06**
Methanol	**82**	**15,388,273**	**2.70E–06**
N-Butyl alcohol	18	675,189	5.57E–06
Pyridine	10	212,581	5.30E–06
Amyl alcohol	6	197,635	2.23E–05
1,4-Dioxane	6	24,927	4.88E–06
tert-Butyl alcohol	5	121,408	1.17E–05
n-Propanol	5	12,238	6.85E–06
Methylamine	4	23,717	1.11E–05
Formamide	4	7,544	1.92E–05
Aniline	4	4,603	2.90E–06
Petroleum naphtha	3	261,137	2.70E–06
N,N-Dimethylaniline	2	19,155	1.75E–05

Notes: Compounds in bold represent the surrogate parameters for each individual category. Compounds sorted in order of number of facilities reporting constituents, in each individual category.

EPA solicits comment on these surrogate pollutant approaches, the suggested surrogate pollutants, the biotreatment and steam stripping treatability classes presented in Tables 7 and 8, what type of POTW and permit approval process is necessary and an estimate of the amount of burden hours (costs) the suggested approach would take in developing and certifying the necessary documentation and for POTW/permit authority approval.

E. Small Facility Exclusion

As noted in the preceding section, based on comments on the CWA proposal and the potential for some economic impact from the costs associated with the combination of the MACT Standards and Effluent Limitations Guidelines and Standards, EPA has identified two groups of facilities in the A (Fermentation) and C (Chemical Synthesis) subcategories and B (Natural Extraction) and D (Formulation) subcategories which are smaller waste load dischargers. These facilities discharge less than 10,000 pounds of organic pollutants per year. In the options presented in the preceding section, EPA has presented PSES approaches which exclude 34 Subcategory A/C and 67 Subcategory B/D facilities from PSES.

F. Changes in Engineering Cost and Load Removal Estimates

The Agency has made several changes to the cost model used to calculate costs and loading removals for the pharmaceutical manufacturing effluent guidelines based on proposal comments and new data. These changes are detailed in the ''Post-proposal Documentation Report for the Pharmaceutical Manufacturing Industry Engineering Cost Model'' which is located in Section 14.8 of the record for this notice. A summary of the major cost model changes follow.

EPA has re-evaluated the unit costs used in the cost model at proposal. EPA has incorporated additional unit cost data related to steam, electrical, labor, and steam stripper overheads disposal costs submitted with proposal comments. EPA has also incorporated separate steam and electrical costs for domestic plants and plants in Puerto Rico.

EPA has modified the biological treatment module to change the sequence of design to design BAT first, and BPT, second. EPA has also modified this module to account for MACT Standards removals for the CWA pollutants of concern. For those facilities that were identified during the development of the MACT Standards proposal as requiring control, pollutant load removals from the MACT Standards have been subtracted out prior to assessing the costs and removals for facilities subject to the effluent guidelines and standards. EPA has also modified the biological treatment cost module to assess facility end-of-pipe concentrations after correcting for non-process dilution wastewaters. In addition, EPA has modified the biological treatment module to cost for two-stage nitrification where ammonia treatment is deemed necessary.

EPA has modified the steam stripping module to incorporate a revised approach for determining stream characteristics. At proposal, the cost model utilized data from the 1990 Detailed Questionnaire from Table 3–2 (pollutant loadings) and from Table 4–8 (process area stream data). EPA has revised the steam stripping module to incorporate the Table 3–2 pollutant loadings data and distribute the process wastewater flow and load according to the disaggregation approach used in the MACT Standards. Under this approach, it is assumed that pharmaceutical process wastewaters can be represented by four streams with the following breakdown in percent flow and load:

[In percent]

	Pollutant load	Process wastewater flow
Stream 1	1	44
Stream 2	2	9
Stream 3	6	19
Stream 4	91	28

For those facilities that were identified in the work on the MACT proposal as requiring control, pollutant load removals associated with the MACT Standards and costs for steam stripping at these facilities have been subtracted out prior to assessing the facility need for control of any remaining VOCs by effluent guidelines and standards. After application of the MACT Standards, EPA determined that additional control is required under the effluent guidelines. Steam strippers are costed starting with control of the most concentrated streams, until end-of-pipe concentrations meet the long-term means developed from EPA's steam stripping performance database. In addition, based on proposal comments, EPA has re-evaluated the steam stripper component pieces that should be costed and is including costs for the following additional steam stripping equipment: an overheads distillate pump, a distillate receiver tank, and a bottoms pump.

EPA has revised the cyanide destruction cost module to allow for

alkaline chlorination treatment for those facilities where hydrogen peroxide treatment cannot be used due to safety considerations. For facilities whose 1990 Detailed Questionnaire data indicate that the facility is not in compliance with the cyanide treatment long-term means, EPA costed a treatment system upgrade, wastewater storage, and monitoring costs. For facilities whose 1990 Detailed Questionnaire data indicate that the facility is in compliance with the cyanide treatment long-term means, treatment system upgrades are not required but wastewater storage and analysis costs were developed to make certain that compliance is met by the approved cyanide method.

EPA has revised the wastewater compliance monitoring cost module to reflect the change from in-plant standards to end-of-pipe standards for all pollutants (except cyanide). In addition, EPA has gathered updated analysis costs for the proposed analytical methods.

V. Discussion of Pollution Prevention Approach

EPA discussed pollution prevention in the preamble of the proposed CWA effluent guidelines and standards and in the proposed technical development document. EPA is interested in incorporating pollution prevention into this regulation wherever possible and welcomes pollution prevention suggestions. Since proposal, the Agency has received suggestions regarding relief from or waivers of effluent limitations and standards in connection with pollution prevention programs which result in the reduction or elimination of pollutant use at a facility. One suggestion presented to the Agency was that Subcategory B/D dischargers that incorporate best management practices (BMPs), which reduce their discharge of any of the regulated pollutants should not have to monitor for the specific regulated pollutants, and possibly only monitor for the conventional pollutants and COD. This pollution prevention approach is similar to the one adopted in the Pesticide Formulators, Packagers and Repackagers (PFPR) final regulation which was published in the **Federal Register** on November 6, 1996 at 61 FR 57518. It should be noted that PFPR facilities that use the promulgated pollution prevention option will have to assess their wastewater and put in appropriate treatment before any wastewater can be discharged.

Another pollution prevention approach suggested to EPA was that Subcategory A/C facilities that can demonstrate a reduction in the use of a regulated pollutant and resultant lowered emissions/discharges to all media (i.e., less non-water quality environmental impacts) should receive a higher effluent discharge limitation. As suggested, the higher effluent discharge limitation would be directly proportional to the amount of reduction achieved in the use of the regulated pollutant.

More detailed discussion about each approach may be found in the supporting documentation for this notice (see Notice Record Section 19.2). Although EPA is interested in incorporating pollution prevention into regulations wherever possible, the Agency has concerns about the identification of benchmarks or reward criteria for the above suggested approaches. EPA invites comments on both suggested approaches, as well as information on any additional pollution prevention-based suggestions.

VI. Solicitation of Data and Comments

In addition to soliciting comments and data relating to any of the material presented in this notice, EPA is specifically interested in receiving comments and data regarding a number of specific issues which are discussed below. In commenting or providing data with respect to a specific issue, commenters should refer to the specific issue which the comments address.

A. Determination of the Pass Through for Water Soluble Pollutants for POTWs With Covered Headworks and Primary Tanks or Demonstrating Less Than 5% Volatilization

EPA is considering providing in the categorical pretreatment standards that if a POTW covers or encloses its headworks and primary tanks or the POTW can demonstrate that less than 5% volatilization of water soluble organics such as methanol occurs during the treatment process that no pass-through of water soluble organics occurs for their pharmaceutical industrial users. In order to be able to determine that pass-through does not occur for a water soluble pollutant, the POTW must have its primary treatment works covered or enclosed or must demonstrate through appropriate sampling and analyses that volatilization of less than 5% of a specific water soluble pollutant is occurring. This sampling and analysis must follow the sampling protocols used in the EPA Barceloneta POTW study discussed previously in this notice and use 40 CFR part 126 approved analytical methods. EPA requests comments and data regarding the use of specific POTW criteria for the pass-through determination for water soluble organics.

B. Determination of Pass-through at POTWs with Nitrification

EPA is aware that certain POTWs which treat pharmaceutical discharges possess nitrification capability. New data from a POTW with nitrification were received as part of comments on the CWA proposal and are included in the record (Section 13.1.5.) In order to more accurately determine whether pass-through occurs, the Agency is considering providing in the categorical pretreatment standards that ammonia does not pass-through at POTWs with nitrification. EPA requests comments on this POTW specific pass-through determination for ammonia.

C. Information From Facilities With Higher Ammonia Loadings Than Were Shown in Their 1990 Questionnaire Responses

In the 1990 Detailed Questionnaire, facilities supplied ammonium hydroxide (aqueous ammonia) loadings data in Table 3–2. EPA has converted these loadings data to an ammonia as N effluent load and concentration to assess facility compliance with the proposed ammonia long-term means. EPA is specifically requesting effluent ammonia as N concentration data (including the supporting analytical reports) from those facilities whose effluent ammonia as N loadings are higher than those calculated from the reported ammonium hydroxide loads in the 1990 questionnaire in Table 3.2. The data may be for any time period after 1989 including 1990 if these data indicate higher loadings than were reported in the facilities questionnaire response.

D. Information on Land Availability for Two-Stage Nitrification Treatment

EPA is requesting information from direct discharging facilities that would be subject to ammonia limitations about the availability of land on site for the construction of two-stage nitrification treatment. Plants that claim that land for two-stage nitrification is not available should provide sufficient documentation in the form of plant property plans and other information with their comments. Plants for which land for two stage nitrification is available should provide information concerning any difficulties or problems they expect to encounter with the installation of two-stage nitrification at their facilities.

E. Information From Subcategory B/D Facilities on Number of Operating Days per Week

EPA is requesting information from Subcategory B/D facilities concerning the number of days per week of operation at these facilities (does the facility operate five days per week or seven days per week.) The Agency needs this information in order to perform accurate compliance cost estimates and economic impact analyses. Subcategory B/D facilities should supply this information as well as facilities whose hours of operation have changed since 1990.

F. Proposed Exclusion for Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) Manufacturers of Bulk Pharmaceutical Intermediates and Active Ingredients With Less Than 50% Pharmaceutical Wastewater

EPA requests comment on the exclusion of organic chemical manufacturers covered by the OCPSF regulation (40 CFR 414) that manufacture pharmaceutical intermediates and active ingredients from the final pharmaceutical regulation provided that the pharmaceutical portion of the process wastewater is less than 50 percent of the total process wastewater. The Agency believes it may not be necessary to cover the pharmaceutical wastewater at these facilities because most of the pollutants that would be controlled by pharmaceutical limitations and standards are already being controlled by the OCPSF limitations and standards. The pollutants found in pharmaceutical facility discharges and not specifically regulated such as some of the water soluble organics by the OCPSF regulations are either not present in wastewaters being discharged from the type of pharmaceutical operations occurring at these facilities or are well treated by the biological treatment systems found at these facilities or their POTWs. The Agency emphasizes that any process wastewater covered by such an exclusion must be covered by OCPSF effluent limitations guidelines and standards. EPA requests comments concerning such an exclusion and any information regarding the bases that EPA has suggested to justify an exclusion for these facilities.

G. Wastewater From Pilot Plant Operations

EPA has received a number of comments on its proposal to consider wastewater from pilot plant operations as production wastewater and not as subcategory E (Research) wastewater. The Agency solicits comments specifically from facilities that will experience difficulty with having to treat pilot plant wastewater with their normal production wastewater. EPA is specifically interested in learning details of the problems that might be encountered in complying with the proposal definition of pilot plant wastewater.

H. Basis for Determining Which Cyanide Standards Apply

EPA has developed two sets of cyanide limitations and standards based on hydrogen peroxide oxidation and alkaline chlorination technologies. The Agency is requesting suggestions from commenters concerning what parameter levels describing cyanide wastestreams should be used to determine which standards are appropriate. Individual commenters have suggested that cyanide wastestreams with high organic content as evidenced by high COD and TOC (total organic carbon) would be more appropriately controlled by standards based on alkaline chlorination. EPA invites information and comments concerning the parameters and levels which could determine which set of standards will be appropriate for individual facilities.

Dated: August 1, 1997.

Robert Perciasepe,

Assistant Administrator for Water.

[FR Doc. 97–20979 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50620C; FRL–5735–3]

RIN 2070–AB27

Butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl) bisazobis N-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo-; Proposed Significant New Use Rule; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: EPA is extending the comment period for the proposed significant new use rule (SNUR) for butanamide, 2,2′-[3′,dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis *N*-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo-. As initially published in the **Federal Register** of June 26, 1997 (62 FR 34424) (FRL–5723–4), the comments were to be received on or before July 28, 1997. One commenter requested additional time to research and submit comments. EPA is therefore extending the comment period 30 days in order to give all interested persons the opportunity to comment fully.

DATES: Written comments must be submitted to EPA by August 27, 1997.

ADDRESSES: Each comment must bear the appropriate docket control number OPPTS–50620B. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt-ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by (OPPTS–50620B). No confidential business information (CBI) should be submitted through e-mail. Electronic comment on this document may be filed online at many Federal Depository Libraries.

All comments which are claimed confidential must be clearly marked as such. Three additional sanitized copies of any comments containing CBI must also be submitted. Nonconfidential versions of comments on the proposed rule will be placed in the rulemaking record and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This extension of the comment period will allow interested parties who intend to comment on the proposed rule additional time to consider their response.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: August 1, 1997.

Ward Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–20981 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[FRA Docket No. RST–90–1, Notice No. 6]

RIN 2130–AA75

Track Safety Standards

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking; date and location of public hearing.

SUMMARY: By notice of proposed rulemaking (NPRM) published on July 3, 1997 (62 FR 36138), FRA proposed a rule to revise the Federal track safety standards. In that notice, FRA announced that it would soon schedule a public hearing to allow interested parties the opportunity to comment on issues addressed in the NPRM.

DATES: *Public Hearings:* The date of the public hearing is Thursday, September 4, 1997 at 9:00 a.m. in Washington, D.C. Any person wishing to participate in the public hearing should notify the Docket Clerk by telephone (202–632–3198) or by mail at the address provided below at least five working days prior to the date of the hearing and submit three copies of the oral statement that he or she intends to make at the hearing. The notification should identify who the person represents and the particular subject(s) the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address. FRA reserves the right to limit participation in the hearings of persons who fail to provide such notification.

ADDRESSES: (1) *Docket Clerk:* Written notification should identify the docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC–10, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590.

(2) *Public Hearings:* The hearing will be held in Room 2230 of U.S. Department of Transportation headquarters, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Allison H. MacDowell, Office of Safety Assurance and Compliance, Federal Railroad Administration, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 (telephone number: 202–632–3344), or Nancy Lummen Lewis, Esq., Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590 (telephone: 202–632–3174).

S. Mark Lindsey,

Chief Counsel.

[FR Doc. 97–21011 Filed 8–7–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 234

[FRA Docket No. RSGC–6; Notice No. 4]

RIN 2130–AA92

Selection and Installation of Grade Crossing Warning Systems; Termination of Rulemaking

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Termination of rulemaking.

SUMMARY: This notice terminates rulemaking action in FRA Docket No. FSGC–6. In its Notice of Proposed Rulemaking (NPRM), FRA proposed to prohibit railroads from unilaterally selecting and installing highway-rail grade crossing warning systems at public highway-rail crossings. FRA also proposed to require that railroads furnish state highway authorities with information necessary for state grade crossing project planning and prioritization purposes. Termination of this rulemaking is based on public comments and FRA's determination that railroad safety will not be best served by issuance of such a regulation at this time.

FOR FURTHER INFORMATION CONTACT: Bruce F. George, Director, Highway-Rail Crossing and Trespasser Programs Division, Office of Safety, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202–632–3305), or Mark Tessler, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone 202–632–3171).

SUPPLEMENTARY INFORMATION: On March 2, 1995, FRA published in the **Federal Register** (60 FR 11649) an NPRM which was meant to clarify the respective responsibilities of railroads and state and local governments regarding the selection and installation of highway-rail grade crossing warning systems. Public hearings were held on the proposal on June 6 and 7, 1995. The public comment period closed on June 14, 1995. However, FRA continued to receive comments and to date has received in excess of 3,000 comments in this rulemaking. All comments have been considered by FRA, including those received after June 14, 1995, in accord with FRA's policy to consider late filed comments to the extent possible. A wide range of views were expressed in the public hearings and in written comments submitted to the public docket. A high proportion of the comments were form letters and preprinted postcards expressing opposition to the proposal.

Subsequent to issuance of the NPRM, a school bus stopped at a highway-rail grade crossing in Fox River Grove, Illinois, was struck by a commuter train. Seven students died. Following the accident the Secretary of Transportation established a Grade Crossing Safety Task Force (Task Force) to build upon the Department's 1994 Rail-Highway Crossing Safety Action Plan. The Task Force reported its findings to the Secretary on March 1, 1996. The Executive Summary of the report stated in part:

> [T]he report recommends 24 specific follow-on actions to address both physical and procedural deficiencies. In practice, the responsibility for public grade crossings resides with State and local governments, railroads, and transit agencies. Recognizing the constrained budgets that are available to the private sector and State and local authorities, the report emphasizes rethinking existing practices—not requiring new ones from a regulatory approach. This reliance on existing opportunities is emphasized by recommendations that encourage grade crossing safety through coordinated inspections, law enforcement, and driver education.

As the Task Force Report states, ''[t]his * * * report should not be viewed as a surrogate for the Action Plan, but as a supplement which focuses on the planning, construction, maintenance, operation, and inspection activities involving rail crossings. The Task Force directed its attention to those grade crossing issues for which there were no well-defined standards, practices, or information. It was in these five problem areas outside the scope of the Action Plan, that the Task Force felt additional improvements in grade crossing safety could be made.''

FRA is continuing its implementation of the Action Plan's recommendations while at the same time it works to ensure that the recommendations of the Safety Task Force are carried out.

The NPRM

The impetus in proposing the NPRM was the goal, as stated in the Action Plan, to ''review the allocation of responsibilities for the selection and installation of warning devices and the potential for uniform nationwide standards.'' The NPRM, together with the subsequent hearings and wide range of comments stimulated extensive discussion and debate on the issue. FRA notes that certain groups generated interest and comments by claiming that the proposed rule ''would shield railroad companies from liability when their negligence contributes to such accidents.'' This and similar claims made in mass mailings to FRA are clearly misleading statements. FRA believes that there are valid policy arguments on both sides of the issue in this debate and that resorting to misleading statements apparently in order to increase the volume of comments does not lead to helpful public airing of legitimate concerns. Spreading such obvious misinformation can only take advantage of well meaning individuals who have not had the opportunity to read the proposed rule themselves, but who rely on the integrity and accuracy of those providing the information. FRA is disappointed that such groups apparently felt that the strength of their legitimate objections to the rule were insufficient.

While some of the debate surrounding the proposal was based on incorrect information, much of the discussion raised valid questions regarding what should be the proper role of railroads, state and local governments, and the federal government in the selection and installation of grade crossing warning systems. The discussion remained on a general and conceptual level however. The overwhelming majority of comments were conclusory in nature and did not add hard data which could be helpful to FRA in its decision making. Opponents claimed that the rule would effectively shift tort liability from railroads to state and local governments. Opponents of the rule also stated that there was no evidence that money saved by railroads would be spent on grade crossing safety and that the rule would remove any incentive a railroad may have to participate in crossing safety programs. Rule proponents, on the other hand, claimed that safety would be enhanced by more rational grade crossing planning.

Absent from virtually all rule comments and testimony, however, were data supporting the conclusions drawn from the rule. In the NPRM, FRA stated that it ''believes that railroads have many powerful incentives to continue their longstanding policy of voluntarily providing matching funds for federally funded grade crossing projects, comment is sought concerning whether this proposal will affect the level of railroad participation in such projects.'' FRA again received only conclusory comments rather than data on past, present or projected levels of participation.

Termination of rulemaking

FRA continues to believe that the proper relationship between railroads and state and local governments in terms of selection and installation of warning systems is as proposed in the NPRM: railroad should furnish governmental authorities with sufficient information to enable those authorities to make rational selection and installation decisions. However, at this time, in light of the lack of supporting hard data in the record and the magnitude of other regulatory and program safety initiatives being undertaken by FRA, this rulemaking is being terminated.

We note that this rulemaking has been a worthwhile first step in addressing the issue of allocation of responsibility for the selection and installation of warning devices and the potential for uniform nationwide standards in this area. We are confident that further steps in addressing these issues will build upon the information and discussion generated by this proceeding.

In light of the foregoing, FRA is hereby terminating this rulemaking.

Issued in Washington, D.C. on August 5, 1997.

Jolene M. Molitoris,

Administrator.

[FR Doc. 97–20991 Filed 8–7–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1155

[STB Ex Parte No. 566]

Rail Service Continuation Subsidy Standards

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Surface Transportation Board (Board) is proposing to remove regulations from the Code of Federal Regulations that concern standards for determining subsidies for the continuation of rail service to govern rail properties not transferred to Consolidated Rail Corporation (Conrail) under the Final System Plan pursuant to the Regional Rail Reorganization Act of 1973.

DATES: Comments are due on September 8, 1997.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. (TDD for the hearing impaired: (202) 565–1695.)

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (ICCTA), abolished the Interstate Commerce Commission (ICC or Commission) and established the Board. Section 204(a) of the ICCTA provides that ''[t]he Board shall promptly rescind all regulations established by the (ICC) that are based on provisions of law repealed and not substantively reenacted by this Act.''

The regulations at 49 CFR part 1155 concern subsidy standards for certain rail lines in the region encompassed by the Final System Plan, described *infra*, that otherwise are subject to abandonment or discontinuance. They are the forerunner to our current offer of financial assistance (OFA) procedures that are national in scope. These regulations are based, at least partially, on statutes that are still in effect. 45 U.S.C. 744 (c) and (d). Under the ICCTA, however, the Rail Services Planning Office (RSPO), the statutory body that developed the regulations, has been abolished. *See* repealed 49 U.S.C. 10361–64. Moreover, the Board has in place analogous OFA regulations providing national subsidy standards. 49 CFR 1152.27 and 1152 subpart D. Finally, the regional subsidy regime at 45 U.S.C. 744, which applies to ''rail service on rail properties of a railroad in reorganization,'' may be outdated and may apply only to a limited number of situations. Accordingly, we are instituting this proceeding to determine whether these regulations may be eliminated, or whether they have a continuing vitality and should be retained.

The 3R Act and Part 1155

The Regional Rail Reorganization Act of 1973, Pub. L. No. 93–236, 87 Stat. 985, 45 U.S.C. 701 *et seq.* (3R Act) created Conrail as a for-profit corporation to reorganize the bankrupt rail services in the Northeast and Midwest region.[1] The 3R Act provided

[1] ''Region'' is defined as ''the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois; the

for the development and ultimate approval by Congress of a Final System Plan (Plan) for the redesign of rail services in the region. Lines that could not be operated profitably and were not considered essential to the rail transportation system would not be included in the Plan. Section 304 of the 3R Act permitted the summary discontinuance of service over those lines without ICC approval if 60 days' notice is given and certain parties are notified. However, section 304(c)(2) of the 3R Act (codified at 45 U.S.C. 744(c)(2)(A)) stated that an abandonment or discontinuance could not be carried out if a shipper, or public authority, or any responsible person offers:

> * * * a rail service continuation subsidy which covers the difference between the revenue attributable to such rail properties and the avoidable costs of providing service on such properties plus a reasonable return on the value of such rail properties * * *.[2]

The use of the subsidy is limited to rail service and rail properties of a railroad in reorganization in the region. 45 U.S.C. 744(a).[3] Moreover, the subsidy must be made within 2 years of the effective date of the Plan[4] or within ''2 years after the date on which the final rail service continuation payment is received, whichever is later. * * *'' 45 U.S.C. 744(c)(1).

The 3R Act also created RSPO,[5] which was authorized to issue standards for defining the terms ''revenue attributable to rail properties,'' ''avoidable costs of providing service,'' and ''a reasonable return on the value'' found in section 304. Section 205(d)(3).[6] In response to this directive, regulations were issued at 49 CFR part 1125 on July 1, 1974 (39 FR 7182) and were revised on January 8, 1975 (40 FR 1624) in *Part 1125—Standards for Determining Rail Service Continuation Subsidies*, Ex Parte No. 293 (Sub-No. 2). The regulations, now codified in part 1155,[7] define the terms noted above (revenue attributable, avoidable costs, return on value) for determining the subsidy payment for the continuation of train service over lines not included in the Plan.

The regulations at part 1155 are quite detailed and are more than 30 pages long. They are largely self-executing with little role provided for the ICC. However, under 49 CFR 1155.3(a), a carrier giving notice of intent to discontinue service shall submit an ''Estimate of Subsidy Payment'' to, *inter alia*, RSPO. Under 49 CFR 1155.4(c), a party desiring an interpretation of the standards can file a petition with RSPO. Under § 1155.9, if the parties cannot agree on issues of net liquidation value or whether properties are used and useful, they can select a mutually acceptable arbitrator to arbitrate the dispute. If they cannot agree on an arbitrator, either party may submit the matter to the American Arbitration Association. The ICC was not directly involved in reviewing disputes.

Subsequent Legislation

Congress amended portions of the 3R Act and also added new sections when it enacted the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), Pub. L. 94–210, 90 Stat. 127. As relevant to this proceeding, the 4R Act made two significant changes: it enacted designated operator provisions and it enacted OFA provisions.

First, the 4R Act amended the 3R Act by adding a new section 45 U.S.C. 744(d), which specified that a ''designated operator'' would be the rail carrier conducting operations when a subsidizer guaranteed payment. The subsidy payment was now defined as:

> The difference between the revenue attributable to such properties and the avoidable costs of providing service on such rail properties, together with a *reasonable management fee* as determined by the Office. (Emphasis supplied.)

Consequently, section 205(d)(6) of the 4R Act also directed RSPO to determine the term ''reasonable management fee.''[8] RSPO revised the regulations now found at 49 CFR 1155 on January 11, 1978, to define reasonable management fee. 43 FR 1692.

The second change under the 4R Act allowed an abandonment to be postponed for up to 6 months if a financially responsible person offered to purchase or subsidize the line. Section 802. In essence, the regional subsidy provision of 45 U.S.C. 744 was expanded to apply to all carriers. This provision was originally codified at 49 U.S.C. 1a(6)(a) and subsequently recodified without substantive change at 49 U.S.C. 10905.[9] *See Hayfield Northern R. Co., Inc v. Chicago and North Western Transp. Co.*, 467 U.S. 622, 628–29 (1984) (*Hayfield Northern*).

To implement these 4R Act provisions, the ICC and RSPO instituted a proceeding on a joint basis. In November 1976, the ICC promulgated regulations and issued an explanatory decision. *Abandonment of R. Lines & Discontinuance of Serv.*, 354 I.C.C. 253 (1976) and 354 I.C.C. 129 (1976). These regulations were predicated on the part 1155 regulations, although, due to factual and statutory differences, there were certain variations.[10] The financial assistance procedures were originally issued at 49 CFR 1121.38 and 1121,

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District of Columbia; and those portions of contiguous States in which are located rail properties owned or operated by railroads doing business in the aforementioned jurisdictions (as determined by [ICC] order. * * *'' 45 U.S.C. 702(17). In *Northeastern Railroad Investigation [-] Definition of the Midwest and Northeast Region*, Ex Parte No. 293, published in the **Federal Register** on January 28, 1974 (39 FR 3605), the ICC included in the region points in the St. Louis, MO and Louisville, KY Standard Metropolitan Statistical Areas and Manitowoc and Kewaunee, WI. *See Regional Rail Reorganization Act Cases*, 419 U.S. 102, 108 n.2 (1974).

[2] The current language in 45 U.S.C. 744(c)(2)(A) differs slightly, but it is substantively the same as the section 304(c)(2) language.

[3] A ''railroad in reorganization'' is defined at 45 U.S.C. 702(16) as a railroad which is subject to a bankruptcy proceeding and which has not been determined by a court to be reorganizable or not subject to reorganization pursuant to this chapter as prescribed in section 717(b) of this title. A ''bankruptcy proceeding'' includes a proceeding pursuant to section 77 of the Bankruptcy Act and an equity receivership or equivalent proceeding * * *.

[4] The Plan was submitted to Congress on July 26, 1975. It was approved when neither the House of Representatives nor the Senate objected to it. The Plan was formally approved in section 601(e) of the 4R Act, discussed *infra*.

[5] RSPO was established as ''an office in the Interstate Commerce Commission.'' Former 49 U.S.C. 10361. In resolving the issue of whether final orders or regulations of RSPO were to be considered orders or regulations of the ICC, the court held that ''[a]lthough Congress gave to the RSPO final administrative responsibility for certain determinations, we conclude that the RSPO is sufficiently part of the ICC so that its orders are to be considered orders of the ICC for purposes of the Hobbs Act.'' *Southeastern Pennsylvania Transp. Auth. v. I.C.C.*, 644 F.2d 238, 240, n.3 (3rd Cir. 1981).

[6] Section 205 was originally codified at 45 U.S.C. 715. In 1978, the Interstate Commerce Act was recodified without substantive change pursuant to Pub. L. No. 95–473, Oct. 17, 1978. While 45 U.S.C. 715 was repealed, the language of section 715 concerning RSPO was codified at 49 U.S.C. 10361–10364.

[7] The regulations were redesignated as part 1155 on November 1, 1982 (47 FR 49582).

[8] This requirement was subsequently codified at 49 U.S.C. 10362(b)(6). Section 744(d), however, still refers to section 205(d)(6).

[9] As described, *infra*, the OFA statute is now found at 49 U.S.C. 10904.

[10] In the notice of proposed rulemaking in *Abandonment of Railroad Lines and Discontinuance of Rail Service*, Ex Parte No. 274 (Sub-No.2), 41 FR 31878, 31882 (July 30, 1976), the ICC noted that it had already defined ''revenue attributable,'' ''avoidable costs,'' and ''reasonable return on the value,'' as those terms are used in the 3R Act. It stated that

> [b]ecause the same basic terminology is used in the (3R Act) and in the new abandonment and discontinuance provisions, the Commission believes that the Congressional intent is that the national standards should follow the conceptual approach of the regional standard promulgated by (RSPO) under the (3R Act). Consequently, the regional standards are being used to provide the foundation upon which the national standards will be based. However, there are several areas . . . in which the proposed rules differ from the regional standards.

subpart D, and are now found at 49 CFR 1152.27 and 1152, subpart D.[11]

The Staggers Rail Act of 1980, Pub. L. No. 96–448, 94 Stat. 1895, further revised section 10905. Section 402. The 6-month negotiating period was shortened and when a carrier and shipper could not agree to terms, the ICC would set, and the carrier was bound by, the purchase or subsidy price. *Hayfield Northern* at 630–31.[12]

The ICCTA was the final legislative action applicable to these regulations. There was no change to 45 U.S.C. 744(c). The changes to section 744(d) do not affect part 1155. The RSPO statutes—49 U.S.C. 10361–64—were repealed. Former 49 U.S.C. 10905 was changed and is now found at 49 U.S.C. 10904, but the changes there do not affect our analysis.[13]

Discussion and Conclusions

We are reexamining part 1155 because of the changes made by the ICCTA, the availability of our national subsidy standards, and the likelihood that few situations fall within the regional subsidy framework. We propose to remove these regulations.

As indicated, 45 U.S.C. 744 (c) and (d), which pertain to the subsidies for the continuation of rail freight service, have not been repealed. Nevertheless, the regulations at part 1155 implementing the statute were issued by an office (RSPO) that has been abolished by the ICCTA.[14] Further complicating matters is the fact that under 45 U.S.C. 744(d)(1), the defunct RSPO is to determine the terms a subsidizer is to pay a designated operator.[15] Moreover, under 45 U.S.C. 744(d)(2), the term reasonable return on value is to be developed according to the standards of 205(d)(6) of the 3R Act, which, as noted, was codified at the now repealed RSPO statute, 49 U.S.C. 10362.

We also question the need for two sets of subsidy regulations given the similarities between the regional and national standards.[16] Given that the role of the ICC in part 1155 was passive (RSPO was to issue interpretations of its standards and the parties were to arbitrate certain disputes), using the OFA standards for guidance in any regional subsidy situations that might arise may be sufficient. We seek comments as to whether this is in fact the case and the regional subsidy standards can be eliminated in light of the national standards, whether parts of the regional subsidy standards should be transferred to the national standards to the extent that they are still pertinent, or whether the regional subsidy standards should be maintained as currently codified.

Finally, there may be little, if any, need for the regulations. Under 45 U.S.C. 744(a)(1) and (c)(1), the regional subsidy program applies to a ''rail service on rail properties of a railroad in reorganization'' and is not available ''after 2 years from the effective date of the [Plan] or more than 2 years after the last rail service continuation payment is received, whichever is later. * * *'' We question whether there are any railroads in reorganization as defined by the statute. In *Consolidated Rail Corp.* v. *Reading Co.*, 654 F. Supp. 1318, 1323 (Sp. Ct. RRRA 1987), a case involving personal injury suits under the Federal Employer's Liability Act, the court stated that certain predecessor railroads of Conrail were not railroads in reorganization because they were no longer ''subject to a bankruptcy proceeding.'' These carriers had undergone reorganization, final consummation orders had been entered, and the carriers had been discharged in bankruptcy.[17]

If, on the other hand, there are still railroads in reorganization, or if the focus of section 744 is rail service and rail property, and not the status of the entity owning the property, we must still determine whether a regional subsidy qualifies under section 744(c). Because more than 20 years have passed since the effective date of the Plan, the issue also becomes whether any rail service continuation payments are still in effect or have expired within the last 2 years. As there might be some carriers in this situation, we seek comment on this issue.[18]

The Board preliminarily concludes that the proposed removal of the rules, if adopted, would not have a significant effect on a substantial number of small entities. The rules removal may be necessary in light of the ICCTA. Moreover, it appears that these rules do not apply to many (if any) situations and that there are other regulations which may be useful to potential parties interested in subsidizing the continuation of rail service. The Board, however, seeks comments on whether there would be effects on small entities that should be considered.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1155

Railroads, Uniform System of Accounts.

Decided: July 29, 1997.

[11] The 4R Act made other changes that, although not related to this proceeding, do concern a current Board proceeding with similar issues. Section 309 of the 4R Act amended section 205(d) of the 3R Act to require RSPO to develop standards for the computation of subsidies for the continuation of rail commuter services. RSPO issued the regulations on August 3, 1976, 41 FR 32546. These standards are now found at 49 CFR part 1157, subpart A (subsidy standards). By notice of proposed rulemaking served and published in the **Federal Register** on June 12, 1997 (62 FR 32068) in *Commuter Rail Service Continuation Subsidies and Discontinuance Notices,* STB Ex Parte No. 563, the Board proposed to remove from the Code of Federal Regulations the regulations at 49 CFR part 1157 concerning subsidy standards and also notices of the discontinuance of commuter rail service (subpart B).

[12] The Staggers Act modifications to section 10905 were designed to ''assist shippers who are sincerely interested in improving rail service, while . . . protecting carriers from protracted legal proceedings which are calculated merely to tediously extend the abandonment process.'' H.R. Conf. Rep. No. 96–1430, p. 125, (1980), U.S. Code Cong. & Admin. News. 1980, pp. 3978, 4157. *See Hayfield Northern* at 630, n. 8.

[13] Under section 10904, there are changes in time limits and the way OFAs are handled. However, when the Board is requested to establish the amount of a subsidy, the amount of compensation is ''the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line.'' 49 U.S.C. 10904(f)(1)(C).

[14] Under the regulations, that now-abolished office has continuing responsibilities (issuing interpretations, receiving estimates of subsidy payments).

[15] Section 744(d)(1) states that the terms ''revenue attributable,'' ''avoidable costs,'' and ''reasonable management fee'' are to be determined by ''the Office,'' defined at 45 U.S.C. 702(12) as RSPO.

[16] Prior to the promulgation of its OFA regulations, the ICC issued a notice of interim procedures for handling abandonment and discontinuance cases. It stated that it would ''adopt the same conceptual approach developed by (RSPO) in connection with the regional subsidy program authorized by the (3R Act) for the purposes of issuing the subsidy payment.'' *Chicago and North Western Transp. Co.-Abandonment,* 348 I.C.C. 445, 454 (1976). The ICC noted that there were statutory differences in two programs pertaining ''to the exclusion of a management fee in the national program, the inclusion of certain additional costs. . ., and the basis upon which a reasonable return is to be calculated.'' *Id.*

[17] The court noted (*Id.* at 1323, n.2) the following consummation dates: Erie Lackawanna, Inc. (November 30, 1982); Reading Co. (December 31, 1980); Penn Central Transportation Co. (October 24, 1978); Lehigh Valley Railroad Co. (September 1, 1982); and the Central of New Jersey (September 14, 1979).

[18] There is currently pending before the Board a proceeding in which relief is sought under 49 CFR Part 1155. *RailAmerica, Inc., and the Delaware Valley Railway Company, Petition to Set Subsidy Terms Under 45 U.S.C. 744(c) and 49 CFR part 1155,* STB Finance Docket No. 33285. In response to the petition, the Reading Company claims that the Board has no authority to set a subsidy because the Reading Company is not a ''railroad in reorganization.''

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

PART 1155 [REMOVED]

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is proposed to be amended by removing part 1155.

[FR Doc. 97–20993 Filed 8–7–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 970725179–7179–01; I.D. 071497A]

RIN 0648–AK33

Taking and Importing Marine Mammals; Taking Ringed Seals Incidental to On-Ice Seismic Activities

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

ACTION: Advance notice of proposed rulemaking; receipt of a petition for regulations and an application for a small take exemption; request for comment and information.

SUMMARY: NMFS has received an application for renewal of a small take exemption and implementing regulations from BP Exploration (Alaska) (BPXA), on behalf of itself and several other oil exploration companies, for a small take of marine mammals incidental to winter seismic operations in the Beaufort Sea, Alaska. As a result of that application, NMFS is considering whether to propose regulations that would renew an authorization for the incidental taking of a small number of marine mammals. In order to decide whether to promulgate these regulations, NMFS must determine that the takings will have a negligible impact on the affected species and stocks of marine mammals. NMFS invites comment on the application and suggestions on the structure and content of regulations, if the application is accepted.

DATES: Comments and information must be postmarked no later than September 8, 1997.

ADDRESSES: Comments should be addressed to Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226. A copy of the application may be obtained by writing to the above address, or by telephoning one of the persons below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (301) 713–2055 or Brad Smith, Western Alaska Field Office, NMFS, (907) 271–5006.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*) (MMPA) directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted for periods of 5 years or less if the Secretary finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking.

Summary of Application

On July 11, 1997, NMFS received an application for an incidental, small take exemption under section 101(a)(5)(A) of the MMPA from BPXA, on behalf of itself, ARCO Alaska, Inc., Northern Geophysical of America, Inc. and Western Geophysical Co. to renew the incidental take regulations found in 50 CFR part 216, subpart J, that govern the taking of ringed seals (*Phoca hispida*) incidental to seismic activities on the ice, offshore Alaska, for a period of 5 years. The applicants state that these activities are not likely to result in physical injuries to, and/or death of, any individual seals. Because seals are expected to avoid the immediate area around seismic operations, they are not expected to be subject to potential hearing damage from exposure to underwater or in-air sounds from the operations. Any takings of ringed seals are anticipated to result from short-term disturbance by noise and physical activity associated with the seismic operations.

The scope of the petition is limited to pre-lease and post-lease seismic exploration activities in state waters and the Outer Continental Shelf in the Beaufort Sea, offshore Alaska, during the ice-covered seasons. Operations are usually confined to January through May. These seismic surveys will be conducted using two types of energy sources: (1) Vibroseis, which uses large trucks with vibrators mounted on them, that systematically put variable frequency energy into the earth and (2) waterguns or airguns carried by a sleigh or other vehicle. Over the next 5-year period, the applicants expect that on-ice seismic activity will cover approximately 22,500 line miles (4,500 line miles/year). This compares to 13,247 line miles in the aggegate, during the past 5-year period.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning the application for a small take exemption and the structure and content of regulations if the application is accepted. NMFS will consider this information in determining whether to accept the application and, if so, in developing proposed regulations to authorize the taking. If NMFS proposes regulations to allow this take, interested parties will be given ample time and opportunity to comment.

Dated: August 4, 1997.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–20926 Filed 8-7-97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 073197B]

New England Fishery Management Council; Public Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The meeting will be held on Wednesday, August 20, 1997, at 10 a.m., and on Thursday, August 21, 1997, at 8:30 a.m.

ADDRESSES: The meeting will be held at the Colonial Hilton, 427 Walnut Street

(Route 128 South), Wakefield, MA; telephone (617) 245-9300. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097; telephone: (617) 231-0422.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (617) 231-0422.

SUPPLEMENTARY INFORMATION:

August 20, 1997

The election of 1996-1997 Council officers is scheduled to take place immediately after introductions by the Chairman. After the election, the Monkfish Committee will provide an update on committee progress to finalize (monkfish) Amendment 9 to the Northeast Multispecies Fisheries Management Plan (FMP). During the Scallop Committee Report, the Council will initiate action on a framework adjustment to the Atlantic Sea Scallop Fishery Management Plan that would further reduce fishing mortality on the sea scallop resource (following on the Plan Development Team's scheduled evaluation of the current management measures). The committee will provide an update on the Amendment 7 (fishing effort consolidation) public hearing document and Draft Supplemental Environmental Impact Statement. There also will be an update on discussions to allow scallop fishing in areas now closed for groundfish conservation. The Aquaculture Committee will discuss policy development, project selection criteria, and procedures for Council review of aquaculture proposals. Before the meeting is adjourned for the day, there will be reports from the Council Chairman, Executive Director, NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, and representatives of the Coast Guard and the Atlantic States Marine Fisheries Commission.

August 21, 1997

The Groundfish Committee will recommend management of Atlantic halibut under the Northeast Multispecies FMP. The Council will take final action on Framework Adjustment 24 to the FMP, which contains measures that would modify the Gulf of Maine cod trip limit system, allow vessels to carry-over a maximum of 10 days-at-sea (DAS) to the following fishing year, and provide exemptions for vessels fishing in the NAFO Regulated Area. The Lobster Committee Report will forward recommendations on management measures proposed by the Atlantic States Marine Fisheries Commission. The Gear Conflict Committee will report on efforts to facilitate resolution of the otter trawl and lobster trap conflict in the Gulf of Maine. The Professional Standards and Practices Committee will propose development of a fishermen's logbook that would contain a fishing year calendar to track DAS, important management information and other facts useful to mariners such as tides, lunar phases, etc. A scoping document that would identify issues and suggest proposals to eliminate inconsistencies in vessel permit, upgrading, and replacement provisions in different fishery management plans will be discussed by the Interspecies Committee. There will be an update on plans for Council scoping hearings on Atlantic herring management. The Council will also develop a recommendation on applications for herring joint ventures (JVs) and total allowable levels of foreign fishing (TALFF) from Lithuania and Estonia. There will be a recommendation from the Mid-Atlantic Plans Committee on the management of the mahogany quahog fishery in the Gulf of Maine (proposed for inclusion in Amendment 10 to the Surf Clam and Ocean Quahog Fishery Management Plan). The committee will also present its recommendations on applications for mackerel JV and TALFF from Lithuania and Estonia and on the Mid-Atlantic Fishery Management Council's annual squid, mackerel, and butterfish specifications, including the issue of mackerel JV. The Council will adjourn the meeting after the conclusion of any other outstanding business.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or otherauxiliary aids should be directed to Paul J. Howard **(SEE ADDRESSES)** at least 5 days prior to the meeting date.

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

Dated: August 4, 1997

Bruce Morehead,

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

[FR Doc. 97–20955 Filed 8-7-97; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 153
Friday, August 8, 1997

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

DEPARTMENT OF AGRICULTURE

Forest Service

Lower Eldorado Ecosystem Management Project, Clearwater National Forest, Clearwater County, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) to disclose the environmental effects of proposed timber harvest which would remove approximately 18.7 million board feet of timber from 2,146 acres and build 6.2 miles of new roads. To improve watershed conditions, the proposal would also close up to 30 miles of roads in the area which are no longer needed.

The area is located on the Pierce District of the Clearwater National Forest, Townships 33, 34, and 35 North, Ranges 6 and 7 East, Boise Meridian.

The purpose of the proposal and subsequent effects analysis is to meet the intent of the Clearwater Forest Plan, using an ecosystem management approach for the 13,995 acre analysis area. Management Areas (MA) within the analysis area include: MA–E1, emphasizing growth and yield of timber; MA–C4, emphasizing big game winter range and timber production; MA–M1, emphasizing research natural areas; MA–M2, emphasizing riparian management; and MA–A6, emphasizing historic travel routes.

DATES: Comments concerning the scope of the analysis should be received in writing by September 22, 1997.

ADDRESSES: Send written comments to Douglas Gober, District Ranger, Rt. 2, Box 191, Kamiah, ID 83536.

FOR FURTHER INFORMATION CONTACT: Lois Hill, EIS Project Team Leader, (208) 935–2513.

SUPPLEMENTARY INFORMATION: In response to the public demand for sustainable forest management, the Forest Service has developed an ecologically based, integrated resource approach to the management of National Forest lands. ''Ecosystem Management'' means recognizing the complexity and interdependencies of resources within ecosystems, so the effects of management actions can be predicted and monitored after activities occur.

A landscape level vegetation assessment was conducted in 1996. The results indicate that the present species and age class distributions in this area would not have occurred under natural conditions. Large numbers of small trees are present, due to over fifty years of wildfire suppression. Crowded stands are susceptible to root rot pathogens, bark beetles, defoliators, and dwarf mistletoe. The loss of western white pine through blister rust, along with fire suppression, has led to a percentage of grand fir in many stands which is much higher than that which occurred historically. The 1996 assessment also indicated that late mature stands are lacking in this area, and often occur in smaller patches than would have occurred naturally. Natural patch sizes in this area ranged up to 20,000 acres.

The proposed action is designed to restore terrestrial and aquatic ecosystem health, and to provide benefits to people within the capabilities of the ecosystem. Vegetation treatments to reintroduce western white pine would be considered. Prescribed regeneration and intermediate harvest would improve forest composition and function. Commercial and precommercial thinning would improve species composition, moving toward a mix more consistent with historical conditions. Intermediate treatments in over-stocked, stressed sites would target grand fir, while maintaining desirable seral species such as western white pine, ponderosa pine, and western larch. Silvicultural management practices would be analyzed for their potential to keep old stands longer. Dead and dying timber in the area would be salvaged.

The proposal includes timber harvest of varying intensities, from rehabilitation only (slashing nonmerchantable dead trees and replanting) to clearcuts with reserve trees. Harvest practices may not follow traditional unit configurations or prescriptions. The natural changes in tree densities, natural history, and health of the landscape will dictate how areas would be treated. Biological corridors and riparian areas in the natural landscape would be considered, as well as human imposed landscapes and restrictions such as visual quality corridors, cultural sites, and recreation areas. Harvest prescriptions may be scattered, span large areas, or overlap.

Because some streams in the area are not meeting desired instream conditions for cobble embeddedness, erosion sources in the watershed would be corrected by closing and stabilizing roads that are no longer needed. Culvert replacements, riparian planting, instream rock and woody debris clusters, channel constriction structures, log drop structures. and sediment traps would be proposed to improve fish habitat conditions or accessibility. The proposal would also include riparian planting to improve stream shading and woody debris availability.

Views from the Lewis and Clark trail, which runs through a portion of the analysis area, would be protected through site specific silvicultural prescriptions.

The decision to be made is what, if anything, should be done to address the following issues in the Lower Eldorado Project Area: (a) Treating vegetation to respond to concerns about overly dense stands; (b) increasing patch sizes to more closely resemble landscape patterns that occurred historically, while retaining as much of the late successional component as possible; (c) preserving scenic quality near the Lewis and Clark trail for the long term; (d) managing the road system to improve watershed conditions while maintaining an adequate long term transportation system in the area; and (e) increasing timber productivity and contributing to the Forest's sustained yield of timber products.

Preliminary alternatives to the proposed action have been developed in response to issues raised during internal scoping. They include: (a) An alternative which would propose no timber harvest adjacent to the Lewis and Clark Trail; (b) an alternative which would minimize new road construction; and (c) an alternative which would reduce overabundant immature and mature stands in the Lolo drainage;

Public participation will be an important part of the analysis. Internal scoping began with the development of the Pierce Ranger District Five Year Plan in early January, 1997. External scoping will begin with this notice. Public meetings to announce this proposal, including at least one field review of the project area, will be scheduled between July and September of 1997. Issues which emerge from internal and external scoping will be used to develop additional alternatives to this proposal.

The lead agency for this project is the U.S. Forest Service. The Forest Service will cooperate with other Federal agencies, as well as County, State, and tribal governments who display an interest in the project, and who require assessment and concurrence.

The responsible official for decisions regarding this analysis is James Caswell, Clearwater National Forest Supervisor. His address is 12730 Highway 12, Orofino, ID 83544.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in January, 1998. At that time, the EPA will publish a Notice of Availability of the draft EIS in the **Federal Register**. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The final EIS is scheduled to be completed by May, 1998.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

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

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, whose who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR part 215 or 217.

Dated: July 31, 1997.

James L. Caswell,

Forest Supervisor.

[FR Doc. 97–20932 Filed 8–7–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Treasure Mountain Winter Sports Area Conceptual Development Plan; Kootenai National Forest, Lincoln County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to develop the Treasure Mountain Winter Sports Area which includes management of a 1,700+/−acre tract of land of which approximately 242 acres would be devoted to alpine ski trail development. The ski area would have a vertical rise of 2,700 feet with the potential to increase to 3,500 feet and would include a separate beginner/teaching slope with its own chairlift as well as trails and chairlifts for novice, low intermediate, intermediate, advanced intermediate and expert skiers. The proposal includes the construction of ski trails, chair lifts, base lodge and facilities and parking facilities. The base lodge will provide the full range of skier services including food service, rest rooms, lockers, rental, retail and first aid. The proposal also includes a forest plan amendment to change Kootenai Forest land allocations from MA8 (Proposed Wilderness), MA–13 (Designated Old-growth), MA–14 (Grizzly Bear habitat) and MA–16 (Timber with viewing allocation) to MA6 (Developed Recreation).

The proposed Treasure Mountain Winter Sports Area is approximately five miles west of US Highway 2 and one mile south of Libby in Lincoln County, Montana, ninety miles south of the Canadian border and thirty miles east of the Idaho border. The proposed ski area is located adjacent to the Cabinet Mountain Wilderness Area and within the Municipal Watershed for the town of Libby, Montana. Approximately half of the proposed ski area is located within the Inventoried Roadless Area #671—Cabinet Face East. The decision area is also occupied Grizzly Bear habitat.

DATES: Written comments and suggestions should be received on or before September 8, 1997.

ADDRESSES: The Responsible Official is Robert L. Schrenk, Forest Supervisor, Kootenai National Forest. Written comments and suggestions concerning the scope of the analysis should be sent to Lawrence A. Froberg, District Ranger, Libby Ranger District, 12557 US Hwy 37 N, Libby, Montana, 59923.

FOR FURTHER INFORMATION CONTACT: Tim Charnon, Project Coordinator, Libby Ranger District. Phone: (406) 293–7773.

SUPPLEMENTARY INFORMATION:

Historical Context

A preliminary proposal for the Treasure Mountain Winter Sports Area was presented to the Libby Ranger District, U.S. Forest Service, Libby, Montana, in September 1990. This was followed by a request for land designation change presented to the U.S. Senate in 1991. An evaluation of the proposed Treasure Mountain Winter Sports Area was compiled in June 1992 followed by modifications to the evaluation in 1994. In March 1995, the Lincoln County Economic Development Council was presented with a Conceptual Development Plan and Feasibility Study prepared by Barnhart Malcolm, Inc. The evaluation of this report was that the proposed Treasure Mountain Winter Sports Area site has superior physical attributes for regional destination alpine ski potential customers to generate cumulative positive cash flow. Finally, in November

1995, the U.S. Department of Commerce Economic Development Administration awarded the Lincoln County Economic Development Council a long-term Economic Deterioration Adjustment Strategy Grant to provide the final information needed to determine the feasibility of development of the Treasure Mountain site.

Proposed Action

LCEDC resubmitted the proposal for the Treasure Mountain Winter Sports Area to the Libby Ranger District, on October 23, 1996. Based on this proposal the decisions to be made are:

Should a Special Use Permit be authorized for Treasure Mountain Winter Sports Area and if so how and under what conditions,

What mitigation measures would be required for protection of National Forest resources, and

Are Forest Plan amendments necessary to proceed with the Proposed Action within the decision area. If so, what are they and are they significant amendments?

The Kootenai National Forest Land and Resource Management Plan provides overall management objectives in individual delineated management areas (MA's). The decision area is allocated to MA–8 (Recreation wilderness), MA–13 (Designated Old-growth), MA–14 (Grizzly Bear habitat) and MA–16 (Timber with viewing allocation).

Preliminary Issues

Several preliminary issues of concern have been identified by the Forest Service. These issues are briefly described below:

- Potential impacts to grizzly bear (the proposed ski area is within designated grizzly bear habitat).
- Potential effects to the Libby municipal watershed.
- Potential impacts on the Cabinet Mountain Wilderness (adjacent to the proposed ski area).
- Potential socio-economic effects (market demand and need for the ski resort).

Public Involvement and Scoping

Public participation is an important part of the analysis, commencing with the initial scoping process (40 CFR 1501.7), which will occur August 1997 to September 1997. In addition, the public is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. The proposed project will be presented at two Open Houses at the Libby City Hall, 952 E. Spruce, on August 14, 1997. The presentations will be at 10:00 am and at 7:00 pm. Representatives from Lincoln County Economic Development Council (LCEDC) and the Kootenai National Forest will be available at the open houses to discuss the proposed project and provide additional information.

Comments from the public and other agencies will be used in preparation of the Draft EIS. The scoping process will be used to:

1. Identify potential issues.
2. Identify major issues to be analyzed in depth.
3. Identify alternatives to the proposed action.
4. Identify potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects).
5. Determine potential cooperating agencies and task assignments.

The Forest Service will consider a range of alternatives. One of these will be the ''no action'' alternative, in which none of the proposed activities would be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes, as well as to respond to the issues and other resource values.

The EIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on both private and National Forest lands will be considered. The EIS will disclose the analysis of site-specific mitigation measures and their effectiveness.

Estimated Dates for Filing

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by January, 1998. At that time EPA will publish a notice of availability of the draft EIS in the **Federal Register.** The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register.**

The final EIS is scheduled to be completed in September, 1998. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewer's Obligations

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official

Robert L. Schrenk, Forest Supervisor, Kootenai National Forest, 506 US Highway 2 West, Libby, MT 59923 is the Responsible Official. As the Responsible Official I will decide which, if any, of the proposed projects will be implemented. I will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations.

Dated: July 31, 1997.

Robert L. Schrenk,

Forest Supervisor.

[FR Doc. 97–20898 Filed 8–7–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Supplement for Hamm-Hasloe Reforestation; Stanislaus National Forest, Groveland Ranger District; Notice of Intent To Prepare a Supplement to an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare a supplement to the Hamm-Hasloe environmental impact statement (EIS) for a proposal to reforest the Hamm-Hasloe Fire Area which was burned in the Stanislaus Complex Fires of 1987. An estimated 45 units, approximately 1,500 acres, (the original project area totals 15,045 acres) will be analyzed due to changing conditions on the ground since the original decision was made.

The project area is located in both Tuolumne and Mariposa Counties in the following townships, ranges and sections (Mount Diablo Meridian): Portions of sections 25, 26, T.1S., R.16E.. Portions of sections 7, 16, 17, 21, 26–28, 34–36, T.1S., R.17E.. Portions of sections 1, 3–5, 10–12, 14, 22–26, 32, 34, 35, T.2S., R.17E.. Portions of sections 5–8, 17, 18, 30, T.2S., R.18E.. Portions of sections 1, 5, T.3S., R.17E..

This analysis and referenced document will follow the direction contained in the Record of Decision for the Final Environmental Impact Statement for Vegetation Management for Reforestation in Region Five, California which was signed February 13, 1989 by Regional Forester Paul Barker. The selected alternative in this Record of Decision calls for local management flexibility in selecting the appropriate vegetation management methods for reforestation. The actions proposed in the Hamm-Hasloe Reforestation EIS Supplement will also be consistent with the Stanislaus National Forest Land and Resource Management Plan.

Units will be evaluated for site preparation prior to tree planting. Only these treatments will be modified under this supplement, subsequent tree planting and release treatments are already covered in the existing EIS and will still be implemented as analyzed under that document. Treatments analyzed will include; mechanical and hand treatments, aerial and ground application of herbicides, and control burning. Alternatives developed could include combinations of treatments as well as no action. Most of the new treatment prescriptions will involve removal of brush which is now too tall to spray by hand.

Federal, State, and local agencies, and interested individuals or groups are invited to participate in the scoping process. Letters will be sent to all individuals and groups who received a copy of the original EIS and expressed interest and concerns during the original project scoping. No scoping meetings are planned for this project. This process will include:

1. Identification of potential issues or concerns.
2. Identification of issues to be analyzed in depth.
3. Elimination of issues which have been covered by a previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

Following the environmental analysis the Supplement is expected to be made available for public review by October 1997. The Supplement and Record of Decision is estimated to be completed by November 1997.

The comment period on the draft supplement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested in the management of the Hamm-Hasloe area participate at that time. To be the most helpful, comments should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v *NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final document. *Wisconsin Heritages, Inc.* v *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when they can meaningfully consider them and respond to them in the final document.

Glenn Gottschall, Acting Forest Supervisor, Stanislaus National Forest, Sonora, California is the responsible official.

Written comments and suggestions concerning this project or analysis should be addressed to Calvin Bird, Groveland District Ranger, 24545 Highway 120, Groveland, CA, 95321. Additional information can be obtained through John Schmechel, District Silviculturist, at the above address.

Dated: July 30, 1997.

David M. Freeland,

Acting Forest Supervisor.

[FR Doc. 97–20931 Filed 8–7–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to the Natural Resources Conservation Service's National Handbook of Conservation Practices

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture, New York State Office.

ACTION: Notice of availability of proposed changes in the NRCS National Handbook of Conservation Practices, Section IV of the New York State NRCS Field Office Technical Guide (FOTG) for review and comment.

SUMMARY: It is the intention of NRCS to issue a series of new conservation practice standards in its National Handbook of Conservation Practices. These new standards include: Waste Management System (NY312), Roof Runoff Management System (NY558), Manure Field Piles (NY193), and Riparian Forest Buffer (NY391).

DATES: Comments will be received until September 8, 1997.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Richard D. Swenson, State Conservationist, Natural Resources Conservation Service (NRCS), 441 S. Salina Street, Fifth Floor, Suite 354, Syracuse, New York, 13202–2450.

Copies of these standards are available from the above individual.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agricultural Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical Guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS regarding disposition of those comments and a final determination of change will be made.

Dated: July 31, 1997.

Richard D. Swenson,

State Conservationist, Natural Resources Conservation Service, Syracuse, NY.

[FR Doc. 97–20930 Filed 8–7–97; 8:45 am]

BILLING CODE 3410–16–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Proposed Collections and Comment Request for Surveys in the Benefit/Cost Analysis of the Javits-Wagner-O'Day Program

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

ACTION: Notice of request for public comment on proposed collections of information.

SUMMARY: The Committee for Purchase from People Who Are Blind or Severely Disabled (the Committee) is inviting public comment on proposed collection of information requests to be submitted for approval by Office of Management and Budget (OMB) as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The Committee is seeking public comment on three surveys being developed for the comprehensive Benefit/Cost Analysis of the JWOD Program. One request is for renewal with revisions of a survey for follow-up interviews with individuals who are blind or have other severe disabilities employed on contracts authorized under the Javits-Wagner-O'Day (JWOD) Act. The other request is for approval of two related surveys of state and local private nonprofit agencies that participate in the JWOD Program or are affiliated with National Industries for the Blind (NIB) or NISH.

DATES: Submit comments on or before October 7, 1997.

ADDRESSES: Written comments and requests for copies of the proposed information collection instruments should be submitted to Sheryl Kennerly, Committee for Purchase from People Who Are Blind or Severely Disabled, 1735 Jefferson Davis Highway, Suite 403, Arlington, VA 22202. Comments and requests may be submitted by electronic mail at: skennerl@jwod.gov.

FOR FURTHER INFORMATION CONTACT: Sheryl Kennerly, Committee for Purchase from People Who Are Blind or Severely Disabled, 1735 Jefferson Davis Highway, Suite 403, Arlington, VA 22202, phone: 703–603–7740, fax: 703–412–7113.

SUPPLEMENTARY INFORMATION: The JWOD Act prescribes that: ''The Committee shall make a continuing study and evaluation of its activities under this Act for the purpose of assuring effective and efficient administration of this Act. The Committee may study (on its own or in cooperation with other public or nonprofit private agencies) (1) problems related to the employment of the blind and of other severely handicapped individuals * * *'' (41 U.S.C. 47(e)).

As part of the effort to evaluate its activities and study the employment of individuals who are blind or severely disabled, the Committee has initiated a comprehensive analysis of benefits and costs of the JWOD Program. The survey instruments included in the requests for OMB approval are required to collect data for determining the benefits and costs of the JWOD Program to individuals who are blind or have other severe disabilities, to the nonprofit agencies that employ these individuals, and to society in general, particularly taxpayers.

The Committee specifically seeks public comment on these instruments to: (1) evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Committee; (2) evaluate the accuracy of the estimate of burden for the proposed collections of information; (3) enhance the quality, utility, and clarity of the information to be collected; and, (4) minimize the burden of the collections of information on those who are to respond. Comments should reference the title of the survey to which they apply.

Title: JWOD Employee Follow-Up Survey.

Type of Review: Reinstatement with revisions.

Frequency: One-time.

Affected Public: Individuals who are blind or severely disabled and who participated in the baseline surveys for this study.

Burden Estimate:

Responses: 611

Total Burden Hours: 391 hours

Average Burden per respondent: 38 minutes

Abstract: The burden estimate above is based on actual use of the previously approved survey in baseline interviews with the same individuals who will participate in interviews using the revised follow-up survey. This estimate includes the average length of interviews in the baseline stage. Actual interview times vary between individuals depending on the type of disability. Individuals who responded to the baseline interviews have been informed of the intent and purpose of this survey and agreed to participate. The follow-up survey is being revised based on comments and issues identified during the baseline interviews.

Title: Survey of JWOD Participating Agencies.

Type of Review: New Collection.

Frequency: One-time.

Affected Public: State and local nonprofit agencies (NPAs) that have been authorized to participate in the JWOD Program.

Burden Estimate:

Responses: 624

Burden Hours: 624 Hours.

The Committee is particularly interested in comments from the affected public on the accuracy of burden hours estimate and the fully-loaded labor costs per hour for personnel who would be responding to this survey.

Abstract: JWOD goods and services are provided through State and local nonprofit agencies (NPAs) that employ individuals who are blind or have other severe disabilities. In addition to the benefits that accrue to individuals employed on JWOD contracts, the study methodology identifies potential impacts on the NPAs that are measured by this survey: (1) increased or reduced non-JWOD sales; (2) induced or suppressed charitable donations; and, (3) shortfall or excess of JWOD product or service provision costs. Data will be requested for the year before the NPA began participating in the program and for the following five years for a before/after analysis.

Title: Survey of Other Agencies Associated With National Industries for the Blind (NIB) or NISH.

Type of Review: New collection.

Frequency: One-time.

Affected Public: State and local nonprofit agencies (NPA) that are associated with NIB or NISH, for the purpose of participating in the JWOD Program, but have not yet received authorization to provide a product or service under the JWOD Program.

Burden Estimate:

Responses: 300

Burden Hours: 300 Hours.

The Committee is particularly interested in comments from the affected public on the accuracy of burden hours estimate and the fully-loaded labor costs per hour for personnel responding to this survey.

Abstract: NPAs that are interested in participating in the JWOD Program must be associated with one of the central nonprofit agencies, NIB or NISH, designated by the Committee to

facilitate their participation in the program. NIB and NISH, predominantly NISH, have about 1,000 associated NPAs that are interested in participating in the JWOD Program but have not yet received authorization to provide a particular JWOD product or service. A sample of these organizations will receive a survey very similar to the one being used for JWOD-participating NPAs with some differences in questions. Data will be used as a comparison to augment analysis of impacts on JWOD-participating NPAs.

Dated: August 5, 1997.

G. John Heyer,

General Counsel.

[FR Doc. 97–21000 Filed 8–7–97; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

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

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: September 8, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

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

SUPPLEMENTARY INFORMATION: On June 13 and 20, 1997, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (62 FR 32288 and 33585) of proposed deletion from and proposed additions to the Procurement List.

Additions

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

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

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

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

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

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

Accordingly, the following services are hereby added to the Procurement List:

Janitorial/Custodial

Puget Sound Naval Shipyard
Bremerton, Washington

Mailroom Operation

Fort Bragg, North Carolina

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

Deletion

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

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action does not appear to have a severe economic impact on future contractors for the commodity.

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

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

The following commodity has been proposed for deletion from the Procurement List:

Tape, Pressure-Sensitive

7510–00–680–2470

Dated: August 5, 1997.

G. John Heyer,

General Counsel.

[FR Doc. 97–20997 Filed 8–7–97; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

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

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 8, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

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

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

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

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

2. The action does not appear to have a severe economic impact on current contractors for the commodities and service.

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

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

Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and service have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Office and Miscellaneous Supplies

(Requirements for the Lackland Air Force Base, Texas)
NPA: San Antonio Lighthouse, San Antonio, Texas

Ribbon, Typewriter

7510–01–233–0033
NPA: Charleston Vocational Rehabilitation Center, Charleston Heights, South Carolina

Folder, Modular Disability

Jacket #414–80
NPA: The Clovernook Center, Opportunities for the Blind, Cincinnati, Ohio

Service

Food Service Attendant

Naval Air Station
Jacksonville, Florida
NPA: Goodwill Industries of Central Florida, Orlando, Florida.

G. John Heyer,
General Counsel.
[FR Doc. 97–20998 Filed 8–7–97; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Proposed Additions to the Procurement List; Correction

In the document appearing on page 34686, FR Doc. 97–16920, in the issue of June 27, 1997, in the second column, the NSNs listed for Slacks, Woman's, USMC should read as follows:

8410–01–413–5188
8410–01–413–5189
8410–01–413–5190
8410–01–413–5193
8410–01–413–5194
8410–01–413–5195
8410–01–413–5196
8410–01–413–5245
8410–01–413–5248
8410–01–413–5256
8410–01–413–5258
8410–01–413–5259
8410–01–413–5260
8410–01–413–5262
8410–01–413–5800
8410–01–413–5855
8410–01–413–5860
8410–01–413–5864
8410–01–413–5872
8410–01–413–5875
8410–01–413–5877
8410–01–413–5880
8410–01–413–5881
8410–01–413–5883
8410–01–413–5884
8410–01–413–5886
8410–01–413–5887
8410–01–413–5888
8410–01–413–5889

G. John Heyer,
General Counsel.
[FR Doc. 97–20999 Filed 8–7–97; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 913]

Grant of Authority for Subzone Status Unifi, Inc. (Polyester Yarn), Yadkinville, North Carolina

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the FTZ Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the North Carolina Department of Commerce, grantee of Foreign-Trade Zone 66, for authority to establish special-purpose subzone status for the polyester yarn manufacturing plant of Unifi, Inc., in Yadkinville, North Carolina, was filed by the Board on April 10, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 28–97, 62 FR 19546, 4–22–97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the Unifi, Inc., plant in Yadkinville, North Carolina (Subzone 66C), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 30th day of July 1997.

Robert S. LaRussa,
Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,
Executive Secretary.
[FR Doc. 97–20936 Filed 8–7–97; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the United Kingdom; Notice of United States Court of International Trade Decision

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

ACTION: Notice of court decision.

SUMMARY: On June 18, 1997, in *FAG U.K. et al.* v *United States*, Slip Op. 97–77 (*FAG U.K.*), the United States Court of International Trade (CIT) affirmed the Department of Commerce's (the Department) final result of redetermination pursuant to court remand (final remand results) of the final results of the fourth administrative review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from the United Kingdom (final results).[1] The CIT has now entered final judgment on all issues. The final results

[1] *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders* (60 FR 10,900 (Feb. 28, 1995)), as amended by *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; Amendment to Final Results of Antidumping Duty Administrative Reviews and Rescision of Partial Revocation of Antidumping Duty Order* (60 FR 16,608 (March 31, 1995)) (*Amended Final Results*) (collectively ''final Results'').

covered the period May 1, 1992 through April 30, 1993.

EFFECTIVE DATE: August 8, 1997.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 1996, the CIT in *FAG U.K. et al.* v. *United States*, Slip Op. 96–177, remanded the final results to the Department to: (1) Utilize the tax-neutral methodology for adjusting for value-added taxes (VAT) approved by the United States Court of Appeals for the Federal Circuit (CAFC) in *Federal-Mogul Corp.* v. *United States*, 63 F.3d 1572 (Fed. Cir. 1995) (see final redetermination); (2) correct the computer program so that the insurance values reported in dollars are not further converted; (3) correct the computer program so that the VAT is only applied to the HEDGE value once; and (4) correct a clerical error with respect to FAG-Barden's U.S. sales. The Department complied with the CIT's order and, on February 14, 1997, submitted the final remand results to the CIT.

The recalculated, weighted-average percentage dumping margins for NSK–RHP and FAG-Barden during the period May 1, 1992, through April 30, 1993, for ball bearings (BBs) and cylindrical roller bearings (CRBs) were as follows:

Company	The United Kingdom	
	BBs	CRBs
NSK–RHP	14.49	20.03
FAG-Barden	4.65	8.22

On June 18, 1997, in *FAG U.K.*, the CIT affirmed the Department's final remand results and entered final judgment on all issues.

In its decision in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the CAFC held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish a notice of a court decision which is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's decision on June 18, 1997, constitutes a decision not in harmony with the Department's final results. Publication of this notice fulfills this obligation.

Pursuant to the decision in *Timken*, the Department must continue the suspension of liquidation of the subject merchandise pending the latter of the expiration of the period for appeal or the conclusion of any appeal. Further, absent an appeal or, if appealed, upon a ''conclusive'' court decision affirming the CIT's opinion, the Department will amend the final results of the fourth administrative review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from the United Kingdom to reflect the amended margins of the Department's final remand results, which were affirmed by the CIT.

Dated: July 31, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–20934 Filed 8–7–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–808]

Postponement of Final Determination; Certain Cut-to-Length Carbon Steel Plate From the Russian Federation

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

ACTION: Notice of postponement of final determination of sales at less than fair value.

EFFECTIVE DATE: August 8, 1997.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan, Eugenia Chu, or Yury Beyzarov, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

The Applicable Statute and Regulations

Unless other 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 Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are in reference to the regulations, codified at 19 CFR part 353, as they existed on April 1, 1996.

Postponement of Final Determination

Pursuant to section 735(a)(2) of the Act, on July 29, 1997, JSC Severstal (Severstal) a producer of subject merchandise; requested a thirty-day extension of the final determination.

Severstal accounts for a significant proportion of exports of the subject merchandise. In addition, we are not aware of any compelling reasons for denying this request. However, due to the complexity of the issues involved in the case, including surrogate values, and the scope of the subject merchandise, we are postponing the final determination in this investigation until 135 days after the publication of the preliminary determination. Therefore, the final determination will be due no later than October 24, 1997. Suspension of liquidation will be extended in accordance with section 733(d) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 Fed. Reg. 30326, 30326 (June 14, 1996).

This notice of postponement is published pursuant to 19 CFR 353.20(b)(2).

Dated: July 31, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–20939 Filed 8–7–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–802]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Gray Portland Cement From Mexico

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

EFFECTIVE DATE: August 8, 1997.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary and final results of the administrative review for the antidumping order on Gray Portland Cement and Clinker from Mexico, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter the ''Act'').

FOR FURTHER INFORMATION CONTACT: Steven Presing, Nithya Nagarajan, Kristen Smith, or Kristen Stevens, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION: Under the Act, the Department may extend the

deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. In the instant case, the deadline for the preliminary results of this review was extended from 245 days to 345 days under section 751(a)(3)(A) due to an allegation from petitioners that respondent's sales were made below the cost of production. 62 FR 3661 (1997). The Department has determined that it is not practicable to complete the review within this extended period because the case involves complex analysis and issues associated with the implementation of the new law.

Since it is not practicable to complete this review within the extended period, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit as follows:

Product	Country	Review period	Initiation date	Prelim due date	Final due date*
Gray Portland Cement (A–201–802)	Mexico	08/1/95–07/31/96	9/17/96	9/2/97	12/13/97

*The Department shall issue the final determination 120 days after the publication of the preliminary determination. This final due date is estimated based on publication of the preliminary notice five business days after signature.

Dated: July 28, 1997.

Roland L. MacDonald,

Acting Deputy Assistant Secretary For Enforcement III.

[FR Doc. 97–20933 Filed 8–7–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–802]

Industrial Nitrocellulose From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by the respondent, China North Industries Guangzhou Corp. (CNIGC), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on industrial nitrocellulose from the People's Republic of China (PRC). The review covers one exporter of the subject merchandise to the United States and the period July 1, 1995 through June 30, 1996. The review indicates the existence of dumping margins during the period of review.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between United States price (U.S. price) and NV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 8, 1997.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–4733.

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 citations to the Department's regulations are to 19 CFR Part 353 (1997).

SUPPLEMENTARY INFORMATION:

Background

On July 10, 1990, the Department published in the **Federal Register** (55 FR 28267) the antidumping duty order on industrial nitrocellulose (INC) from the PRC. On July 8, 1996, the Department published in the **Federal Register** (61 FR 35712) a notice of opportunity to request an administrative review of this antidumping duty order. On July 31, 1996, in accordance with 19 CFR 353.22(a), one exporter of the subject merchandise to the United States, CNIGC, requested that the Department conduct an administrative review of its exports of subject merchandise to the United States. We published the notice of initiation of this review on August 15, 1996 (61 FR 42416).

Scope of the Review

Imports covered by this review are shipments of INC from the PRC. INC is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. INC is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content of greater than 12.2 percent.

INC is currently classified under Harmonized Tariff System (HTS) subheading 3912.20.00. While the HTS item number is provided for convenience and Customs purposes, the written description remains dispositive as to the scope of the product coverage.

The review period is July 1, 1995 through June 30, 1996.

Separate Rates

CNIGC claims to be eligible for a separate antidumping rate, as an independent trading company owned by ''all the people.'' As stated in the *Final Determination of Sales at Less than Fair Value: Silicon Carbide from the People's Republic of China* (*Silicon Carbide*), 59 FR 22585, 22586 (May 2, 1994), and *Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China* (*Furfuryl Alcohol*) 60 FR 22544 (May 8, 1995), ownership of a company by all the people does not require the application of a single rate. Therefore, CNIGC is eligible for consideration for a separate rate.

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under the test originally established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (*Sparklers*), 56 FR 20588 (May 6, 1991), and amplified in *Silicon Carbide*. Under this test, the Department assigns separate rates in nonmarket-economy (NME) cases only if an exporter can affirmatively demonstrate the absence of both (1) *de jure* and (2) *de facto* governmental control over export activities. *See Silicon Carbide* and *Furfuryl Alcohol.*

1. De Jure Control

CNIGC has placed on the administrative record documents to demonstrate absence of *de jure* control. CNIGC submitted the ''Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People,'' adopted on April 13, 1988 (the Industrial Enterprises Law), and the 1992 regulations that supplemented it, ''Provisions on Changing the System of Business Operation for State Owned Enterprises'' (Business Operation Provisions). We have analyzed these laws in previous cases and have found them to sufficiently establish an absence of *de jure* control of companies ''owned by the whole people,'' such as CNIGC. (*See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 29571, 29573 (June 5, 1995); and *Furfuryl Alcohol*. The Industrial Enterprises Law provides that enterprises owned by ''the whole people'' shall make their own management decisions, be responsible for their own profits and losses, choose their own suppliers, and purchase their own goods and materials. The Business Operation Provisions confer upon state-owned enterprises the responsibility for making investment decisions, the right to dispose of retained capital and assets, and the authority to form joint ventures and to merge with other enterprises. CNIGC states that INC does not appear on any government lists regarding export provisions or export licensing, and that no quotas are imposed on INC.

In sum, in prior cases, the Department has analyzed the Chinese laws on the record in this case, and found that it establishes an absence of *de jure* control. We have no new information in these proceedings which would cause us to reconsider this determination.

2. De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See, e.g., Silicon Carbide* and *Furfuryl Alcohol*. These factors are not necessarily exhaustive, and other relevant indicia of government control may be considered.

In the *Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China (Brake Drums and Rotors*), 62 FR 9160 (February 28, 1997), we found that this respondent, CNIGC, could not affirmatively demonstrate an absence of *de facto* government control. In *Brake Drums and Rotors* we found that CNIGC remains a branch of China North Industries Corporation (NORINCO), and that NORINCO is controlled by the PRC government. As there are no facts on the record of this administrative review to contradict our findings in *Brake Drums and Rotors*, we have not granted a separate rate to CNIGC in this review. We have placed on the record of this review documents used to reach the separate rates determination in *Brake Drums and Rotors* and which form the basis for our determination not to grant a separate rate to CNIGC in this review. *See* Memorandum to the file from Leah Schwartz dated March 26, 1997, on file in Room B–099 of the Commerce Department.

PRC-Wide Rate

Because we have not granted a separate rate to CNIGC, we are preliminarily applying a single antidumping rate—the PRC-wide rate—to all exporters in the PRC. We have preliminarily based the PRC-wide rate on the information submitted by CNIGC for this review because we have reason to believe that CNIGC was the only exporter of INC from the PRC to the United States during the POR. See the proprietary memorandum to the file from Rebecca Trainor, dated July 23, 1997, on file in Room B–099 of the Commerce Department.

United States Price

The Department used export price (EP), in accordance with section 772(a) of the Act, in calculating U.S. price, because the subject merchandise was sold to unrelated purchasers prior to importation into the United States and the constructed export price methodology was not warranted based on the facts of record. We calculated EP based on the price to unrelated purchasers. We deducted amounts for inland freight from the factory to the port and for brokerage and handling. We valued foreign inland freight using data on Indonesian freight rates. See the proprietary analysis memo dated July 23, 1997, on file in Room B–099, for discussion of our treatment of brokerage and handling expenses. We selected Indonesia as the primary surrogate country for reasons explained in the ''Normal Value'' section below.

Normal Value

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors of production methodology if (1) the subject merchandise is exported from an NME country, and (2) available information does not permit the calculation of NV using home market prices or third country prices, in accordance with section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. None of the parties to this proceeding has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act. We valued the factors of production using prices or costs in one or more surrogate market economy countries. We first determined that India, Pakistan, Egypt, Sri Lanka and Indonesia are each at a level of economic development comparable to the PRC in terms of per capita gross national product, the growth rate in per capita income, and the national distribution of labor. Of these potential surrogate countries, we determined that both Indonesia and India are significant producers of INC. However, price data for one of the major inputs used in the production of INC was unavailable from Indian sources, whereas price data for all of the principal production inputs is available from Indonesian sources. Therefore, we used Indonesia as the primary surrogate country. We valued one of the packing materials, steel drums, using publicly available data from India, because Indonesian data was not available for this factor. *See* Memorandum to Maureen Flannery from David Mueller, dated January 29, 1997, ''Industrial Nitrocellulose from the People's Republic of China: Non-market Economy Status and Surrogate Country Selection,'' and Memorandum to the File dated March 24, 1997: ''Industrial Nitrocellulose from the People's Republic of China: Significant Production in Indonesia and India of Comparable Merchandise,'' which are on file in room B–099 of the Commerce Department.

Petitioner and respondent submitted publicly available information on surrogate values for the Department's consideration. For purposes of

calculating NV, we valued PRC factors of production as follows, in accordance with section 773(c) of the Act:

To value cotton linters, nitric acid, sulphuric acid, chlorine, caustic soda, rosin, and ethyl alcohol, we used a per kilogram value obtained from the Foreign Trade Statistical Bulletin of Indonesia: Imports (Indonesian Import Statistics). We adjusted these values to reflect inflation through the period of review (POR). We included freight costs incurred between the supplier and CNIGC, valued using the Indonesian freight rates.

For direct labor, we used the unskilled labor rate published by the U.S. Department of Labor, Bureau of International Labor Affairs in its 1992 publication, *Foreign Labor Trends: Indonesia*. This source shows the number of hours worked per week. We adjusted the labor rate to reflect inflation through the POR using the wholesale price index (WPI) published by the International Monetary Fund.

For factory overhead, we used information reported in a December 2, 1994 fax from the U.S. Foreign Commercial Service of the American Embassy in Jakarta, Indonesia. This data was received for the less-than-fair-value (LTFV) investigation of furfuryl alcohol from the PRC, and provides an estimated range of factory overhead in Indonesia. This information was used in the LTFV investigation of disposable pocket lighters from the PRC. From this information, we were able to determine factory overhead as a percentage of materials and labor. The surrogate overhead rate included energy; therefore, we did not include CNIGC's reported energy factors in the margin calculation.

For selling, general and administrative (SG&A) expenses and profit, we used information obtained from a September 1991 cable from the U.S. Embassy in Jakarta. This cable was received for the LTFV investigation of certain carbon steel butt-weld pipe fittings from the PRC, and provides estimated ranges of SG&A expenses and profit margins.

To value plastic bags used in packing, we used the Indonesian Import Statistics. To value steel drums, we used a per kilogram value obtained from the Monthly Statistics of the Foreign Trade of India (Indian Import Statistics), as these values were unavailable for Indonesia. We adjusted these values to reflect inflation through the POR. We also adjusted these values to include freight costs incurred between the suppliers and the INC factory. Because CNIGC did not report the distances between its INC factory and the packing materials suppliers, we relied on the facts otherwise available. We used the average distance between the INC factory and the factory's raw materials suppliers.

To value truck freight, we used the rates reported in a September 1991 cable from the U.S. Embassy in Jakarta, Indonesia. This cable was received for the LTFV investigation of certain carbon steel butt-weld pipe fittings from the PRC. We adjusted the rates to reflect inflation using the WPI published by the IMF.

Currency Conversion

We made currency conversions pursuant to section 773A(a) of the Act and section 353.60 of the Department's regulations based on the rates certified by the Federal Reserve Bank.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margin exists for the period July 1, 1995 through June 30, 1996:

Manufacturer/exporter	Margin (percent)
PRC-Wide Rate	48.91

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. *See* 19 CFR 353.38(d). Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, not later than 120 days after the date of publication of this notice.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and NV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of INC from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) for all PRC exporters, the cash deposit rate will be the PRC-wide rate established in the final results of this review; and (2) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under section 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: July 31, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–20938 Filed 8–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–813]

Light-Scattering Instruments and Parts Thereof From Japan; Termination of Antidumping Duty Administrative Review

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

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) is terminating the administrative review of the antidumping duty order on light-scattering instruments and parts thereof

(LSIs) from Japan. The review covers one manufacturer/exporter of LSIs, Otsuka Electronics Co., Ltd. (Otsuka), and the period November 1, 1995 through October 31, 1996.

EFFECTIVE DATE: August 8, 1997.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On November 19, 1990, the Department published in the **Federal Register** (55 FR 48244) the antidumping duty order on LSIs from Japan. On November 4, 1996, we published in the **Federal Register** (61 FR 56663) a notice of opportunity to request an administrative review of the antidumping duty order on LSIs from Japan covering the period November 1, 1995 through October 31, 1996.

In accordance with 19 CFR 353.22(a)(1), the petitioner, Wyatt Technology Corporation, requested that we conduct an administrative review of Otsuka. We published a notice of initiation of this antidumping duty administrative review on January 17, 1997 (62 FR 2647).

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 citations to the Department's regulations are to the regulations codified at 19 CFR part 353 (April 1, 1997).

Scope of the Review

This review covers imports of LSIs and parts thereof from Japan. The Department defines such merchandise as LSIs and the parts thereof, specified below, that have classical measurement capabilities, whether or not also capable of dynamic measurement. Classical measurement (also known as static measurement) capability usually means the ability to measure absolutely (*i.e.*, without reference to molecular standards) the weight and size of macromolecules and submicron particles in solution, as well as certain molecular interaction parameters, such as the so-called second viral coefficient. (An instrument that uses single-angle instead of multi-angle measurement can only measure molecular weight and the second viral coefficient.) Dynamic measurement (also known as quasi-elastic measurement) capability refers to the ability to measure the diffusion coefficient of molecules or particles in suspension and deduce therefrom features of their size and size distribution. LSIs subject to this review employ laser light and may use either a single-angle or multi-angle technique.

The following parts are included in the scope of this administrative review when they are manufactured according to specifications and operational requirements for use only in an LSI as defined in the preceding paragraph: scanning photomultiplier assemblies, immersion baths (to provide temperature stability and/or refractive index matching), sample-containing structures, electronic signal-processing boards, molecular characterization software, preamplifier/discriminator circuitry, and optical benches. LSIs subject to this review may be sold inclusive or exclusive of accessories such as personal computers, cathode ray tube displays, software, or printers. LSIs are currently classifiable under Harmonized Tariff Schedule (HTS) subheading 9027.30.40. LSI parts are currently classifiable under HTS subheading 9027.90.40. HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written product description remains dispositive. Different items with the same name as subject parts may enter under subheading 9027.90.40. To avoid the unintended suspension of liquidation of non-subject parts, those items entered under subheading 9027.90.40 and generally known as scanning photomultiplier assemblies, immersion baths, sample-containing structures, electronic signal-processing boards, molecular characterization software, preamplifier/discriminator circuitry, and optical benches must be accompanied by an importer's declaration to the Customs Service stating that they are not manufactured for use in a subject LSI.

Termination of Administrative Review

Otsuka responded that it had no shipments of the subject merchandise during the period of review. We confirmed this information with the United States Customs Service. Therefore, in accordance with our practice, we are terminating this administrative review. *See, e.g., Calcium Hypochlorite from Japan: Termination of Antidumping Duty Administrative Review,* 62 FR 18086 (April 14, 1997). The cash deposit rate for this firm will continue to be 129.71 percent, the rate established in the most recently completed administrative review. *See Light Scattering Instruments and Parts Thereof from Japan: Final Results of Antidumping Duty Administrative Review,* 60 FR 50551 (September 29, 1995).

This termination of administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: July 31, 1997.

Roland L. MacDonald,

Acting Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 97–21010 Filed 8–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–823]

Professional Electric Cutting Tools From Japan; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by Black & Decker Inc., the petitioners in this case, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on professional electric cutting tools (PECTs) from Japan. The period of review (''POR'') covers shipments of the subject merchandise to the United States during the period July 1, 1995 through June 30, 1996.

We have preliminarily determined that respondents sold subject merchandise at less than normal value (NV) during the POR. If these preliminary results are adopted in our final results of this administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the constructed export price (''CEP'') and the NV.

We invite interested parties to comment on these preliminary results. Parties who submit argument in this proceeding should also submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: August 8, 1997.

FOR FURTHER INFORMATION CONTACT: Stephen Jacques, AD/CVD Enforcement

Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–3434.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations as codified at 19 CFR part 353, as they existed on April 1, 1996.

Background

On July 12, 1993, the Department published in the **Federal Register** the antidumping duty order on PECTs from Japan (58 FR 37461). On July 8, 1996, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of this antidumping duty order (61 FR 35713). On July 31, petitioners requested that we conduct an administrative review in accordance with 19 CFR 353.22(a)(1). We published the notice of initiation of this antidumping duty administrative review on August 15, 1996 (61 FR 42416).

The Department is conducting this review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by this review are shipments of PECTs from Japan. PECTs may be assembled or unassembled, and corded or cordless.

The term ''electric'' encompasses electromechanical devices, including tools with electronic variable speed features. The term ''assembled'' includes unfinished or incomplete articles, which have the essential characteristics of the finished or complete tool. The term ''unassembled'' means components which, when taken as a whole, can be converted into the finished or unfinished or incomplete tool through simple assembly operations (e.g., kits).

PECTs have blades or other cutting devices used for cutting wood, metal, and other materials. PECTs include chop saws, circular saws, jig saws, reciprocating saws, miter saws, portable bank saws, cut-off machines, shears, nibblers, planers, routers, joiners, jointers, metal cutting saws, and similar cutting tools.

The products subject to this order include all hand-held PECTs and certain bench-top, hand-operated PECTs. Hand-operated tools are designed so that only the functional or moving part is held and moved by hand while in use, the whole being designed to rest on a table top, bench, or other surface. Bench-top tools are small stationary tools that can be mounted or placed on a table or bench. They are generally distinguishable from other stationary tools by size and ease of movement.

The scope of the PECT order includes only the following bench-top, hand-operated tools: cut-off saws; PVC saws; chop saws; cut-off machines, currently classifiable under subheading 8461 of the Harmonized Tariff Schedule of the United States (HTSUS); all types of miter saws, including slide compound miter saws and compound miter saws, currently classifiable under subheading 8465 of the HTSUS; and portable band saws with detachable bases, also currently classifiable under subheading 8465 of the HTSUS.

This order does not include: professional sanding/grinding tools; professional electric drilling/fastening tools; lawn and garden tools; heat guns; paint and wallpaper strippers; and chain saws, currently classifiable under subheading 8508 of the HTSUS.

Parts or components of PECTs when they are imported as kits, or as accessories imported together with covered tools, are included within the scope of this order.

''Corded'' and ''cordless'' PECTs are included within the scope of this order. ''Corded'' PECTs, which are driven by electric current passed through a power cord, are, for purposes of this order, defined as power tools which have at least five of the following seven characteristics:

1. The predominate use of ball, needle, or roller bearings (*i.e.*, a majority or greater number of the bearings in the tool are ball, needle, or roller bearings);
2. Helical, spiral bevel, or worm gearing;
3. Rubber (or some equivalent material which meets UL's specifications S or SJ) jacketed power supply cord with a length of 8 feet or more;
4. Power supply cord with a separate cord protector;
5. Externally accessible motor brushes;
6. The predominate use of heat treated transmission parts (*i.e.*, a majority or greater number of the transmission parts in the tool are heat treated); and
7. The presence of more than one coil per slot armature. If only six of the above seven characteristics are applicable to a particular ''corded'' tool, then that tool must have at least four of the six characteristics to be considered a ''corded'' PECT.

''Cordless'' PECTs, for the purposes of this order, consist of those cordless electric power tools having a voltage greater than 7.2 volts and a battery recharge time of one hour or less.

PECTs are currently classifiable under the following subheadings of the HTSUS: 8508.20.00.20, 8508.20.00.70, 8508.20.00.90, 8461.50.00.20, 8465.91.00.35, 85.80.00.55, 8508.80.00.65 and 8508.80.00.90. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

This review covers one company, Makita Corporation (''Makita''), and the period July 1, 1995 through June 30, 1996.

Level of Trade

To the extent practicable, we determine NV for sales at the same level of trade (LOT) as the U.S. sales (either EP or CEP). When there are no sales at the same level of trade, we compare U.S. sales to home market (or, if appropriate, third-country) sales at a different level of trade. The NV level of trade is that of the starting-price sales in the home market. When NV is based on constructed value, the LOT is that of the sales from which we derive SG&A and profit.

For both EP and CEP, the relevant transaction for the level-of-trade analysis is the sale (or constructed sale) from the exporter to the importer. While the starting price for CEP is that of a subsequent resale to an unaffiliated buyer, the construction of the CEP results in a price that would have been charged if the importer had not been affiliated. We calculate the CEP by removing from the first resale to an independent U.S. customer the expenses under section 772(d) of the Act and the profit associated with those expenses. These expenses represent activities undertaken by the affiliated importer. Because the expenses deducted under section 772(d) represent selling activities in the United States, the deduction of these expenses normally yields a different level of trade for the CEP than for the later resale (which we use for the starting price). Movement charges, duties, and taxes deducted under 772(c) do not represent activities of the affiliated importer and we do not remove them to obtain the CEP level of trade.

To determine whether home market sales are at a different level of trade than

U.S. sales, we examine whether home market sales are at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with goods being sold by the producer and extends to the sale to the final user, regardless of whether the final user is an individual consumer or an industrial user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales occur somewhere along this chain. In the United States, the respondent's sales are generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the home market and U.S. export markets, including selling functions, class of customer, and the extent and level of selling expenses for each claimed level of trade. Customer categories such as distributor, original equipment manufacturer (OEM), or wholesaler are commonly used by respondents to describe levels of trade, but, without substantiation, they are insufficient to establish that a claimed level of trade is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed levels of trade. If the claimed levels are different, the selling functions performed in selling to each level should also be different. Conversely, if levels of trade are nominally the same, the selling functions should also be the same. Different levels of trade necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the levels of trade. Differences in levels of trade are characterized by purchasers at different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

When we compare U.S. sales to home market sales at a different level of trade, we make a level-of-trade adjustment if the difference in levels of trade affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in a single market, the home market. Any price effect must be manifested in a pattern of consistent price differences between home market sales used for comparison and sales at the equivalent level of trade of the export transaction. To quantify the price differences, we calculate the difference in the average of the net prices of the same models sold at different levels of trade. We use the average difference in net prices to adjust NV when NV is based on a level of trade different from that of the export sale. If there is a pattern of no consistent price differences, the difference in levels of trade does not have a price effect, and no adjustment is necessary.

The statute also provides for an adjustment to NV when NV is based on a level of trade different from that of the CEP if the NV level is more remote from the factory than the CEP and if we are unable to determine whether the difference in levels of trade between CEP and NV affects the comparability of their prices. This latter situation can occur where there is no home market level of trade equivalent to the U.S. sales level or where there is an equivalent home market level but the data are insufficient to support a conclusion on price effect. This adjustment, the CEP offset, is identified in section 773(a)(7)(B) and is the lower of the following:

- The indirect selling expenses on the home market sale, or
- The indirect selling expenses deducted from the starting price in calculating CEP.

The CEP offset is not automatic each time we use CEP. The CEP offset is made only when the level of trade of the home market sale is more advanced than the level of trade of the U.S. (CEP) sale and there is not an appropriate basis for determining whether there is an effect on price comparability.

In this review, Makita reported two levels of trade in the home market: (1) Sales made at the wholesale/distributor price level; and (2) sales made to the retail level. Makita also reported twelve channels of distribution for the two levels of trade in the home market. Makita based the channels of distribution on which entity (*i.e.*, wholesaler, subwholesaler or retailers) in the distribution chain Makita had billed or shipped the merchandise to.

Although Makita described twelve channels of distribution, upon review we found that channels 1 through 7 were sales to the wholesale LOT, and channels 8 through 12 were at the retail LOT.

We found that the two home market levels of trade differed significantly with respect to selling activities. The level of selling activities with respect to the retail sales was much greater than with respect to the wholesaler sales. Based on these differences, which have been reported as business proprietary, we found that Makita's selling activities with respect to the levels of trade for wholesalers and retailers in the home market are sufficiently dissimilar to conclude that two separate levels of trade exist in the home market (*i.e.*, wholesale and retail) (See Analysis Memo from Stephen Jacques to the File, July 31, 1997).

Makita reported only CEP sales in the U.S. market. The CEP sales were based on sales made by Makita to its wholly-owned U.S. subsidiary, Makita U.S.A. We determined that these sales constitute a single level of trade in the United States. Because Makita's sales to the United States were all CEP sales made by an affiliated company, we considered only the parent company's selling activities reflected in the price after the deduction of expenses and profit, pursuant to section 772(d) of the Act.

Based on an analysis of the record evidence, we disagree with Makita's assertion that there is no home market level equivalent to the CEP level of trade. To determine whether sales in the comparison market were at a different level of trade than CEP sales, we examined whether the CEP comparison sales were at different stages in the marketing process. We made this determination on the basis of a review of the distribution system in the two markets, including selling functions, class of customer, and the extent and the level of selling expenses for each type of sale. Overall, Makita listed fourteen separate selling activities which it performed in making sales in both markets in its business proprietary chart in Exhibit B–20 of the November 27, 1996 questionnaire response. The majority (ten) of these selling activities were either different in character or intensity between the CEP level of trade and the retail and wholesaler levels of trade in the home market. However, in comparing the CEP level of trade against both home markets levels of trade we found that the CEP level of trade had several (six) selling functions that were either identical to the home market wholesaler level of trade or differed only in intensity, not in character. In contrast, between the CEP level of trade and the retailer level of trade in the home market, we found only one selling activity that was identical to a CEP selling activity, while most of the remaining selling functions were completely different from selling activities Makita performed for its CEP sales.

Based upon this evidence, we have concluded that the differences between the channels of distribution for the CEP and the home market wholesale level of trade sales are not sufficient to constitute different levels of trade. Therefore, to the extent possible, we have used sales at the wholesale level of trade for comparison purposes in our

analysis without making a level-of-trade adjustment.

In addition, we note that in a previous review of this order, the Department found, based on verified information, that the wholesale level of trade in Japan is equivalent to the CEP level in the United States. *See Professional Electric Cutting Tools from Japan; Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 46624, 46626 (September 4, 1996).

When we are unable to find sales of the foreign like product in the home market at the same level of trade as the U.S. sale, we examine whether a level of trade adjustment is appropriate. We make this adjustment when it is demonstrated that a difference in level of trade has an effect on price comparability. This is the case when it is established that, with respect to sales used to calculate NV, there is a pattern of consistent price differences between sales made at the two different levels of trade. To make this determination, we compared the weighted average of Makita's NV prices of sales made in the ordinary course of trade at the two levels of trade for models sold at both levels as indicated in Makita's Appendix B–21 of the November 27, 1996 questionnaire response. Because the weighted-average prices were higher at one of the levels of trade for a preponderance of the models, we considered this to demonstrate a pattern of consistent price differences. We based our finding on whether the weighted-average prices were higher for a preponderance of sales on the quantities of each model sold. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.: Preliminary Results of Antidumping Duty Administrative Reviews,* 61 FR 35713 (July 8, 1996). On the basis of this analysis, we found that there was a pattern of consistent price differences between the two levels of trade in the home market. Thus, we made an adjustment to NV for the differences in levels of trade when we made our comparison to sales at the retail level.

Makita has requested a CEP offset in this review. Section 773(a)(7)(B) of the Act establishes that a CEP ''offset'' may be made when two conditions exist: (1) NV is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the CEP; and (2) the data available do not provide an appropriate basis for a level-of-trade adjustment.

As we stated in the final results of the recently completed administrative review of this product, ''the amended statute permits the deduction of indirect selling expenses from NV as a CEP offset only when a level-of-trade adjustment is warranted, but the data available do not provide an appropriate basis to determine a level of trade adjustment.'' *See* § 773(a)(7)(B). In addition, the SAA clearly states that the CEP offset is to be used *in lieu of* a level of trade adjustment. *See* SAA at 829. In the preliminary results of this review, we made a level of trade adjustment to NV in accordance with § 773(a)(7)(B). Therefore, we have not made a CEP offset.

Product Comparisons

In accordance with section 777A(d)(2) of the Act, we calculated transaction-specific CEPs for comparison to monthly weighted-average NVs. We compared CEP sales to sales in the home market and to constructed value (CV).

Constructed Export Price

For Makita, we based our margin calculation on CEP as defined in section 772(b) of the Act because the subject merchandise was first sold in the United States after importation into the United States by Makita U.S.A., a seller affiliated with Makita. We calculated CEP based on packed, delivered prices to the first unrelated purchaser in the United States.

We deducted Japanese and U.S. inland freight, ocean freight, insurance, brokerage and handling pursuant to section 772(c)(2) of the Act. We also deducted an amount from the price for the following expenses in accordance with section 772(d)(1) of the Act, which related to economic activities in the United States: commissions, direct selling expenses, including credit expenses, and indirect selling expenses, including inventory carrying costs. We also made deductions for discounts and rebates. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

Normal Value

We compared the aggregate volume of Makita's home-market sales of the foreign like product and U.S. sales of the subject merchandise to determine whether the volume of the foreign like product Makita sold in Japan was sufficient, pursuant to section 773(a)(1)(C) of the Act, to form a basis for NV. Because Makita's volume of home-market sales of foreign like product was greater than five percent of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like products were first sold for consumption in Japan.

In calculating NV, we disregarded sales of the foreign like product to affiliated customers in the home market where we determined that such sales were not made at arm's length. To test whether these sales were made at arm's length, we compared the starting prices of sales of the foreign like product to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated party, we determined that the sale made to the affiliated party was at arm's-length. Where no affiliated customer ratio could be constructed because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's length and, therefore, excluded them from our analysis. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* (58 FR 37062, 37077 (July 9, 1993)). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product based on our model-matching hierarchy, we made comparisons to the next most similar model.

We based home-market prices on the packed, delivered prices to affiliated or unaffiliated purchasers in the home market. Where applicable, we made adjustments for differences in packing and for movement expenses in accordance with section 773(a)(6) (A) and (B) of the Act. We also made adjustments for discounts and rebates, and differences in cost attributable to the differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56. If appropriate, we made circumstance of sale adjustments by deducting home-market direct selling expenses and adding U.S. direct selling expenses, except those deducted from the starting price in calculating CEP pursuant to section 772(d) of the Act.

We based NV on the price at which the foreign like product was first sold for consumption in Japan, in the usual commercial quantities, in the ordinary course of trade and in accordance with section 773(a)(1)(B)(i) of the Act. To extent practicable, we based NV on sales at the same level of trade as the CEP sales. If NV was calculated at a different level of trade, we made an adjustment, in accordance with section 773(a)(7) of the Act. This adjustment is discussed further in the Level of Trade section above.

Cost of Production Analysis

On December 13, 1996, Black & Decker (U.S.), the petitioner in the LTFV investigation, alleged that respondent Makita made home market sales of professional electric cutting tools at prices below the cost of production (''COP'') during this POR and provided information in support those allegations.

After petitioner's December 1996 allegation, the Department published the final results of the second administrative review on *Professional Electric Cutting Tools from Japan* (62 FR 386, January 3, 1997). In that most recently completed review of Makita, the Department disregarded sales by Makita at prices below cost, pursuant to section 773(b)(1). Because the Department disregarded sales below the COP in the last completed review, we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, we did not consider petitioner's allegation, but pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether Makita made home market sales during the POR at prices below its COP.

A. Calculation of COP

We calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus amounts for home market selling, general and administrative (SG&A) expenses and packing costs in accordance with section 773(b)(3) of the Act. We relied on the home market sales and COP information provided by Makita in their questionnaire responses.

B. Test of Home Market Prices

After calculating COP, we tested whether home market sales of the subject merchandise were made at prices below COP within an extended period of time in substantial quantities and whether such prices permitted recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts, rebates and direct selling expenses.

C. Results of COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product are at prices less than COP, we do not disregard any below-cost sales of that product because we determine that the below-cost sales are not made in substantial quantities within an extended period of time. Where 20 percent or more of a respondent's sales of a given product during the POR are at prices less than the COP, we disregard the below-cost sales because we find such sales to be made in substantial quantities within an extended period and were at prices which would not permit the recovery of all costs within a reasonable period of time (*see* section 773(b)(2)(D) of the Act). Based on this test, for these preliminary results, we disregarded certain of Makita's below-cost sales. Where we disregarded all contemporaneous sales of the comparison product based on this test, we calculated NV based on CV, in accordance with section 773(a)(4) of the Act.

Constructed Value

In accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no usable sales of the foreign like product in Japan. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the actual amounts incurred and realized by Makita in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in Japan. We used the weighted-average home market selling expenses.

Where appropriate, we made adjustments to CV in accordance with section 773(a)(6)(C)(iii) of the Act for differences in the circumstances of sale (COS). We made COS adjustments by deducting home direct selling expenses and adding U.S. direct selling expenses, except those deducted from the starting price in calculating CEP pursuant to section 772(d) of the Act. Where appropriate we made level of trade adjustments pursuant to 773(a)(7)(A).

Duty Absorption

On December 13, 1996, the petitioner requested that the Department examine whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides that the Department, if requested, shall determine, during an administrative review initiated two years or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the U.S. through an affiliated importer. As noted above, this proceeding is governed by the provisions of the Act as they existed on January 1, 1995, which includes section 751(a)(4). However, the regulations applicable to this proceeding do not address duty absorption. Therefore, section 351.701 of the new regulations (19 CFR part 351) serves as a statement of the Department's interpretation of the requirements of the Act regarding duty absorption.

Under section 751(c)(6)(C), orders that were in effect on January 1, 1995, constitute transition orders. Under section 751(c)(6)(D), the Department is to treat transition orders, such as the 1993 order at issue, as being issued on January 1, 1995. Section 351.213(j)(2) of the Department's new antidumping duty regulations provides that the Department will make a duty absorption determination, if requested by a domestic interested party, for any administrative review initiated in 1996 or 1998. See *Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 2295, 27394 (May 19, 1997). The preamble to the antidumping regulations explains that reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year. See 62 FR 27318.

This approach ensures that interested parties will have the opportunity for a duty absorption inquiry prior to a sunset review of the order under section 751(c) in cases where the second and fourth years following issuance of an order have already passed. Because the order on professional electric cutting tools from Japan had been in effect since 1993, this is a transition order. Therefore, the Department will first consider a request for an absorption determination during a review initiated in 1996. This being a review initiated in 1996, we are making a duty-absorption determination as part of this segment of the proceeding.

The statute provides for a determination on duty absorption if the subject merchandise is sold in the United States through an affiliated importer. In this case, Makita U.S.A. is the importer of record. Makita U.S.A. is wholly-owned by Makita Corporation of Japan. Therefore, the importer and exporter are ''affiliated'' within the meaning of section 751(a)(4). Furthermore, we have preliminary determined that there is a dumping margin for Makita on 16.3 percent of its U.S. sales during the POR. In addition, we cannot conclude from the record that the unaffiliated purchaser in the United States will pay the ultimately assessed duty. Therefore, based on these

circumstances, we preliminarily find that antidumping duties have been absorbed by Makita on 16.3 percent of its U.S. sales.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margin exists for the period June 30, 1995, through July 1, 1996:

Manufacturer/exporter	Margin (percent)
Makita Corporation	0.50

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or other written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific ad valorem duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between statutory NV and statutory EP or CEP, by the total statutory EP or CEP value of the sales compared, and adjusting the result by the average difference between EP or CEP and customs value for all merchandise examined during the POR).

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Makita will be the rate established in the final results of this review (except that no deposit will be required for Makita if we find zero or *de minimis* margins, *i.e.*, margins less than 0.5 percent); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 54.52 percent, the ''All Others'' rate made effective by the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 C.F.R. 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 C.F.R. 353.22(c)(5).

Dated: July 31, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–20940 Filed 8–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–825]

Sebacic Acid From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review of sebacic acid from the People's Republic of China.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on sebacic acid from the People's Republic of China (PRC) in response to requests from the petitioner, Union Camp Corporation, and three respondents: Tianjin Chemicals Import and Export Corporation (Tianjin), Guangdong Chemicals Import and Export Corporation (Guangdong) and Sinochem International Chemicals Company, Ltd. (SICC). This review covers four exporters of the subject merchandise, including the three respondent companies above and Sinochem Jiangsu Import and Export Corporation (Jiangsu). The period of review (POR) is July 1, 1995, through June 30, 1996.

We have preliminarily determined that sales have been made below normal value (NV) during this period. If these preliminary results are adopted in the final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between United States price (USP) and NV. These assessment rates, if adopted for the final results of the review, will be calculated on an importer-specific *ad valorem* duty basis. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 8, 1997.

FOR FURTHER INFORMATION CONTACT: Lyn Baranowski, Doreen Chen, or Stephen Jacques, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are in reference to the regulations, codified at 19 CFR part 353, as they existed on April 1, 1996.

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** an antidumping duty order on sebacic acid from the PRC on July 14, 1995 (59 FR 35909). On July 8,

1996, the Department published in the **Federal Register** (61 FR 35712) a notice of opportunity to request an administrative review of the antidumping duty order on sebacic acid from the PRC covering the period July 1, 1995, through June 30, 1996.

On July 9, 1996, in accordance with 19 CFR 353.22(a), Union Camp requested that we conduct an administrative review of Tianjin, Guangdong, SICC, and Jiangsu. On July 30, 1996, Tianjin and SICC requested that we conduct an administrative review. We published a notice of initiation of this antidumping duty administrative review on August 15, 1996 (61 FR 42416). The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

The products covered by this order are all grades of sebacic acid, a dicarboxylic acid with the formula (CH2)8(COOH)2, which include but are not limited to CP Grade (500ppm maximum ash, 25 maximum APHA color), Purified Grade (1000ppm maximum ash, 50 maximum APHA color), and Nylon Grade (500ppm maximum ash, 70 maximum ICV color). The principal difference between the grades is the quantity of ash and color. Sebacic acid contains a minimum of 85 percent dibasic acids of which the predominant species is the C10 dibasic acid. Sebacic acid is sold generally as a free-flowing powder/flake.

Sebacic acid has numerous industrial uses, including the production of nylon 6/10 (a polymer used for paintbrush and toothbrush bristles and paper machine felts), plasticizers, esters, automotive coolants, polyamides, polyester castings and films, inks and adhesives, lubricants, and polyurethane castings and coatings.

Sebacic acid is currently classifiable under subheading 2917.13.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding remains dispositive.

This review covers the period July 1, 1995, through June 30, 1996, and four exporters of Chinese sebacic acid.

Verification

We conducted verification of the sales and factor information provided by respondent SICC located in Beijing, PRC and its producer, Tianjin Zhong He Chemical Plant (Zhong He), located in Tianjin, PRC. We conducted the verifications using standard verification procedures, including onsite inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Separate Rates

1. Background and Summary of Findings

It is the Department's standard policy to assign all exporters of the merchandise subject to review in non-market-economy countries a single rate, unless an exporter can demonstrate an absence of government control, both in law and in fact, with respect to exports. To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) (Sparklers), as amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994) (Silicon Carbide). Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. Evidence relevant to a *de facto* absence of government control with respect to exports is based on four factors, whether the respondent: (1) Sets its own export prices independent from the government and other exporters; (2) can retain the proceeds from its export sales; (3) has the authority to negotiate and sign contracts; and (4) has autonomy from the government regarding the selection of management. See *Silicon Carbide* at 22587; *See* also *Sparklers* at 20589.

In our final determination of sales at less than fair value, the Department determined that there was *de jure* and *de facto* absence of government control of each company's export activities and determined that each company warranted a company-specific dumping margin. *See Final Determination of Sales at Less Than Fair Value: Sebacic Acid From the People's Republic of China,* 59 FR 28053 (Sebacic Acid). For this period of review, SICC and Tianjin have responded to the Department's request for information regarding separate rates. We have found that the evidence on the record is consistent with the final determination in the LTFV investigation and continues to demonstrate an absence of government control, both in law and in fact, with respect to their exports, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. During verification of SICC, we examined its business and financial statements. We found no evidence of government control of SICC's export activities.

For Guangdong, which had no sales during this POR, the company-specific rate of 13.54% from the previous administrative review remains unchanged.

2. Separate Rate Determination for Non-responsive Company

For Jiangsu, which did not respond to the questionnaire, we preliminarily determine that this company does not merit a separate rate. Because the Department assigns a single rate to companies in a non-market economy unless an exporter can demonstrate absence of government control, we preliminarily determine that Jiangsu is subject to the country-wide rate for this case.

United States Price

For SICC and Tianjin, the Department based USP on export price (EP), in accordance with section 772(a) of the Act. We made deductions from EP, where appropriate, for foreign inland freight, ocean freight, brokerage and handling, and marine insurance. *See* ''Factor Valuation'' section of this notice. We selected India as the surrogate country for the reasons explained in the ''Normal Value'' section of this notice.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the normal value (NV) using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

The Department has treated the PRC as an NME country in all previous antidumping cases. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such

treatment in this review. Furthermore, available information does not permit the calculation of NV using home market prices, third country prices or CV under section 773(a) of the Act. Therefore, we treated the PRC as a NME country for purposes of this review and calculated NV by valuing the factors of production in a comparable market economy country which is a significant producer of comparable merchandise. Factors of production include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital cost, including depreciation.

Section 773(c)(4) of the Act and section 353.52(b) of the Department's regulations direct us to select a surrogate country that is economically comparable to the PRC. On the basis of per capita gross national product (GNP), the growth rate in per capita GNP, and the national distribution of labor, we find that India is a comparable economy to the PRC (*See* Memorandum from Director, Office of Policy, to Office Director, AD/CVD Group III, Office 9, dated June 24, 1997.).

The statute (section 773(c)(4) of the Act and section 353.52(b) of the Department's regulations) also requires that, to the extent possible, the Department use a surrogate country that is a significant producer of merchandise comparable to sebacic acid. The countries that we confirmed to be producers of sebacic acid, such as Japan and the United States, do not have economies comparable to the PRC. However, we found that India was a significant producer of comparable merchandise (*e.g.*, oxalic acid) during the POR. Though sebacic acid and oxalic acid have different end uses, both are dicarboxylic acids. In addition, many of the inputs used to produce sebacic acid are also used to produce oxalic acid. Therefore, we find that India fulfills both requirements of the statute.

For purposes of calculating NV, we valued PRC factors of production, in accordance with section 773(c)(1) of the Act. In examining surrogate values, we selected, where possible, the publicly available value which was: (1) An average non-export value; (2) representative of a range of prices within the POR or most contemporaneous with the POR; (3) product-specific; and (4) tax-exclusive. We chose values with a preference for prices most contemporaneous with the POR. Where we could not obtain a POR-representative price for an input, we selected a value in accordance with the remaining criteria mentioned above and which was the closest in time to the POR. In accordance with this methodology, we valued the factors of production as follows:

For castor oil and castor seed, the Department valued this material using price data reported in *The Economic Times* (Bombay) for Calcutta, Delhi, Hyderabad, and Kanpur during the months of June 1995 through December 1995. Respondents provided this price information for castor oil and castor seed. The Department adjusted these values to account for freight costs between the supplier and the respondents' sebacic acid manufacturing facilities.

For caustic soda, the Department used the value reported in the publication *Indian Chemical Weekly*, using data from the months of July 1995 through June 1996. Because price quotes for caustic soda reported by *Chemical Weekly* are for chemicals with a 100% concentration level of caustic soda, we made chemical purity adjustments according to the particular concentration level of caustic soda used by respondents. We adjusted these values to exclude taxes and to include freight expenses incurred from the suppliers to the respondents' sebacic acid manufacturing facilities.

For cresol, both respondents and petitioner reported market values published by *Chemical Weekly* for the period of July 1995 through June 1996. The Department reviewed pricing information for other months of the POR which indicated that the market price reported by respondents are representative of the market price of the material for the entire POR. We adjusted this value for taxes and freight expenses.

The valuation of activated carbon, which is interchangeable with macropore resin, was based upon information found in the publication *India's Imports by Commodities-Countries* (Monthly Statistics of the Foreign Trade of India (IMF)). This pricing information reflects the average unit import price for the period April 1995 through February 1996.

The market values for sodium chloride (also referred to as sodium chlorite or vacuum salt), sulphuric acid, and zinc oxide were based upon the published market prices reported in *Chemical Weekly* for the period of July 1995 through June 1996. We adjusted these values for taxes and freight expenses.

For benzenic sulphuric acid, neither the petitioner nor the respondent submitted a surrogate value. After extensive research, we failed to locate a chemical called ''benzenic sulphuric acid.'' However, according to the *Encyclopedia of Chemical Technology*, when benzene is sulfonated with sulphuric acid, a chemical called benzenic sulfonic acid is produced. Therefore, we used a value for benzenic sulfonic acid as a substitute surrogate value for benzenic sulphuric acid. The value we used is from the *Monthly Statistics of the Foreign Trade of India* for the period April 1995 through February 1996.

For direct labor, we used 1994 data from *Investing, Licensing & Trading Conditions Abroad, India*, issues November 1995 and November 1996, by the Economist Intelligence Unit.

For factory overhead, we used information obtained from the April 1995 *Reserve Bank of India Bulletin*. From ''Statement 1—Combined Income, Value of Production, Expenditure and Appropriation Accounts, Industry Group-wise'' of that report for the Indian metals and chemicals industries, we summed those components which pertain to overhead expenses and divided them by the sum of those components pertaining to the cost of manufacturing to calculate an overhead rate of 15.42 percent.

For steam coal, we used prices published in *Monthly Statistics of Foreign Trade of India, Volume II—Imports* for the period of April 1995 through January 1996, and for electricity, we used information obtained from the *Current Energy Scene in India* for July 1995.

For selling, general, and administrative (SG&A) expenses, we used information from the same source we used for factory overhead. We summed the values which comprised the components of SG&A and divided that figure by the same cost of manufacturing figure used to determine factory overhead, to arrive at an SG&A rate of 21.67 percent.

For the calculation of profit, we used information from the April 1995 *Reserve Bank of India Bulletin*. We divided the reported before-tax profit for the ''processing and manufacture: metals, chemicals, and products thereof'' category by the sum of those components pertaining to the cost of manufacturing plus SG&A to calculate a profit rate of 5.24 percent.

For the value of export packing (plastic bags and woven bags), the Department used the value of imports into India during April 1995 through February 1996, as reported in the *Monthly Statistics of Foreign Trade of India*, Volume II. We adjusted this value to account for freight expenses.

For foreign inland freight, the Department relied upon the trucking

freight rates reported to the Department in an August 1993 embassy cable from India, pursuant to the less-than-fair-value investigation of *Certain Helical Spring Lock Washers from the PRC* and the rail freight rates reported to the Department in a December 1989 embassy cable for the final results of the antidumping administrative review for *Shop Towels of Cotton from the PRC*. This is the same information we used in the sebacic acid less-than-fair-value investigation. We adjusted these rates for the POR to reflect inflation, based on information published in the *International Financial Statistics* of the International Monetary Fund.

For ocean freight, we used the surrogate value provided by the respondent in the first review. This value was added to values for delivery destination charges and fuel adjustment charges provided by the Federal Maritime Commission on January 24, 1997.

To calculate the expense for marine insurance, we used information from a publicly summarized version of the questionnaire response for the investigation of sales of less than fair value of *Sulphur Vat Dyes from India*. The marine insurance rate reported in the public version of the October 8, 1992 response was adjusted for inflation to reflect marine insurance charges during the POR, based on information published in the *International Financial Statistics* of the International Monetary Fund.

For foreign brokerage and handling charges, we used information from publicly available data for foreign brokerage and handling reported for the investigation for *Sulphur Vat Dyes*. The rate documented is Rs 0.39/kg. We adjusted this value for inflation using the inflator value of 1.40 that the Department calculated from the *International Financial Statistics*, published by the International Monetary Fund.

Consistent with the methodology employed in the final determination in the less-than-fair-value investigation of this case, we have determined that fatty acid and glycerine are by-products. *See Sebacic Acid* at 28056. Therefore, as by-products, we subtracted the sales revenue of fatty acid and glycerine from the production costs of sebacic acid. This treatment of by-products is also consistent with generally accepted accounting principles. (*See Cost Accounting: A Managerial Emphasis* (1991) at pages 539–544).

To value fatty acid, we used publicly available published information from the *Monthly Statistics of the Foreign Trade of India* (Monthly Statistics) for the period April 1995 through February 1996.

To value glycerine, we used the average price for glycerine (IW and CP) in the publication *Chemical Weekly* for the period July 1995 through June 1996 and adjusted the value to account for sales and excise taxes.

We also allocated a by-product credit for glycerine to the production cost for the co-product caproyl alcohol. We deducted a by-product credit for glycerine from both sebacic acid and caproyl alcohol based on the ratio of the value of sebacic acid to the total value of both sebacic acid and caproyl alcohol.

Consistent with the methodology employed in the final determination in the less-than-fair-value investigation of this case, we have determined that caproyl alcohol is a co-product. Therefore, we have allocated the factor inputs, based on the relative quantity of output of this product and sebacic acid. Additionally, we have used the production times necessary to complete each production stage of sebacic acid as a basis for allocating the amount of labor, energy usage, and factory overhead among the products. This treatment of co-products is consistent with generally accepted accounting principles. (*See Cost Accounting: A Managerial Emphasis* (1991) at pages 528–533).

To value caproyl alcohol, we used publicly available published information for octanol from *Chemical Weekly* and adjusted for sales and excise taxes. We used the *Chemical Weekly* octanol value as the surrogate value for caproyl alcohol because, in a letter submitted by respondents in attachment four of their January 6, 1997 submission concerning surrogate values, the editor of *Chemical Weekly* states that the reference to octanol in the journal refers to the more common 2-octanol, another name for caproyl alcohol.

Preliminary Results of Review

For Jiangsu, which failed to respond to the questionnaire, we have not granted a separate rate and the country-wide rate will apply to all sales. For Guangdong, which reported that there were no sales during the POR, its company-specific rate from the previous administrative review remains unchanged.

We preliminarily determine that the following dumping margins exist:

Manufacturer/ exporter	Time period	Margin (percent)
Tianjin Chemicals I/E Corp	7/01/95—6/30/96	0.00
Sinochem International Chemicals Corp	7/01/95—6/30/96	0.00
Guangdong Chemicals I/E Corp	7/01/95—6/30/96	13.54
Country-Wide Rate	7/01/95—6/30/96	243.40

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit written comments (case briefs) within 30 days of the date of publication of this notice. Rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 180 days of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and NV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) For the reviewed companies named above which have separate rates (SICC and Tianjin), the cash deposit rates will be the rates for those firms established in the final results of this administrative review; (2) for companies previously found to be entitled to a separate rate and for which no review was requested, the cash deposit rates will be the rate established in the most recent review of that company; (3) for all other non-PRC exporters of subject merchandise from the PRC, the cash deposit rates will be the rates applicable to the PRC supplier of that exporter; and (4) the cash deposit rate for non-PRC exporters of subject

merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: July 31, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–20937 Filed 8–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Silicon Metal From Brazil; Preliminary Results of Antidumping Duty Administrative Review and Intent Not To Revoke in Part

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

ACTION: Notice of preliminary results of the antidumping duty administrative review and intent not to revoke in part.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on silicon metal from Brazil in response to requests by respondents Eletrosilex Belo Horizonte (Eletrosilex), Companhia Ferroligas Minas Gerais—Minasligas (Minasligas), Companhia Brasileira Carbureto de Calcio (CBCC), RIMA Industrial S/A (RIMA), and Wabash Alloys, a division of Connell Limited Partnership, an interested party which imported silicon metal during the period of review. This review covers the period July 1, 1995, through June 30, 1996.

We preliminarily determine not to revoke the order with respect to CBCC or Minasligas. These companies submitted timely requests for revocation in this review, however, in the final results of the preceding administrative review of this order the Department determined that both companies had dumping margins greater than *de minimis*. Accordingly, these companies have not met the requirements of 19 CFR 353.25 (*i.e.*, three consecutive years with zero or *de minimis* dumping margins) and therefore do not qualify for revocation under the Department's regulations.

We preliminarily determine that sales have been made at less than normal value (NV) during the POR by Eletrosilex and Rima. If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess ad-valorem antidumping duties equal to the difference between export price (EP) and NV. Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to submit with the argument: (1) A statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: August 8, 1997.

FOR FURTHER INFORMATION CONTACT: Alexander Braier, Yury Beyzarov, Sharon Harris, Sinem Sonmez, or James C. Doyle, Office of Antidumping/Countervailing Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230; telephone 482–3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations, as codified at 19 CFR part 353 (1996).

Background

On July 31, 1991, the Department published in the **Federal Register** the antidumping duty order on silicon metal from Brazil (56 FR 36135). On July 8, 1996, the Department published a ''Notice of Opportunity to Request Administrative Review'' on silicon metal from Brazil in the **Federal Register** for the period July 1, 1995, through June 30, 1996 (61 FR 35712).

In accordance with 19 CFR 353.22(a)(1), Eletrosilex, Minasligas, CBCC, and RIMA requested that the Department conduct an administrative review of their respective sales. Pursuant to 19 CFR 353.25, Minasligas and CBCC also requested revocation of the antidumping duty order in part. On August 15, 1995, the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review (61 FR 42416). On March 7, 1997, the Department published in the **Federal Register** its notice extending the deadline in these preliminary results until May 14, 1997 (62 FR 10540). Due to the complicated issues in this case, the Department again extended the deadline for these preliminary results until July 31,1997 (62 FR 27235).

Verification

From March 17 through March 22, 1997, in accordance with section 782(i) of the Act, we verified information provided by Minasligas and Rima using standard verification procedures including examination of relevant sales and financial records, and selection of original source documentation containing relevant information. Our verification results are outlined in the respective verification reports, the public versions of which are available in the Central Records Unit of the Department of Commerce, room B–099.

Scope of Review

The merchandise covered by this review is silicon metal from Brazil containing at least 96.00 percent but less than 99.99 percent silicon by weight. Also covered by this review is silicon metal from Brazil containing between 89.00 and 96.00 percent silicon by weight but which contains more aluminum than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor grade silicon (silicon metal containing by weight not less than 99.99 percent silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to the order. HTS item numbers are provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of product coverage.

Level of Trade

To the extent practicable, we determine NV for sales at the same level of trade as the U.S. sales (either export price (EP) or constructed export price (CEP)). When there are no sales at the same level of trade, we compare U.S. sales to home market (or, if appropriate, third-country) sales at a different level-of-trade. The NV level of trade is that of the starting-price sales in the home market. When NV is based on CV, the level of trade is that of the sales from which we derive selling, general, and administrative expenses (SG&A) and profit.

For both EP and CEP, the relevant transaction for the level of trade analysis is the sale (or constructed sale) from the exporter to the importer. While the starting price for CEP is that of a subsequent resale to an unaffiliated buyer, the construction of the CEP results in a price that would have been charged if the importer had not been affiliated. We calculate the CEP by removing from the first resale to an independent U.S. customer the expenses under section 772(d) of the Act and the profit associated with these expenses. These expenses represent activities undertaken by the affiliated importer. Because the expenses deducted under section 772(d) represent selling activities in the United States, the deduction of these expenses normally yields a different level of trade for the CEP than for the later resale (which we use for the starting price). Movement charges, duties and taxes deducted under section 772(c) do not represent activities of the affiliated importer, and we do not remove them to obtain the CEP level of trade.

To determine whether home market sales are at a different level of trade than U.S. sales, we examine whether the home market sales are at different stages in the marketing process than the U.S. sales. The marketing process in both markets begins with goods being sold by the producer and extends to the sale to the final user, regardless of whether the final user is an individual consumer or an industrial user. The chain of distribution between the producer and the final user may have many or few links, and each respondent's sales occur somewhere along this chain. In the United States, the respondent's sales are generally to an importer, whether independent or affiliated. We review and compare the distribution systems in the home market and U.S. export markets, including selling functions, class of customer, and the extent and level of selling expenses for each claimed level of trade. Customer categories such as distributor, original equipment manufacturer (OEM), or wholesaler are commonly used by respondents to describe levels of trade, but, without substantiation, they are insufficient to establish that a claimed level of trade is valid. An analysis of the chain of distribution and of the selling functions substantiates or invalidates the claimed levels of trade. Different levels of trade necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in the levels of trade. Different levels of trade are characterized by purchasers at different stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to them.

When we compare U.S. sales to home market sales at a different level of trade, we make a level-of-trade adjustment if the difference in levels of trade affects price comparability. We determine any effect on price comparability by examining sales at different levels of trade in a single market, the home market. Any price effect must be manifested in a pattern of consistent price differences between home market sales used for comparison and sales at the equivalent level of trade of the export transaction. To quantify the price differences, we calculate the difference in the average of the net prices of the same models sold at different levels of trade. We use the average difference in net prices to adjust NV when NV is based on a level of trade different from that of the export sale. If there is a pattern of no consistent price differences, the difference in levels of trade does not have a price effect and, therefore, no adjustment is necessary.

The statute also provides for an adjustment to NV when NV is based on a level of trade different from that of the CEP if the NV level is more remote from the factory than the CEP and if we are unable to determine whether the difference in levels of trade between CEP level and NV level affects the comparability of their prices. This latter situation can occur where there is no home market level of trade equivalent to the U.S. sales level or where there is an equivalent home market level but the data are insufficient to support a conclusion on price effect. This adjustment, the CEP offset, is identified in section 773(7)(B) of the Act and is the lower of the following:

- The indirect selling expenses on the home market sale, or
- The indirect selling expenses deducted from the starting price used to calculate CEP.

The CEP offset is not automatic each time we use CEP. The CEP offset is made only when the level of trade of the home market sale is more advanced than the level of trade of the U.S. (CEP) sale and there is not an appropriate basis for determining whether there is an effect on price comparability.

In the present review, none of the respondents requested a level of trade (LOT) adjustment. To ensure that no such adjustment was necessary, in accordance with the principles discussed above, we examined information regarding the distribution systems in both the United States and Brazilian markets, including the selling functions, classes of customer, and selling expenses for each respondent.

In the home market, all companies sold merchandise to one or more of the following three categories of customers: end-users, traders, and commissioned agents. Regardless of the category of customer, all the companies' home market (HM) sales were manufactured to order and the merchandise was shipped directly from the factory to each type of customer. The companies' packing processes were also identical for all sales, and the selling expenses for the POR were comparable for all sales, regardless of the category of customer. Evidence on the record also demonstrates that the companies did not have formal policies for providing special payment terms, such as discounts, to different types of customers. Based upon this evidence, we determine that the selling activities each respondent performed for its home market sales were the same for all home market sales, and that each respondent's HM sales were all made at a single LOT.

All four companies' sales in the United States were EP sales. All of the companies' U.S. customers were end-users or traders, each sale was manufactured to order, and the selling expenses were comparable for all sales, regardless of the category of customer. Furthermore, the packing processes were almost identical to that of the HM sales, and we found no differences in the selling activities performed for each respondent's U.S. sales in comparison to their HM sales. Based on this, for each respondent, we conclude that a single level of trade exists in the United States which is the same as the HM LOT. As a result, a LOT adjustment is not warranted in this review.

Product Comparisons

To determine whether sales of silicon metal by CBCC, Eletrosilex, Minasligas, and Rima to the U.S. were made at less than normal value, we compared the ''Export Price'' to the ''Normal Value'',

as described in the ''Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we compared the EP of individual transactions to the monthly weighted-average NV of contemporaneous sales of the foreign like product.

Normal Value

A. Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provides a viable basis for calculating NV for each respondent.

B. Home Market Sales

We compared the EP of individual transactions to the monthly weighted-average NV of sales of the foreign like product, pursuant to section 777A(d)(2) of the Act. In such cases we based NV on packed, ex-factory or delivered prices to unaffiliated purchasers in the home market. Where applicable, we made adjustments to home market price for inland freight, inland freight insurance, and interest revenue. We reduced home market prices by an amount for home market credit and packing expenses, and we increased it by U.S. credit expenses and U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act. We also increased NV, where appropriate, for bank charges, U.S. advertising, and warehousing expenses incurred on U.S. sales, in accordance with sections 773(a)(6)(A) and (B) of the Act. We decreased NV, where appropriate, by the amount of commissions paid in the home market, but limited this amount to the amount of indirect selling expenses incurred on U.S. sales, in accordance with 19 CFR 353.56(b)(1).

As respondents did not provide sufficient information regarding the interest rates used in the calculation of home market credit, we used the simple average of monthly Government of Brazil Taxa Referencial (TR) rates for the POR. The TR rate is the published Government of Brazil prime lending rate. We disallowed Minasligas' claimed imputed U.S. credit revenue because the Department's practice is to allow imputed credit revenue only in situations where advance payment is made by the customer before the merchandise is shipped. *See, e.g., Fresh Cut Flowers from Mexico, Final Results of Antidumping Duty Administrative Review* (61 FR 40604). However, the customer does not pay until after it receives the merchandise. Therefore, applying the Department's standard imputed credit calculation would result in imputed U.S. credit expense, not revenue. However, consistent with the Department's practice, because all companies used Advance Exchange Contract's (ACC's) to finance export sales, and ACC's are dollar-denominated short-term loans, we used ACC rates to determine the interest rate used in the U.S. imputed credit calculation. To calculate each company's U.S. imputed credit interest rate, we used the simple average of their ACC interest rates.

United States Price (USP)

A. Export Price

In calculating USP we used export price (EP) for each respondent, as defined in section 772(a) of the Act, because the subject merchandise was first sold to unrelated purchasers prior to the date of importation into the United States and the use of constructed export price was not indicated by the facts on the record.

We based EP on the packed, delivered price to the first unaffiliated purchasers in the United States, or to unaffiliated trading companies who sell the subject merchandise in the United States. In accordance with Section 772(c)(2) of the Act, we reduced this price, where appropriate, for foreign inland freight, international freight, marine insurance, weighing and sampling charges, port clerical expenses, and brokerage and handling. We made an addition to USP, where appropriate, for duty drawback in accordance with section 772(c) of the Act. No other adjustments to company provided information were made except in the following instances:

1. For the imputed U.S. credit calculation for CBCC, Eletrosilex, and Minasligas, we used an interest rate which was the simple average of the ACC rates used during the POR, as reported by each respondent.

2. Rima failed to provide the ACC interest rates it was charged during the POR, despite three Departmental requests for these rates. Therefore, pursuant to 776(b) of the Act, for Rima's imputed U.S. credit calculation, we used as adverse facts available for Rima's interest rate, the interest rate which was the highest of the ACC interest rates used during the POR by the other respondents in this review.

3. For all companies, we used as the payment date the date the bank received payment from the U.S. customer.

4. For Eletrosilex, we used the date of shipment from the factory as the date of shipment.

5. For Eletrosilex, we reallocated indirect selling expenses using the methodology we used in the previous reviews of this case (see the Department's calculation memo of January 24, 1997).

6. For Minasligas, we used as the date of shipment the date of invoice, because that is the date of the first shipment from the factory pursuant to a sale.

Cost of Production Analysis

In prior segments of this proceeding, we disregarded home market sales found to be below the cost of production (COP) for CBCC, Eletrosilex, and Rima. Therefore, in accordance with section 773(b)(2)(A)(ii) of the Act, the Department has reasonable grounds to believe or suspect that sales below the COP may have occurred during the review period for these companies and has conducted a COP investigation for these respondents. In addition, on January 28, 1997, we initiated a below-cost investigation for Minasligas pursuant to an allegation from petitioners on December 11, 1996.

A. Calculation of COP

In accordance with 773(b)(3) of the Act, we calculated COP based on the sum of each respondent's cost of materials and fabrication employed in producing the foreign like product, plus home market selling, general, and administrative expenses (SG&A) and the cost of all expenses incidental to placing the foreign like product in condition packed and ready for shipment. We relied on the home market sales data and COP information provided by each respondent, except in the following specific instances where the reported costs were determined to be improperly valued:

1. For Minasligas, we made an offset to the total cost of production (totcop) to account for the revenue received from the sale of by-products.

2. For Minasligas, we set interest expense equal to zero because financial income exceeded financial expenses for Minasligas and its parent company, Delp Engenharia Mechanica, S.A.

3. For Minasligas, we computed G&A by multiplying the tax-exclusive Cost of Manufacturing (COM) by the ratio of the combined G&A expenses for Minasligas and its parent company to the two

companies' combined cost of goods sold.

4. For Eletrosilex, we recalculated total cost of manufacturing (totcom) to account for the revenue received from the sale of by-products.

5. For Rima, in the calculation of interest expense, we reallocated financial revenues to the ''net interest expense'' reported on Rima's 1995 financial statements. We also added the increase in deferred financial expenses shown on the 1995 financial statements, and the amortization of the 1994 remaining balance of deferred financial expenses, to the ''net interest expense''.

6. For Rima, in order to be consistent with the interest expense calculation, we based G&A expenses on Rima's 1995 financial statements, rather than its 1996 financial statements.

7. For Rima, we allocated an amount to G&A based on the difference between the depreciated asset values from the depreciation calculation worksheets for 1995, and the total asset values for 1995 as indicated on Rima's financial statements. We also added to G&A the amortization of the 1994 remaining balance of deferred assets.

B. Test of Home Market Prices

After calculating COP for each respondent, we tested whether home market sales of subject merchandise were made at prices below COP within an extended period of time and in substantial quantities, and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COP to the reported home market prices less any applicable movement charges and post-sale price adjustments, where appropriate.

Pursuant to section 773(b)(2)(C) of the Act, where less than twenty percent of a respondent's home market sales of a given model are at prices less than COP, we do not disregard any below-cost sales of that product because we determine that the below-cost sales were not made within an extended period of time ''in substantial quantities.'' Where twenty percent or more of a respondent's home market sales of a given product are at prices less than the COP, we disregard the below-cost sales because we determine that the below-cost sales were made within an extended period of time in ''substantial quantities,'' in accordance with section 773(b)(2)(C) of the Act. To determine whether such sales are at prices which would not permit the full recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act, we compare home market prices to the weighted-average model-specific COPs for the POR.

In these preliminary results, our cost tests for CBCC and Minasligas indicated that less than twenty percent of the sales of subject merchandise were at prices below COP. We therefore retained all sales of subject merchandise in our analysis and used them in our determination of NV, where applicable. The results of our cost tests for Eletrosilex and Rima indicated that, within an extended period of time (one year, in accordance with section 773(b)(2)(B) of the Act), more than twenty percent of the sales of all products of each company were at prices below COP. Thus these below-cost sales were in ''substantial quantities.'' In addition, these sales were at prices which would not permit the full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Act, we disregarded the below-cost sales of subject merchandise for each of these two companies and used the remaining above-cost sales as the basis for determining each company's NV, where applicable.

For Eletrosilex and Rima, in accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no usable sales of the foreign like product in the comparison market. We calculated CV in accordance with section 773(e) of the Act.

For Eletrosilex and Rima, we included the cost of materials and fabrication, and G&A expenses in CV. In these preliminary results, we found that Eletrosilex and Rima made no above-cost sales of the foreign like product in the comparison market. Therefore, for these companies, we were unable to derive profit for use in the constructed value calculation using the companies' home market sales data. For this reason, in accordance with section 773(e)(2)(B)(ii) of the Act, we used the average of the actual amounts of selling expenses incurred, and profit realized, by CBCC and Minasligas in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the home market. In accordance with section 773(2)(B)(i) of the Act, we based G&A expenses (including net interest expenses) on the amounts incurred by the respondent in connection with the production and sale for consumption in the foreign country, of the same general category of products. Where appropriate, we made adjustments to CV, in accordance with section 773(a)(8) of the Act and section 353.56(a) of the Department's regulations, for circumstances of sale (COS) differences. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses.

Price Comparisons

Where there were contemporaneous sales of the comparison product that passed the COP test, we based NV on home market prices.

Where we compared export prices to CV, we deducted from CV the home market direct selling expenses and added the U.S. direct selling expenses, where applicable, in accordance with sections 773(a)(8) and 773(a)(6)(iii) of the Act.

Preliminary Results of Review

As a result of our comparison of EP and NV, we preliminarily determine that the following weighted-average dumping margins exist for the period July 1, 1995 through June 30, 1996:

Manufacturer/exporter	Margin (percent)
CBCC	0.0
Minasligas	1.93
Eletrosilex	36.74
RIMA	70.02

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Parties who submit argument are requested to submit with the argument: (1) A statement of the issues and (2) a brief summary of the argument. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments or at a hearing, within 120 days of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of silicon metal from Brazil entered, or withdrawn from

warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) The cash deposit rate for the reviewed companies will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 91.06 percent, the all others rate established in the LTFV investigation (56 FR 36135, July 31, 1991).

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act.

Dated: July 31, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–20935 Filed 8–7–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend certificate.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued. Applicant has requested and been denied expedited review.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 96–2A003.'' The Rice Millers' Association's (''RMA'') original Certificate was issued on August 16, 1996 (61 FR 43733, August 26, 1996). A summary of the application for an amendment is as follows.

Summary of the Application

Applicant: Rice Millers' Association, 4301 North Fairfax Drive, Suite 305, Arlington, Virginia 22203–1616.

Contact: Cynthia H. Tough, Vice President of International Affairs for the USA Rice Federation. Telephone: (703) 351–8161.

Application No.: 96–2A003.

Date Deemed Submitted: July 25, 1997.

Proposed Amendment: RMA seeks to amend its Certificate by (1) modifying the Export Trade Activities and Methods of Operation under which it proposes to allocate the U.S. portion of the E.U.'s tariff rate quotas (''TRQs'') for semi-milled and milled rice and brown rice and (2) expanding the eligibility for Membership in the RMA Certificate to include any persons, firms, or corporations of U.S. nationality that have been actively engaged in the exportation of rice from the United States in each of the past two calendar years. RMA's Certificate would be amended in relevant part as follows:

Export Trade Activities and Methods of Operation

RMA will administer a program for allocating the U.S. share of the European Union (EU) tariff rate quotas (''TRQs'') for milled rice and brown rice (roughly 38,000 tons of milled rice and 8,000 tons of brown rice) agreed to as compensation to the United States for the EU enlargement, to include Austria, Finland, and Sweden, as follows:

A. Administration of ETCR

(a) The program will be administered by an Administrator, selected by the Membership, and not engaged in the production, milling, distribution, or sale of rice. The President of the USA Rice Federation, and such employees and contractors of the Federation as he or she may designate, will work closely with the Administrator as necessary for the smooth operating of the RMA/ETCR.

(b) The Administrator may request of Members statistical information, to be provided on a confidential basis, concerning their participation in the RMA/ETCR, including the disposition of TRQ Certificates, and may prepare compilations of such data, in such form as not to disclose confidential information.

B. Acquisition and Transfer of TRQ Certificates

(a) Certificates shall be offered to the Membership on open tender. The certificates issued by the RMA/ETCR will specify the quantity and type of rice (milled or brown) covered, and shall be valid for certain time periods or tranches. The quantity of rice covered by the total number of Certificates will reflect the total amount of U.S. rice to be imported into the EU under the TRQs.

(b) Certificates shall be valid only for the tranche covered by the import license, and shall expire at the end of such tranche.

(c) A minimum of thirty calendar days before the opening of each tranche of the TRQs, the Administrator shall notify each Member of the RMA/ETCR that it is entitled to bid for TRQ Certificates, and shall specify the quantity and type of rice (milled or brown) and the time period covered by the tranche.

(d) Together with the first bid it submits for TRQ Certificates in a given year of operation of the RMA/ETCR, a Member shall lodge with the Administrator an irrevocable bond or equivalent surety instrument as provided in the Operating Agreement. The bond shall be forfeited to the RMA/ETCR in the event that, at any time during the year, the Member fails to pay for or fails to take delivery of Certificates awarded to it.

(e) To be considered, a bid must: (i) Specify the type of rice (milled or brown); (ii) state the quantity, in metric tonnes, of rice for which the bidder proposes to purchase Certificates; (iii) indicate the price or prices for which the Member proposes to acquire Certificates; and (iv) be signed by a responsible official of a Member of the RMA/ETCR. A bid not satisfying these criteria, or a bid not submitted within the stipulated response period, shall be returned to the Member by the Administrator, and shall not be considered further.

(f) The Administrator shall award Certificates for the available tonnage to the highest bidder(s) for each type of rice. In the event that identical bids are received, the Administrator shall award Certificates on a pro rata basis, in proportion to the quantities requested by the bidders.

(g) The contents of the bids shall be treated by the Administrator as confidential, releasing to the public only the names of the successful bidder(s), quantity, type of rice and price of their bids.

(h) Successful bidders shall be awarded Certificates evidencing their eligibility to export stated quantities of milled and brown rice into the customs territory of the EU under the TRQ during a specified shipment period. Payment for the Certificates, in accordance with the terms of the bid, must be made to the Administrator within the time period provided in the Operating Agreement. If a bidder fails to pay for Certificates awarded, all bids submitted by that bidder shall be deemed canceled, and the Administrator shall revoke the award and distribute the bidder's Certificates to the next highest bidder.

(i) In the event that the total quantity of bids received is less than the size of the relevant TRQ tranche, the unused portion shall, to the extent consistent with EU law, be carried over to a succeeding tranche. In any tranche as to which EU law prohibits such carry-over, should the total quantity of bids received be less than the total quantity available in the tranche, the unused portion shall be offered to all of the successful bidders, in proportion to the size of their respective awards, at the lowest bid price.

(j) Certificates, once issued and paid for, shall be freely transferable.

C. Disposition of Tender Proceeds

(a) The Administrator shall aggregate the proceeds of all tenders for TRQ Certificates, and all interest accrued thereon, at the end of each year of operation of the program, and shall distribute them as follows:

(b)(1) In the first year of operations, the Administrator shall remit to the RMA/ETCR 5% of the total proceeds of the tenders for that year to pay all administrative and legal expenses incurred by the RMA/ETCR in calendar year 1996 and through conclusion of the first year of operations.

(2) The remainder of the 5% portion of the proceeds shall be distributed as follows:

(i) To each Member, any documented expenses that it incurred for third-party legal fees in calendar years 1996 and 1997 in connection with the establishment of an ETC for administration of the TRQs,

(ii) To each Member that shipped a minimum of 500 metric tonnes of milled rice to the EU in calendar year 1996, and which has not already received a distribution pursuant to this subparagraph (2), and

(iii) To each Member that shipped a minimum of 500 metric tonnes of brown rice to the EU in calendar year 1996, and which has not already received a distribution pursuant to this subparagraph (2).

In no event, may the distribution to any Member under this subparagraph exceed $25,000.

(3) If there are insufficient funds available to make payments provided for in subparagraph (2), the amount that each Member would otherwise be entitled to receive will be reduced by a pro-rata amount so that the total distributions will be equal to the amount available for this purpose. If the distributions under subparagraph (2) should not result in the complete distribution of the funds available for this purpose, any amount left over shall be distributed according to the formula and sequence set out in paragraph (e).

(c) In the years after the first year, the Administrator shall remit to the RMA/ETCR 2% of the total proceeds of the tenders for the year, to pay administrative and legal expenses related to the RMA/ETCR. If the actual administrative expenses differ from the stated amount by more than 1% of the total proceeds, then the percentage to which the RMA/ETCR shall be entitled in the following year shall be adjusted up or down accordingly.

(d) If requested by the RMA/ETCR, the Administrator shall be permitted to make advances against administrative cost requirements during the course of the year.

(e) For the first two years of operation, the Administrator shall pay to those Members qualifying as ''Historical Shippers'' the amount of $75 for each tonne of their average annual shipments of brown and milled rice to Austria, Sweden, and Finland during the period 1990–1994 (''the Historical Shippers Portion''). Of the proceeds remaining after distribution of the amounts provided for in paragraphs (b) and (c) and distribution of the Historical Shippers Portion, the Administrator shall distribute:

(i) 45% divided one-third to the Rice Foundation for rice-related research projects; and two-thirds for international development activities to be managed by the USA Rice Federation (''Industry Promotion Portion'').

(ii) 10% to the All Exporters Fund to be paid out to Members in proportion to their relative shares of the export trade of all rice from the United States to all destinations in the world except the European Union, on a milled-equivalent basis, during the preceding year.

(iii) the remainder to Members of the RMA/ETCR, in proportion to their relative shares of the export trade of all milled and brown rice to the EU, on a milled-equivalent basis, during the preceding year (''the EU Exporters Pool'').

(f) After the second year of operation of this Agreement, the Administrator shall distribute the proceeds remaining after the distribution provided in paragraph (c), by deducting and setting aside the Historical Shippers Portion, and by distributing the remainder as follows:

(i) 45% to the Industry Promotion Portion, to be distributed in accordance with paragraph (e)(i);

(ii) 10% to the All Exporters Fund, to be distributed in accordance with paragraph (e)(ii); and

(iii) The remainder of the proceeds, together with the Historical Shippers Portion, to the EU Exporters Pool, to be distributed in accordance with paragraph (e)(iii).

(g) For the purposes of the above Export Trade Activities and Methods of Operation, all references to ''years of operation'' shall mean years beginning on the date the first tranche opens, and ending on the day before the anniversary of that date.

Definitions

''Member'' means a member of RMA who has been certified as a ''Member'' within the meaning of Section 325.1(l) of the Regulations and as listed in Attachment I. Members must sign the Operating Agreement of the RMA/ETCR in order to participate in the certified activities. Any U.S. company that has been actively engaged in the exportation of rice from the United States in each of the past two calendar years, and that wishes to participate in the activities covered by this certificate, may join RMA's membership by executing the Operating Agreement, paying a non-refundable membership fee of $3,000 per calendar year, and requesting that RMA file for an amending certificate. Membership will remain open until December 31, 1997, and thereafter, shall be open to qualified companies during specified months in the year. Any RMA member that is not a listed Member may join RMA's export trade certificate of review by requesting that RMA file for an amended certificate. All of the rights of Members would become effective as of the date of approval of their Membership by the Department of Commerce. A Member may withdraw from coverage under this certificate at any time by giving written notice to RMA, a copy of which RMA will promptly transmit to the Secretary of Commerce and the Attorney General.

Dated: August 4, 1997.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 97–20929 Filed 8–7–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF COMMERCE

International Trade Administration, Commerce

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review, Application No. 89–3A010.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the Air-Conditioning and Refrigeration Institute (''ARI'') on May 10, 1991.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1997).

The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 89–00010, was issued to ARI on May 10, 1991 (56 FR 23284, May 21, 1991), and previously amended on July 6, 1992 (57 FR 30956, July 13, 1992); and February 9, 1995 (60 FR 9011, February 16, 1995).

ARI's Export Trade Certificate of Review has been amended to:

1. Add each of the following companies as new ''Members'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Calmac Manufacturing Corporation, Englewood, New Jersey; Des Champs Laboratories, Inc., Natural Bridge Station, Virginia; Elkhart Product Corporation, Geneva, Indiana; IMI Cornelius, Inc., Anoka, Minnesota; Inter-City Products Corporation, USA, Lewisburg, Tennessee; Mainstream Engineering Corporation, Rockledge, Florida; Metal Industries, Inc., Clearwater, Florida; National Comfort Products, Bensalem, Pennsylvania; New Thermal Technologies, Inc., Clearwater, Florida; Refrigerant Recovery Technologies, Inc., Garrett, Indiana; Refron, Inc., Long Island City, New York; SPX Corporation, for the activities of its Robinair Division—HVAC/R Group, Montpelier, Ohio; Russell, Brea, California; Semco, Incorporated, Columbia, Missouri; The Whalen Company, Easton, Maryland; and two subsidiaries of AAF/McQuay Inc.: AAF International, Louisville, Kentucky and McQuay International, Minneapolis, Minnesota;

2. Delete the following companies as ''Members'' of the Certificate: American ThermaFlo, Springfield, Massachusetts; AAF/McQuay, Inc., Dallas, Texas; Brookside Group, Inc., McCordsville, Indiana; Eaton Corporation, for the activities of its Automotive & Appliance Control Operations, Carol Stream, Illinois; Heat Exchangers, Inc., Skokie, Illinois; New Thermal Technologies, Inc., Clearwater, Florida; and Tomkins Industries, Inc., Dayton, Ohio;

3. Change the listing of the company name of the following current ''Members'' as follows: change Mestek, Inc., for the activities of its Sterling Radiator Division, to Mestek, Inc., for the activities of its KOLDWAVE Division and its Sterling HVAC Equipment Division; Lau to LAU Industries; MDI Major Diversities, Inc. to Pinnacle Products, Inc.; Miller-Picking Corporation to Miller-Picking International Corporation; NIBCO, Inc., for the activities of its OEM Division to NIBCO, Inc.; and NORDYNE Inc. to NORDYNE, INC.; and

4. Add as new products to be covered as Export Trade under the Certificate within the meaning of section 325.2(j) of the Regulations (15 CFR 325.2(j)): (1) Unit ventilators, (2) air-to-air energy recovery ventilation equipment, (3) desiccant cooling and dehumidification equipment, and (4) refrigerant reclaimers.

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: August 4, 1997.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 97–20976 Filed 8–7–97; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On July 21, 1997 Custom Building Products, Inc. filed a First Request for Panel Review with the

Canadian Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free-Trade Agreement. Panel review was requested of the final injury determination made by the Canadian International Trade Tribunal, in the material injury investigation respecting Concrete Panels, reinforced with fiberglass mesh, originating in or exported from the United States of America. This determination was published in the *Canada Gazette, Part I, Vol. 13, No. 28, page 1957–58* on July 12, 1997. The NAFTA Secretariat has assigned Case Number CDA–97–1904–01 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first request for panel review was filed with the Canadian Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on July 21, 1997, requesting panel review of the final material injury investigation described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first request for panel review (the deadline for filing a Complaint is August 20, 1997);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first request for panel review (the deadline for filing a notice of appearance is September 4, 1997); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: August 4, 1997.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 97–20961 Filed 8–7–97; 8:45 am]

BILLING CODE 3510–GT–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

(I.D. 072297C)

Food and Agriculture Organization (FAO) Committee on Fisheries Meetings

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

ACTION: Notice of process; developing U.S. positions on FAO fisheries issues.

SUMMARY: Important events occurred at the United Nations Food and Agriculture Organization's (FAO's) meeting of the Committee on Fisheries (COFI) in March 1997. The United States highlighted several fisheries issues for FAO and member countries to take action on in the near future: Managing fishing capacity, seabird bycatch and mortality in longline fisheries, and shark conservation and management.

The United States is working with FAO on preparations designed to lead to an FAO Consultation, with all FAO member countries invited, to consider action plans for all three issues in late 1998. Preparations will include meetings of expert Technical Working Groups (TWGs) with the result that FAO will provide background information and draft plans of action well in advance of the FAO Consultation.

NMFS is involved directly in each of these initiatives and believes that keeping affected industries and interested groups informed is important. The public is invited to contact the individuals identified in supplementary information to declare interest and receive further information, including the terms of reference for the TWGs when these become available. Public meetings that may be required in the planning for the FAO COFI Consultation will be announced in the **Federal Register**.

ADDRESSES: Questions about this document may be directed to Dean Swanson, Chief, International Fisheries Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Dean Swanson, 301–713–2276.

SUPPLEMENTARY INFORMATION:

Management of Fishing Capacity

It is widely recognized that excess fishing effort exerted by unnecessarily large fishing fleets is often a contributing factor to the depletion of fish stocks. Excess fishing capacity can be a major impediment to effective management and a major source of economic waste. Although an international consensus appears to be emerging on the need for improved control of fishing capacity, its implementation at the national, regional, and global levels is proving to be difficult. In order to provide the type of information needed by fisheries managers, policymakers, the fishing sector, and other concerned parties, NMFS has agreed to sponsor or co-sponsor one or more international meetings, with the ultimate aim of producing (i) technical guidelines on how to define, measure and control fishing capacity, and on the causes, consequences, and cures for overcapacity, and (ii) a draft plan of action for consideration at the FAO Consultation. The exact objectives and terms of reference for the capacity TWG are still under discussion with FAO and Japan.

The United States is the principal sponsor of a proposed TWG on Fishing Capacity, with FAO and Japan also contributing some funds. The TWG is tentatively scheduled to be held in La Jolla, CA, in early 1998. Followup meetings leading to a plan of action are likely to be co-sponsored by the United States and Japan.

NMFS Contact: *regarding the TWG*, Pamela Mace

Ocean Fishery Resources Division
National Marine Fisheries Service
166 Water Street
Woods Hole, MA 02543
508–495–2357

regarding the FAO Consultation, Matteo Milazzo

International Fisheries Division

Office of Sustainable Fisheries, NMFS
1315 East-West Highway
Silver Spring, MD 20910
301–713–2276

Reduction of Incidental Catch of Seabirds in Longline Fisheries

Tens of thousands of seabirds are being killed incidental to various commercial longline fisheries in the world. Some of the seabirds are species of management concern and populations of several other seabird species may be declining because of longline bycatches. Seabird bycatch also has an adverse impact on catch rates and profitability of fishing operations. Governments, nongovernmental organizations, and commercial fishery associations are petitioning for regulatory measures to reduce the mortality of seabirds in the world's longline fisheries.

The goal for the Seabird TWG and the subsequent FAO Consultation is to produce an action plan to implement FAO guidelines on mitigating measures to reduce incidental catches of seabirds in longline fisheries. Japan and the U.S. will co-host the session, and the U.S. co-lead agencies are NMFS and the U.S. Fish and Wildlife Service (FWS).

NMFS Contact: Kim Rivera
National Marine Fisheries Service
Fisheries Management Division
P.O. Box 21668
Juneau, AK 99802
907–586–7228
FWS Contact: Kent Wohl
Migratory Bird Management
U.S. Fish and Wildlife Service
1011 East Tudor
Anchorage, AK 99503
907–783–3503

Shark Conservation and Management

Global landings of sharks and related species have dramatically increased in recent years. Sharks are particularly vulnerable to overexploitation due to life history characteristics, particularly relatively low rates of reproduction. In addition, fishing mortality due to bycatch exceeds that due to directed fisheries. The expanding international market for shark fins, cartilage, meat, and skins is an important factor motivating recent increased mortality.

An international consensus is emerging on the need for improved control of fishing effort on sharks and related species by both directed and bycatch fleets. The goal for the upcoming Shark TWG and subsequent FAO Consultation is to develop a global strategy (action plan) and guidelines for sustainable international and regional management of elasmobranch species by national, regional, and highly migratory management groups.

The intent of the strategy is to provide an effective web of management regimes sufficient to arrest the declines of sharks, skates, and rays where they have occurred and to put the harvest of these species on a sustainable basis.

NMFS Contact: Dean Swanson
International Fisheries Division
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910
301–713–2276

Dated: August 4, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–20925 Filed 8–7–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072897E]

South Atlantic Fishery Management Council; Public Scoping Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold an Atlantic Coastal Cooperative Statistics Program (ACCSP) public scoping meeting and a public scoping meeting on dolphin fish management.

DATES: The meetings will be held from August 18–20, 1997, in conjunction with the Council meeting. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The scoping meetings will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC; telephone: (803) 571–1000 or (800) 334–6660.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (803) 571–4366; fax: (803) 769–4520; E-mail address: susan.buchanan@noaa.gov

SUPPLEMENTARY INFORMATION: The ACCSP public scoping meeting will be held August 18, 1997, from 6:00 p.m. until all business is complete. The purpose of this scoping meeting is to provide members of the public an opportunity to express their views on ways to improve commercial and recreational fisheries data collection.

The public scoping meeting on dolphin management will be held August 20, 1997, from 6:00 p.m. until all business is complete. The purpose of this scoping meeting is to provide members of the public an opportunity to express their views on the need for and the type of management the Council should consider for the dolphin fish resource.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by August 11, 1997.

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

Dated: August 4, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–20954 Filed 8–5–97; 11:27 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board; Closed Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and technology Advisory board has been scheduled as follows:

DATES: 21 August 1997 (8 a.m. to 4 p.m.).

ADDRESSES: The Defense Intelligence Agency, Bolling AFB, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj. Michael W. Lamb, USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, DC 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(I), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: August 4, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–20902 Filed 8–7–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Comment Period Extension Draft Environmental Impact Statement (DEIS) for the Enhanced Training in Idaho Proposal Mountain Home Air Force Base, ID

The Air Force and the Bureau of Land Management are extending the public comment period for the Enhanced Training in Idaho DEIS to September 8, 1997. The DEIS prepared by the Air Force in accordance with the National Environmental Policy Act and the Federal Land Policy and Management Act and its associated regulations for public land withdrawals, was released for public comment on May 9, 1997. The Bureau of Land Management is a cooperating agency for the environmental and land renewal processes associated with the proposed action.

The DEIS analyses three range development alternatives to enhance training for the 366th Wing, Mountain Home AFB, Idaho, as well as a No-Action alternative. Development of one of the range alternatives would substantially enhance the realism, quality, and flexibility of local training. Each of the three range development alternatives includes a ground component and an airspace component. The ground component consists of development of a 12,000-acre tactical air-to-ground training range, 5 no-drop targets, 30 electronic emitter sites, and an associated road network, all of which would be located on federal and State of Idaho school endowment lands. For use of the federal lands, the Air Force proposes to initiate a Department of Defense military withdrawal under the Engle Act for the larger portions and to obtain rights-of-way from the Bureau of Land Management for the smaller portions. For use of the state school endowment lands, the Air Force proposes to enter into lease agreements with the State of Idaho. The airspace component of the three alternatives would involve modification of special use airspace, including establishment of restricted airspace over the tactical training range and reconfiguration and expansion of existing Military Operations Areas (MOAs), under approval of the Federal Aviation Administration.

Written comments on this document should be directed to U.S. Air Force/ Bureau of Land Management, P.O. Box 329, Boise, ID 83702–0329; for telephone inquiries, please contact Capt. Melissa Miller, Chief 366th Wing Public Affairs, Mountain Home Air Force Base, ID, (208) 828–6800.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 97–20909 Filed 8–7–97; 8:45 am]

BILLING CODE 3901–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[FERC–525]

Proposed Information Collection and Request for Comments

August 4, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2) (2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before October 7, 1997.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Information Services Division, ED–12.4, 888 First Street NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at mmiller@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–525 ''Financial Audits'' (OMB No. 1902–0092) is used by the Commission to implement the statutory provisions of Sections 4(b), 301(b), 302, 307 and 308 of the Federal Power Act (FPA), 16 U.S.C. 792–8280, Sections 6, 8(b), 9 and 10 of the Natural Gas Act (NGA), and Sections 19 and 20 of the Interstate Commerce Act, 49 U.S.C. 20. FERC–525 involves field audits of books and records of public utilities and licenses, natural gas companies and oil pipeline carriers.

The Commission periodically performs audits to ensure that companies' financial records conform with the Commission's accounting, financial reporting, and other regulations established under the mandatory provisions of the statutes listed above. Also audits are conducted to assess and evaluate the regulatory implication of certain industry accounting practices and standards. Over time, more of the audit focus will be shifted to the later type of audits. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR parts 41, 101, 104, 125, 141, 158, 201, 225, 260, 351, 352, 356, 357.

Action: The Commission is requesting a three-year extension of the current expiration date.

Burden Statement: Public Reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (hours) (3)	Total annual burden hours (1) × (2) × (3)
77	1	100	7,700

Estimated cost burden to respondents: 7,700 hours divided by 2087 hours per year times $110,000 per year equals $405,846. The cost per respondent is equal to $5,271.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and

utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology e.g. permitting electronic submission of responses.

Lois D. Cashell,

Secretary.

[FR Doc. 97–20950 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[FERC–546]

Information Collection Submitted for Review and Request for Comments

August 5, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: In compliance with the requirements of Section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is submitting a collection of information listed in this notice to OMB for review under the provisions of the Act.

DATES: Comments regarding this collection of information are best assured of having their full effect if received within 30 days of this notification.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael P. Miller, Information Services Division, ED–12.4, 888 First Street NE., Washington, DC 20426. Comments should also be addressed to: Desk Officer, Federal Energy Regulatory Commission, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Michael P. Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at mmiller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Abstract: The information collected under the requirements of FERC Form No. 546 ''Certificated Rate Filings: Gas Pipeline Rates'' (OMB No. 1902–0155) is used by the Commission to implement the statutory provisions of Title IV of the Natural Gas Policy Act (NGPA), 15 U.S.C. 3301–3432, Pub. L. 95–621) and Sections 4, 5, and 16, of the Natural Gas Act (NGA) (15 U.S.C. 717–717o, Pub. L. 75–688). These statutory provisions require natural gas pipeline companies to obtain Commission authorization for all rates and charges made, demanded, or in connection with the transportation or sale of natural gas in interstate commerce. The Commission is authorized to investigate the rates charged by natural gas pipeline companies subject to its investigation. The data filed in certificated rate filings are used to implement new or revised service proposals for the transportation or sale of natural gas and for compliance with subsequent Commission orders. The distinction between FERC–546 and other rate/tariff data collections is that data collected under FERC–546 involved initial service and tariff revisions due to changes in service rather than changes in existing rates. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR 154.202–.206; 154.312; 154.601–.603.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (hours) (3)	Total annual burden hours (1) × (2) × (3)
100	4	400	16,000

Estimated cost burden to respondents: 16,000 hours / 2,087 hours per year × $110,000 per year = $843,700. The cost per respondent is equal to $8,437.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21007 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment Of License

August 4, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 2307–043.

c. *Date Filed:* June 9, 1997.

d. *Applicant:* Alaska Electric Light & Power Company.

e. *Name of Project:* Annex Creek and Salmon Creek.

f. *Location:* On Annex and Salmon Creeks, in the City and Borough of Juneau, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Corry V. Hildenbrand, Alaska Electric Light & Power Company, 5601 Tonsgard Court, Juneau, AK 99801, (907) 780–2222.

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Comment Date:* September 22, 1997.

k. *Description of the Request:* The licensee proposes to decommission the Upper Salmon Creek powerplant because it is no longer economical to operate. The proposed license amendments include: (1) Decommissioning the two turbine/generators in the upper Salmon Creek powerplant; (2) removal of two miles of transmission line from the upper powerplant to the old lower switchyard and modify the project boundary to reflect the removal of the transmission line; (3) removal of the transformers in the upper powerplant that are oil-filled, to eliminate any future contamination potential; and (4) change the point of release of water to meet minimum flow requirements from the upper powerplant to the base of the Salmon Creek Dam (no change to the minimum release is proposed).

1. This notice also consists of the following standard paragraphs: B, C2, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C2. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. Any of these documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of a notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97–20945 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–674–000]

ANR Pipeline Company; Notice of Request Under Blanket Authorization

August 4, 1997.

Take notice that on July 29, 1997, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP97–674–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212,) for approval to construct and operate an interconnection between ANR and Ohio Gas Company (Ohio Gas) for delivery of natural gas to Ohio Gas in Defiance County, Ohio, under ANR' blanket certificate issued in Docket No. CP82–480–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR states that the proposed interconnection will consist of a two-inch hot tap, a two-inch positive displacement meter, an electronic measurement system, and approximately 150 feet of two-inch piping. ANR indicates that the total cost of the facilities is $99,500, which will be fully reimbursed by Ohio Gas. It is further indicated that Ohio Gas will use deliveries of natural gas under existing Part 284 transportation service agreements with ANR to serve residential and commercial customers.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the

Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–20942 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3525–000]

California Power Services, L.L.C.; Notice Of Issuance Of Order

August 5, 1997.

California Power Services, L.L.C. (California Services) submitted for filing a rate schedule under which California Services will engage in wholesale electric power and energy transactions as a marketer. California Services also requested waiver of various Commission regulations. In particular, California Services requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by California Services.

On August 1, 1997, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by California Services should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, California Services is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of California Services' issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 2, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21009 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–58–000]

Columbia Gas Transmission Corporation; Notice of Refund Report

August 4, 1997.

Take notice that on July 28, 1997, Columbia Gas Transmission Corporation (Columbia) tendered for filing with the Commission its Refund Report made to comply with the Docket No. RP97–149.

Columbia states that it has credited refunds received from Gas Research Institute (GRI) in the above referenced docket to eligible firm customers on a pro rata basis. Columbia made these refunds ($3,332,733.52) in the form of credits to invoices issued on or around May 10, 1997 which were payable to Columbia on or before June 10, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before August 11, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–20944 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3416–000]

Global Energy and Technology, Inc.; Notice Of Issuance Of Order

August 5, 1997.

Global Energy and Technology, Inc. (Global Energy) submitted for filing a rate schedule under which Global Energy will engage in wholesale electric power and energy transactions as a marketer. Global Energy also requested waiver of various Commission regulations. In particular, Global Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Global Energy.

On August 1, 1997, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Global Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Global Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Global Energy's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 2, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21008 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–431–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

August 4, 1997.

Take notice that on July 30, 1997, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets to be effective September 1, 1997.

Natural states that the purpose of the filing is to implement new procedures in Natural's tariff for the posting, auctioning, allocation and awarding of firm capacity.

Natural requested whatever waivers may be necessary to permit the tariff sheets submitted to become effective September 1, 1997.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–20949 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3779–000]

Sierra Pacific Power Company; Notice of Filing

August 4, 1997.

Take notice that on July 18, 1997, Sierra Pacific Power Company (Sierra Pacific), filed revised open-access tariff sheets to clarify how constrained import capacity will be allocated among Network Customers an Sierra Pacific.

Sierra Pacific proposes that these revised tariff sheets become effective upon Commission approval.

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 must be filed on or before August 15, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–20943 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–669–000]

Southern Natural Gas Company; Notice of Request under Blanket Authorization

August 4, 1997.

Take notice that on July 28, 1997, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP97–669–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for authorization to modify certain measurement facilities in connection with a change at an existing delivery point, under Southern's blanket certificate issued in Docket No. CP82–406–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Southern states that it is currently authorized to deliver natural gas to Alabama Gas Corporation (Alagasco) at Southern's Eclectic Delivery Point (Eclectic) which is located at or near Mile Post 241.544 on Southern's 16″ South Main Line and 18″ South Main Loop Line in Section 29, Township 18 North, Range 21 East, Elmore County, Alabama. Alagasco has requested the modifications in order to obtain additional gas supplies so that Alagasco may serve demand growth on its Eclectic system. Specifically, Southern proposes to modify the existing meter station by removing the existing regulators, relief valves and meter, and installing a 2-inch rotary meter, two 2″ regulators, an indirect gas-fired heater, and miscellaneous piping and valves. These modifications will all be performed on Southern's existing station property located in Elmore County, Alabama. The total estimated cost of the modifications is $182,300 and Alagasco has agreed to reimburse Southern.

Southern states that the proposed modification of facilities, including the removal of the existing equipment, will not result in any termination of service or any change to the total Firm Transportation Demand delivered to Alagasco. The proposed abandonment of facilities and change in delivery pressure are not prohibited by Southern's existing tariff and such operational changes will have no impact on Southern's peak day and annual deliveries.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–20941 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–71–007 and RP95–197–030]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes In FERC Gas Tariff

August 4, 1997.

Take notice that on July 30, 1997, in compliance with the Commission's order issued July 18, 1997 in Docket Nos. RP97–71–004 and RP95–197–000 (July 18 Order), Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Substitute Fourteenth Revised First Revised Sheet No. 52. The enclosed tariff sheet is proposed to be effective May 1, 1997.

Transco states that the purpose of the instant filing is to comply with Ordering Paragraphs (B) and (C) of the July 18 Order, which directed Transco to file, within 15 days from the date of such order, to eliminate the effect of the RP95–197 Phase II settlement allocation methodology from the rates charged to North Jersey Energy Associates and Northeast Energy Associates (Energy Associates) under Rate Schedules X–319 and X–320, respectively.

Transco states that included in Appendix B attached to the filing are details regarding the computation of the revised NIPP's–IEC rates (X–319 and X–320).

Transco states that copies of the filing are being mailed to each of its affected 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, Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–20946 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–159–008]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 4, 1997.

Take notice on July 30, 1997, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets to which tariff sheets are listed on Attachment A attached to the filing. The proposed effective date for the tariff sheets is June 1, 1997.

Transco states that the purpose of the instant filing is to comply with the Commission's order issued July 16, 1997 in the referenced docket (July 16 Order). The July 16 Order addressed Transco's submission of pro forma tariff sheets reflecting a form of trading partner agreement (TPA) and required Transco to file actual tariff sheets within fifteen days of the date of the order reflecting the form of TPA.

Transco states that it is serving copies of the instant filing to customers, State Commissions and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed as provided in § 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–20947 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–341–002]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 4, 1997.

Take notice on July 30, 1997, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the revised tariff sheet listed below, with a proposed effective date of August 1, 1997:

Substitute Seventh Revised Sheet No. 336

Transco states that the purpose of the instant filing is to comply with the Commission's order issued July 21, 1997 in the referenced docket (July 21 Order). The July 21 Order addressed Transco's submission of a pro forma tariff sheet incorporating into Transco's compliance filing to Order No. 587–C a fall-back provision for nominations in the event of the failure of electronic communication equipment and required Transco to file an actual tariff sheet to be effective August 1, 1997.

Transco states that it is serving copies of the instant filing to customers, State Commissions and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–20948 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC97–45–000, et al.]

Long Island Lighting Company, et al.; Electric Rate and Corporate Regulation Filings

August 1, 1997.

Take notice that the following filings have been made with the Commission:

1. Long Island Lighting Company

[Docket No. EC97–45–000]

Take notice that on July 30, 1997, Long Island Lighting Company (LILCO) tendered for filing pursuant to Section 203 of the Federal Power Act (FPA), 16 U.S.C. Sec. 824b (1994), and Part 33 of the Commission's Regulations, 18 CFR part 33, an Application for an order approving a transaction and disposition of assets.

Pursuant to an Agreement and Plan of Merger By and Among BL Holding Corp., Long Island Lighting Company, Long Island Power Authority and LPA Acquisition Corp., dated as of June 26, 1997, the Long Island Power Authority (LIPA) will acquire LILCO's transmission and distribution facilities, its 18 percent share in the Nine Mile Point Two nuclear power plant, substantially all of its regulatory asset and various other assets. The transfer of assets will be accomplished by the acquisition of LILCO's common stock after LILCO's gas distribution system, its non-nuclear electric generating facilities and certain other assets and liabilities have been transferred to newly formed subsidiaries of a holding company. LILCO will then be merged into LIPA Acquisition Corp., a newly created entity of LIPA. LILCO further states that it has submitted the information required by Part 33 of the Commission's Regulations in support of the application.

Comment date: September 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Central Hudson Gas & Electric Corporation

[Docket No. ER97–3714–000]

Take notice that on July 14, 1997, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Tractebel Energy Marketing, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume No. 1 (Transmission Tariff) filed in compliance with the Commission's Order 888 in Docket No. RM95–8–000 and RM94–7–001. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Duke Power Company

[Docket No. ER97–3715–000]

Take notice that on July 14, 1997, Duke Power Company (Duke), tendered for filing a Market Rate Service Agreement between Duke and Aquila Power Corporation, dated as of July 11, 1997. The parties commenced transactions under the Service Agreement on June 4, 1997. Duke requests that the Agreement be made effective as of June 14, 1997.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power & Light Company

[Docket No. ER97–3716–000]

Take notice that on July 14, 1997, Florida Power & Light Company (FPL), tendered for filing a proposed notice of cancellation of an umbrella service agreement with Catex Vitol Electric, L.L.C. for non-firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed cancellation be permitted to become effective on July 1, 1997.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Union Electric Company

[Docket No. ER97–3717–000]

Take notice that on July 14, 1997, Union Electric Company (UE), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between PECO Energy Company—Power Team (PECO). UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to PECO pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Orange and Rockland Utilities, Inc.

[Docket No. ER97–3718–000]

Take notice that on July 15, 1997, Orange and Rockland Utilities, Inc. (O&R), tendered for filing its Summary Report of O&R transactions during the calendar quarter ending June 30, 1997 pursuant to the market based rate power service tariff, made effective by the Commission on March 27, 1997 in Docket No. ER97–1400–000.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Pool

[Docket No. ER97–3719–000]

Take notice that on July 15, 1997, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by Pennsylvania Power & Light Company (PP&L). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit PP&L to join the over 120 Participants that already participate in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make PP&L a Participant in the Pool. NEPOOL requests an effective date on or before August 1, 1997, or as soon as possible thereafter for commencement of participation in the Pool by PP&L.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. The Dayton Power and Light Co.

[Docket No. ER97–3720–000]

Take notice that on July 15, 1997, The Dayton Power and Light Company (Dayton), submitted service agreements establishing Aquila Power Corporation as a customer under the terms of Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of the filing were served upon Aquila Power Corporation and the Public Utilities Commission of Ohio.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. The Dayton Power and Light Co.

[Docket No. ER97–3721–000]

Take notice that on July 15, 1997, The Dayton Power and Light Company (Dayton), submitted service agreements

establishing PECO Energy company—Power Team, Market Responsive Energy, Inc., as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of the filing were served upon PECO Energy Company—Power Team, Market Responsive Energy, Inc., and the Public Utilities Commission of Ohio.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Carolina Power & Light Company

[Docket No. ER97–3722–000]

Take notice that on July 15, 1997, Carolina Power & Light Company (CP&L), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Service executed between CP&L and the following Eligible Transmission Customers: The Energy Authority, Inc., and Market Responsive Energy, Inc., and Service Agreements for Short-Term Firm Point-to-Point Transmission Service with The Energy Authority, Inc., and Virginia Electric & Power Company. Service to each Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Carolina Power & Light Company

[Docket No. ER97–3723–000]

Take notice that on July 15, 1997, Carolina Power & Light Company (Carolina), tendered for filing executed Service Agreements between Carolina and the following Eligible Entities: The Energy Authority, Inc., Eastern Power Distribution; and NESI Power Marketing, Inc., service to each Eligible Entity will be in accordance with the terms and conditions of Carolina's Tariff No. 1 for Sales of Capacity and Energy.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER97–3724–000]

Take notice that on July 15, 1997, Cinergy Services, Inc., (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E), and PSI Energy, Inc. (PSI), a Power Service Agreement, dated May 30, 1997, between Cinergy, CG&E, PSI and Southeastern Power Administration (SEPA).

The Power Service Agreement provides for sale on a market basis.

Cinergy and SEPA have requested an effective date of one day after this initial filing of the Power Service Agreement.

Copies of the filing were served on Southeastern Power Administration, Georgia Public Service Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Commonwealth Edison Company

[Docket No. ER97–3725–000]

Take notice that on July 15, 1997, Commonwealth Edison Company (ComEd), tendered for filing an amendment to its contract with the City of Batavia, Illinois (Batavia). The amendment will permit Batavia to receive curtailable service at selected premises within its service territory.

ComEd requests an effective date of June 1, 1997, and has, therefore, requested that the Commission waive its notice requirements. Copies of this filing have been served on Batavia and the Illinois Commerce Commission.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. The Empire District Electric Company

[Docket No. ER97–3726–000]

Take notice that on July 15, 1997, The Empire District Electric Company (EDE), tendered for filing a service agreement between EDE and Tenaska Power Services Co., providing non-firm point-to-point transmission service pursuant to the open access transmission tariff (Schedule OATS) of EDE.

EDE states that a copy of this filing has been served by mail upon Tenaska Power Services Co., 2000 E. Lamar Blvd., Suite 450, Arlington, TX 76006.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. The Empire District Electric Company

[Docket No. ER97–3727–000]

Take notice that on July 15, 1997, The Empire District Electric Company (EDE), tendered for filing a service agreement between EDE and Duke/Louis Dreyfus providing non-firm point-to-point transmission service pursuant to the open access transmission tariff (Schedule OATS) of EDE.

EDE states that a copy of this filing has been served by mail upon Duke/Louis Dreyfus, 10 Westport Road, Wilton, CT 06897.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Tucson Electric Power Company

[Docket No. ER97–3728–000]

Take notice that on July 15, 1997, Tucson Electric Power Company (TEP), tendered for two (2) service agreements for firm transmission service and three (3) service agreements for non-firm transmission service under Part II of its Open Access Transmission Tariff filed in Docket No. OA96–140–000. TEP requests waiver of notice to permit the service agreement to become effective as of July 1, 1997.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Atlantic City Electric Company, Baltimore Gas and Electric Co., Delmarva Power & Light Company, Jersey Central Power & Light Co., Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power & Light Co., Potomac Electric Power Company, and Public Service Electric and Gas Company

[Docket No. ER97–3729–000]

Take notice that on July 14, 1997, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power & Light Company, Potomac Electric Power Company, and Public Service Electric and Gas Company filed the following documents: (1) Request for authorization to engage in market-based transmissions through the PJM Interchange Energy Market; (2) Supporting Companies' Report on Horizontal Market Power Analysis; and (3) proposed revisions to the market operations schedules of the PJM Interconnection, L.L.C., Operating Agreement.

Copies have been served on the regulatory commissions of Delaware, the District of Columbia, Maryland, New Jersey, Pennsylvania and Virginia, on the parties to Docket Nos. OA97–261–000, ER97–1082–000 and ER97–3189–000, and on the Members of PJM Interconnection, L.L.C.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. MidAmerican Energy Company

[Docket No. ER97–3730–000]

Take notice that on July 16, 1997, MidAmerican Energy Company, tendered for filing a proposed change in its Rate Schedule for Power Sales, FERC Electric Rate Schedule, Original Volume No. 5. The proposed change consists of the following:

1. Sixth Revised Sheet No. 16, superseding Fifth Revised Sheet No. 16;
2. Fourth Revised Sheet Nos. 17 and 18, superseding Third Revised Sheet Nos. 17 and 18;
3. Third Revised Sheet Nos. 19 and 20, superseding Second Revised Sheet Nos. 19 and 20; and
4. Second Revised Sheet No. 21, superseding First Revised Sheet No. 21.

MidAmerican states that it is submitting these tariff sheets for the purpose of complying with the requirements set forth in Southern Company Services, Inc., 75 FERC ¶ 61,130 (1996), relating to quarterly filings by public utilities of summaries of short-term market-based power transactions. The tariff sheets contain summaries of such transactions under the Rate Schedule for Power Sales for the period April 1, 1997 through June 30, 1997.

MidAmerican proposes an effective date of April 1, 1997, for the rate schedule change. Accordingly, MidAmerican requests a waiver of the 60-day notice requirement for this filing. MidAmerican states that this date is consistent with the requirements of the Southern Company Services, Inc., order and the effective date authorized in Docket No. ER96–2459–000.

Copies of the filing were served upon MidAmerican's customers under the Rate Schedule for Power Sales and the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Northeast Utilities Service Co.

[Docket No. ER97–3731–000]

Take notice that on July 16, 1997, Northeast Utilities Service Company (NUSCO), on behalf of its operating affiliates, The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company and Public Service Company of New Hampshire, tendered for filing a Service Agreement with Enron Power Marketing, Inc. (Enron), under the Northeast Utilities System Companies' Sale for Resale Tariff No. 7 Market Based Rates. NUSCO requests an effective date of June 17, 1997.

NUSCO states that a copy of its submission has been mailed or delivered to Enron.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Union Electric Company

[Docket No. ER97–3732–000]

Take notice that on July 16, 1997, Union Electric Company (UE), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between Morgan Stanley Capital Group, Inc., (MSCG). UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to MSCG pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Long Sault, Inc.

[Docket No. OA97–624–000]

Take notice that on July 10, 1997, Long Sault, Inc., filed original and revised tariff sheets to its open access transmission tariff to comply with FERC Order No. 888–A. Long Sault, Inc., states that it has served copies of its filing on the New York Public Service Commission and all parties listed on the official service list in Long Sault, Inc.'s original open access transmission tariff proceeding, Docket No. OA96–11–000. In addition, Long Sault, Inc., states that it has served copies of its filing on its present transmission customers and certain of its potential transmission customers.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. The Dayton Power and Light Company

[Docket No. OA97–625–000]

Take notice that on July 10, 1997, The Dayton Power and Light Company (DP&L) submitted a filing in compliance with Order No. 888–A, FERC Stats. & Regs. 78 FERC 61,220. DP&L states its understanding that its compliance open access tariff, pursuant to Order No. 888–A, becomes effective as of July 14, 1997, subject to refund.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Western Resources, Inc.

[Docket No. OA97–626–000]

Take notice that on July 10, 1997, Western Resources, Inc., tendered for filing an open access transmission tariff in compliance with the Commission's requirements set forth in Order No. 888A. Western Resources' compliance tariff is proposed to become effective on September 8, 1997.

Copies of the filing were served upon all parties listed on the service list in Western Resources' FERC Docket No. OA96–203–000.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Portland General Electric Company

[Docket OA97–628–000]

Take notice that on July 11, 1997, Portland General Electric Company (PGE) tendered for filing an Open Access Transmission Compliance Tariff in accordance with the Commission's Final Rule in Docket Nos. RM95–8–001 and RM94–7–002 (Order No. 888–A).

Copies of this filing were served upon entities noted in the filing letter.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. East Texas Electric Cooperative, Inc.

[Docket No. OA97–652–000]

Take notice that on July 14, 1997, East Texas Electric Cooperative, Inc. (ETEC) tendered for filing an Open Access Transmission Tariff in compliance with Order No. 888, Order No. 888–A, and 18 CFR 35.28(c).

Copies of this filing were served on ETEC's three wholesale power customers, the Public Utility Commission of Texas, and Southwestern Electric Power Company via overnight delivery.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Western Systems Power Pool

[Docket No. OA97–672–000]

Take notice that on July 14, 1997, the Western Systems Power Pool (WSPP) tendered for filing pursuant to Order No. 888–A the WSPP's Pro Forma Open Access Transmission Tariff compliance filing.

Comment date: August 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Centerior Energy Corporation

[Docket No. OA97–673–000]

Take notice that on July 14, 1997, Centerior Energy Corporation, on behalf of The Cleveland Electric Illuminating Company and Toledo Edison Company, tendered for filing Revisions to its Standards of Conduct.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Boston Edison Company

[Docket No. OA97–674–000]

Take notice that on July 14, 1997, Boston Edison Company (Boston Edison) of Boston, Massachusetts, submitted for filing its compliance open-access transmission tariff in compliance with the Commission's Order No. 888–A. Boston Edison requests a July 14, 1997, effective date.

Boston Edison states that this filing has been posted in accordance with the Commission's Regulations and that copies of the filing have been served upon Boston Edison's wholesale customers, the Massachusetts Department of Public Utilities, and all persons listed on the official service lists in Docket No. OA96–70–000, ER97–1328–000 and ER97–2340–000.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. The Detroit Edison Company

[Docket No. OA97–681–000]

Take notice that on July 14, 1997, The Detroit Edison Company filed an Open Access Transmission Tariff in compliance with Order No. 888–A of the Federal Energy Regulatory Commission.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. MOKAN Power Pool

[Docket No. OA97–682–000]

Take notice that on July 14, 1997, the MOKAN Power Pool (MOKAN) tendered for filing pursuant to Order No. 888–A MOKAN'S Pro Forma Open Access Transmission Tariff compliance filing.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Central Power and Light Company; West Texas Utilities Company; Public Service Company of Oklahoma; Southwestern Electric Power Co.

[Docket No. OA97–668–000]

Take notice that on July 14, 1997, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company (collectively, the CSW Operating Companies) tendered for filing a form of open access transmission service tariff in compliance with the Commission's Order No. 888–A.

The CSW Operating Companies state that they have served a copy of their compliance filing on all customers that have taken service under the CSW Operating Companies' existing open access transmission service tariff, the Public Utility Commission of Texas, the Oklahoma Corporation Commission, the Louisiana Public Service Commission and the Arkansas Public Service Commission and on each party listed on the service list for Docket Nos. ER96–1046–000, OA96–185–000 and OA97–24–000.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Montaup Electric Company

[Docket No. OA97–670–000]

Take notice that on July 14, 1997, Montaup Electric Company tendered for filing a Compliance Tariff pursuant to Order No. 888–A.

Comment date: August 18, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–20915 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. ER97–3733–000, et al.]

Orange and Rockland Utilities, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 4, 1997.

Take notice that the following filings have been made with the Commission:

1. Orange and Rockland Utilities, Inc.

[Docket No. ER97–3733–000]

Take notice that on July 16, 1997, Orange and Rockland Utilities, Inc. (O&R), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR Part 35, a service agreement under which O&R will provide capacity and/or energy to Coastal Electric Services Company (Coastal).

O&R requests waiver of the notice requirement so that the service agreement with Coastal becomes effective as of July 1, 1997.

O&R has served copies of the filing on The New York State Public Service Commission, and Coastal.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Orange and Rockland Utilities, Inc.

[Docket No. ER97–3734–000]

Take notice that on July 16, 1997, Orange and Rockland Utilities, Inc. (Orange and Rockland), filed a Service Agreement between Orange and Rockland and ProMark Energy (Customer). This Service Agreement specifies that Customer has agreed to the rates, terms and conditions of Orange and Rockland Open Access Transmission Tariff filed on July 9, 1996 in Docket No. OA96–210–000.

Orange and Rockland requests waiver of the Commission's sixty-day notice requirements and an effective date of July 1, 1997 for the Service Agreements. Orange and Rockland has served copies of the filing on The New York State Public Service Commission and on the Customers.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Portland General Electric Company

[Docket No. ER97–3735–000]

Take notice that on July 16, 1997, Portland General Electric Company (PGE), tendered for filing under FERC Electric Tariff, Second Revised Volume No. 2, an executed Service Agreement with Cook Inlet Energy Supply, LP.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL93–2–002), PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the executed Service Agreement to become effective June 27, 1997.

A copy of this filing was caused to be served upon Cook Inlet Energy Supply, LP. as noted in the filing letter.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Ohio Edison Company Pennsylvania Power Company

[Docket No. ER97–3736–000]

Take notice that on July 16, 1997, Ohio Edison Company, tendered for filing on behalf of itself and Pennsylvania Power Company, Service Agreements with Cinergy Services, Inc., as agent for The Cincinnati Gas & Electric Company and PSI Energy, Inc.; and Consumers Power Company and The Detroit Edison Company under Ohio Edison's Power Sales Tariff. This filing is made pursuant to Section 205 of the Federal Power Act.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Company Services, Inc.

[Docket No. ER97–3737–000]

Take notice that on July 16, 1997, Southern Company Services, Inc. (SCSI), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed one (1) service agreement under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) with the following entity: The Energy Authority, Inc. SCSI states that the service agreement will enable Southern Companies to engage in short-term market-based rate transactions with this entity.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Tucson Electric Power Company

[Docket No. ER97–3738–000]

Take notice that on July 16, 1997, Tucson Electric Power Company (TEP), tendered for filing a service agreement with Enron Power Marketing, Inc. for firm point-to-point transmission service under Part II of TEP's Open Access Transmission Tariff filed in Docket No. OA96–140–000. TEP requests waiver of notice to permit the service agreement to become effective as of June 8, 1997.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Consumers Energy Company

[Docket No. ER97–3739–000]

Take notice that on July 16, 1997, Consumers Energy Company (Consumers), tendered for filing executed service agreements for Non-Firm Point-to-Point Transmission Service pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison) with the following transmission customers:

PanEnergy Trading and Market Services, LLC
The Cleveland Electric Illuminating Company
PECO Energy Co.

Copies of the filed agreements were served upon the Michigan Public Service Commission, Detroit Edison and the respective transmission customers.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Valley Electric Association, Inc.

[Docket No. ER97–3740–000]

Take notice that on July 16, 1997, Valley Electric Association, Inc. (Valley), tendered for filing Contract No. P08–50 and Amendment No. 1 thereto between Valley and the Colorado River Commission (CRC) for the sale of electric power from the Boulder Canyon Project. Under the Contract, the CRC sells to Valley capacity and energy marketed by the Western Area Power Administration from the Boulder Canyon Project. In addition, capacity and energy allocated to but not used by Valley may be marketed by the CRC with revenues credited to Valley from any such sales. Valley seeks a disclaimer of jurisdiction over the contract or, in the alternative, waiver of the Commission's prior notice requirements.

A copy of the filing was served upon the CRC.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Valley Electric Association, Inc.

[Docket No. ER97–3741–000]

Take notice that on July 16, 1997, Valley Electric Association, Inc. (Valley), tendered for filing Contract No. P08–52, and Amendment No. 4 thereto, between Valley and the Colorado River Commission (CRC) for the sale of electric power from the Salt Lake City Area Integrated Projects. Under the Contract, the CRC sells to Valley capacity and energy marketed by the Western Area Power Administration from the Salt Lake City Area Integrated Projects. In addition, capacity and energy allocated to but not used by Valley may be marketed by the CRC with revenues credited to Valley from any such sales. Valley seeks a disclaimer of jurisdiction over the contract or, in the alternative, waiver of the Commission's prior notice requirements.

A copy of the filing was served upon the CRC.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Valley Electric Association, Inc.

[Docket No. ER97–3742–000]

Take notice that on July 16, 1997, Valley Electric Association, Inc. (Valley), tendered for filing Contract No. P08–70, and Amendment No. 1 thereto, between Valley and the Colorado River Commission (CRC) for the sale of electric power from the Parker-Davis Project. Under the Contract, the CRC sells to Valley capacity and energy marketed by the Western Area Power Administration from the Parker-Davis Project. In addition, capacity and energy allocated to but not used by Valley may be marketed by the CRC with revenues credited to Valley from any such sales. Valley seeks a disclaimer of jurisdiction over the contract or, in the alternative, waiver of the Commission's prior notice filing requirements.

A copy of the filing was served upon the CRC.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Central Hudson Gas and Electric Corporation

[Docket No. ER97–3743–000]

Take notice that on July 17, 1997, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Enerz Corporation. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–890–000. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Central Hudson Gas and Electric Corporation

[Docket No. ER97–3744–000]

Take notice that on July 17, 1997, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and ProMark Energy. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–890–000. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. EnergyEXPRESS, Inc.

[Docket No. ER97–3745–000]

Take notice that on July 17, 1997, EnergyEXPRESS, Inc. (EnergyEXPRESS), petitioned the Commission for acceptance of EnergyEXPRESS Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

EnergyEXPRESS intends to engage in wholesale electric power and energy purchases and sales as a marketer. EnergyEXPRESS is not in the business of generating or transmitting electric power. EnergyEXPRESS is a wholly-owned subsidiary of Granite State Gas Transmission Inc., an interstate gas transmission company, which, is a wholly-owned subsidiary of Bay State Gas Company.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Entergy Services, Inc.

[Docket No. ER97–3746–000]

Take notice that on July 17, 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 Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Tenaska Power Services Co.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Entergy Services, Inc.

Docket No. ER97–3747–000

Take notice that on July 17, 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 Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Duke Energy Power Services, Inc.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Entergy Services, Inc.

[Docket No. ER97–3748–000]

Take notice that on July 17, 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 Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and USGen Power Services, L.P.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Florida Power & Light Company

[Docket No. ER97–3749–000]

Take notice that on July 17, 1997, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Constellation Power Source, Inc. For Non-Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on August 1, 1997.

FPL states that this filing is in accordance with Part 35 of the Commission's regulations.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Additional Signatories to PJM Interconnection, L.L.C. Operating Agreement

[Docket No. ER97–3750–000]

Take notice that on July 17, 1997, the PJM Interconnection, L.L.C. (PJM) filed, on behalf of the Members of the L.L.C., membership applications of Easton Utilities Commission, and UGI Utilities, Inc. PJM requests an effective date of July 15, 1997.

Comment date: August 18, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21006 Filed 8–7–97; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5872–3]

Agency Information Collection Activities: Proposed Collection; Comment Request; Transportation Partners Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Information Collection Request for EPA's Transportation Partners Program, EPA ICR No. 1818.01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed

information collection as described below.

DATES: Comments must be submitted on or before October 7, 1997.

ADDRESSES: Interested parties may submit written comments to the Energy and Transportation Sectors Division, Office of Policy, Planning and Evaluation, U.S. Environmental Protection Agency, 401 M Street SW. (Mail Code 2126), Washington, DC 20460. Interested persons may obtain a copy of the draft ICR without charge by contacting Ms. Catherine Preston (see below).

FOR FURTHER INFORMATION CONTACT: Catherine Preston of the Energy and Transportation Sectors Division, Office of Policy, Planning and Evaluation, phone number: 202–260–5447, facsimile number: 202–260–0512, e-mail address: preston.catherine@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected Entities: Entities potentially affected by this action may include entities from the following Standard Industrial Classification (SIC) codes: 4111 (local and suburban transit), 4119 (local passenger transportation, not elsewhere classified), 8611 (business associations), 8641 (civic, social, and fraternal organizations), 9511 (air and water resource and solid waste management), 9621 (regulation or administration of transportation programs), and other transportation-related organizations. Additionally, EPA expects to enroll private businesses in the Transportation Partners program. However, as the Agency plans to focus private business recruiting efforts on large companies, EPA expects that new members will come from a wide range of nonspecific SIC codes.

Title: Information Collection Request for EPA's Transportation Partners Program, EPA ICR No. 1818.01.

Abstract: The Transportation Partners program is a new, cooperative, voluntary program that seeks to reduce the growth of vehicle miles traveled (VMT) through the adoption of measures that provide or promote the use of non-single occupancy vehicle transportation choices for citizens. As part of the Climate Change Action Plan, Transportation Partners will play an important role in the nation's commitment to reduce U.S. greenhouse gas emissions.

The Transportation Partners program is designed to work around two types of members: Principal Partners and Project Partners. Principal Partners have substantive areas of expertise and will provide direct assistance to VMT-reducing projects across the country. Project Partners, on the other hand, administer the individual programs and actions designed to reduce VMT. Local governments, regional governments, local non-governmental organizations, and private businesses may become Project Partners.

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 various information collection activities of the Transportation Partners program are described below.

As voluntary participants in the Transportation Partners program, Project Partners may be asked to develop and submit to a Principal Partner or to EPA an agreement that provides general contact information and organizational data. If an agreement is developed, the Project Partner will be asked to perform the following activities: receive and review Project Partner agreement informational materials; complete the Project Partner agreement; and sign and submit the agreement to a Principal Partner or to EPA.

Project Partners also may be asked to complete an annual Partner Profile that requests general project information. Project-related information requested includes background data about the sponsoring entity, a description of any institutional changes resulting from the project, a description (and, to the extent possible, quantification) of project effects on travel, other project effects, lessons learned, and comments regarding program participation and technical assistance. As EPA may request additional information from the Project Partners about their projects, organizations may be requested to periodically submit supplementary information to the Agency.

In addition, EPA sponsors the Way to Go! Awards, which honor local innovators who are enhancing their communities and the environment through transportation improvements. Project Partners will receive an application for the Way to Go! awards. Project Partners are not required to fill out these applications; however, some Project Partners may choose to complete and submit the application to EPA. The application asks for the following information: the name and focus of the project; a description of project management; a description of the end user(s) of the project; and a project summary and narrative.

Principal Partners have a number of responsibilities. First, they will provide EPA with contact lists of prospective Project Partners. Second, they will disseminate information to prospective partners. Third, Principal Partners will submit notifications to EPA when they sign new Project Partners. Fourth, they will participate in a monthly conference call with EPA to update the Agency of new developments. Fifth, Principal Partners will review, sign, and forward Project Partner agreements to EPA. Sixth, Principal Partners will assist EPA in reviewing and compiling Partner Profiles and supplemental information from Project Partners. Seventh, Principal Partners will respond to any ad hoc informational requests from the Agency. Finally, one Principal Partner will send out ''Way to Go!'' award applications to program contacts.

Participation in the Transportation Partners program is voluntary. If requested, EPA will treat information as confidential business information and will not make the partner-specific information collected under the program available to the general public, unless the partner's approval is obtained. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Transportation Partners program, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology.

Burden Statement: EPA estimates the total annual burden to respondents to be approximately 8,371 hours, at an annual cost of $573,304, or 25,112 hours over three years at a cost of $1,719,912. This corresponds to an average annual reporting burden of 263.9 hours and an average annual recordkeeping burden of 7.3 hours for each Principal Partner in the program. In addition, EPA estimates an average annual reporting burden of 10.7 hours and an average annual

recordkeeping burden of one hour for each Project Partner in the program. EPA estimates that an average of 10 Principal Partners will respond to Agency information collection activities each year; the average number of Project Partner respondents each year is estimated to vary from 121 to 485 based on the specific information being requested. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: July 17, 1997.

Michael Shelby,

Director, Energy and Transportation Sectors Division, Office of Policy, Planning and Evaluation.

[FR Doc. 97–20977 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5482–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements filed July 28, 1997 through August 1, 1997, pursuant to 40 CFR 1506.9.

EIS No. 970295, Draft EIS, BLM, WY, Jonah Field II Natural Gas Development Project, Exploration, Development and Production, Applications for Permit to Drill, Right-of-Way Grant, COE Section 404 Permit and NPDES Permit, Pinedale Resource Area and Green River Resource Area, Rock Spring District, Sublette County, WY, *Due:* September 22, 1997, *Contact:* Arlan Hiner (307) 352–0206.

EIS No. 970296, Draft EIS, BLM, HI, Ala Kahakai ''Trail By the Sea'' National Trail Study, Implementation, Hawaii Island, Hawaii County, HI, *Due*: October 7, 1997, *Contact:* Meredith Kaplan (415) 427–1438.

EIS No. 970297, Draft EIS, NRCS, NB, KS, Turkey Creek Watershed Plan, Watershed Protection and Flood Prevention, Johnson, Pawnee Counties, NB and Marshall and Nemaha Counties, KS, *Due*: September 22, 1997, *Contact:* Craig R. Derickson (402) 437–4112.

EIS No. 970298, Draft EIS, INS, CA, Service Processing Center (SPC) for Detainees, Construction and Operation, Possible Sites, Stockton and Tracy Sites, San Joaquin Counties, CA, *Due:* September 22, 1997, *Contact:* William A. Kopitz (202) 307–1877.

EIS No. 970299, Final EIS, FHW, AL, Birmingham Northern Beltline Project, Construction, I–59/20 west to I–59 northeast in the City of Birmingham, Funding and Possible COE Section 404 Permit, Jefferson County, AL, *Due:* September 8, 1997, *Contact*: Joe D. Wilkerson (334) 223–7370.

EIS No. 970300, Final EIS, DOE, NV, AZ, NM, Navajo Transmission Project (NTP), Construction, Operation and Maintenance, Right-of-Way Grants, EPA NPDES, COE, FAA, FWS and FHW Permits Issuance, NV, NM and AZ, *Due:* September 8, 1997, *Contact*: Nick Chevance (303) 275–1713.

EIS No. 970301, Final EIS, UAF, TX, Reese Air Force Base (AFB) Disposal and Reuse, Implementation, NPDES Permit and COE Section 404 Permit, Lubbock and Terry Counties, TX, *Due*: September 30, 1997, *Contact*: Robert Lopez (210) 536–6545.

Amended Notices

EIS No. 970280, Final EIS, FRC, MA, NH, ME, Portland Natural Gas Transmission System (PNGTS)/ Maritimes Phase I Joint Facilities Project, NPDES Permit, COE Section 10 and 404 Permits, Dracut, MA; Wells, ME and NH, *Due*: August 25, 1997, *Contact:* Paul McKee (202) 208–1088. Published FR 07–25–97 Correction to Title.

Dated: August 5, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–21001 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5483–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 14, 1997 through July 18, 1997, pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 4, 1997 (62 FR 16154).

Draft EISs

ERP No. D–COE–K38006–AZ Rating EC2, Tucson Drainage Area Arizona, Implementation, Reduce Flooding, City of Tucson, Pima County, AZ.

Summary: EPA expressed environmental concerns regarding a lack of discussion on means to avoid or reduce impacts to waters of the U.S., indirect and cumulative impacts to waters of the U.S., the potential need for an air quality conformity determination for carbon monoxide, and the need to address the Executive Order on Environmental Justice.

Final EISs

ERP No. F–AFS–K61105–CA Lake of the Sky Interpretive Center, Site Selection with the Sixty-Four Acres Tract, Tahoe City, Lake Tahoe, Placer County, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–COE–C36074–NJ Townsends Inlet to Cape May Inlet Feasibility Study, New Jersey Shore Protection Study, Storm Damage Reduction and Ecosystem Restoration, within the Communities of Avalon, Stone Harbor and North Wildwood, Cape May County, NJ.

Summary: EPA reviewed the Final EIS and concluded that the project would not result in significant adverse environmental impacts.

ERP No. F–DOA–E39040–KY City of Albany's Cagle Water Expansion Project, To expand its Potable Water Treatment Plant, Funding and COE Section 404 Permit, Clinton and Wayne Counties, KY.

Summary: EPA's review concluded that the project will not result in

significant and/or long-term adverse impacts to the natural environment provided prudent management practices are conscientiously employed.

ERP No. F–FRC–E03006–00 North Alabama Natural Gas Pipeline Facilities, Construction and Operation, COE Section 10 and 404 Permits, Right-of-Way and NPDES Permits, AL.

Summary: EPA expressed environmental objection to the proposed issuance of a license to construct a new 118-mile pipeline given the apparent availability of a less environmentally damaging alternative, i.e., upgrading the existing infrastructure. EPA noted that the proposed license would likely result in adverse impacts to wetlands and other habitats, and require crossing a National Wildlife Refuge, while the alternative of upgrading the existing infrastructure would have minimal, if any, adverse environmental impacts.

ERP No. F–FRC–L05217–WA Upriver FERC No. 3074 Hydroelectric Project, Amendment of the Existing License, Spokane River, Spokane County, WA.

Summary: EPA expressed environmental concern over the decrease in water quality that is likely to occur as a result of the increase to the impoundment levels given the current exceedances of water quality standards on this portion of the Spokane River.

ERP No. FB–COE–E30032–FL Palm Beach County Beach Erosion Project, Updated Information concerning Shore Protection for the Ocean Ridge Segment from the Martin County Line to Lake Worth Inlet and from the South Lake Worth Inlet to the Broward County Line, Palm Beach, Martin and Broward Counties, FL.

Summary: EPA expressed environmental concerns over the potential effectiveness of the proposed mitigation of adverse impacts to the near shore marine habitat, as well as the use of groins/training structures to stabilize eroding shorelines.

ERP No. FS–NOA–A91062–00 Regulatory EIS—Atlantic Coast Weakfish Fishery, Fishery Management Plan, Implementation, Updated Information concerning Weakfish Harvest Control in the Atlantic Ocean Exclusive Economic Zone (EEZ), off the New England, Mid-Atlantic and South Atlantic Coasts.

Summary: EPA had no objections to the regulations.

Dated: August 5, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–21002 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30438; FRL–5735–1]

Auxein Corporation; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing a new active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by September 8, 1997.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30438] and the file symbols to: Public Information and Records Integrity Branch (7506C), Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public 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.

FOR FURTHER INFORMATION CONTACT: By mail: Edward Allen, Biopesticides and Pollution Prevention Division (7511W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. Office location and telephone number: Rm. CS5W55, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8699; e-mail: allen.edward@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received an application from Auxein Corporation, P.O. Box 275519, 3125 Sovereign Drive, Suite B, Lansing, MI 48909–0519 to register the pesticide product AuxiGro WP (EPA File Symbol 70810–R) containing the active ingredients GABA: gamma aminobutyric acid at 29.2 percent and glutamic acid at 36.5 percent, ingredients not included in any previously registered product pursuant to the provision of section 3(c)(4) of FIFRA. This product is a plant growth enhancer for use to increase yields and the quality of crop plants and early ripening in certain vegetables. Notice of receipt of this application does not imply a decision by the Agency on the applications.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30438] (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 p.m., Monday through Friday, excluding legal holidays. The official notice record is located 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 file format. All comments and data in electronic form must be identified by the docket number [OPP–30438]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Written comments filed pursuant to this notice, will be available in the

Public Information and Records Integrity Branch, Information Resources and Services Division at the address provided, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805) to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: July 29, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–20988 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34114; FRL–5734–2]

Certain Chemicals; Availability of Reregistration Eligibility Decision Documents for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of reregistration eligibility decision documents; opening of public comment period.

SUMMARY: This notice announces availability and starts a 60–day public comment period of the Reregistration Eligibility Decision (RED) documents for the active ingredients Furanone, Pendimethalin, S-Kinoprene, and Trichlorfon. The REDs for the chemicals listed above are the Agency's formal regulatory assessments of the health and environmental data base of the subject chemicals and present the Agency's determination regarding which pesticidal uses are eligible for reregistration.

DATES: Written comments on these decisions must be submitted by October 7, 1997.

ADDRESSES: Three copies of comments identified with the docket control number ''OPP–34114'' and the case number (noted below), should be submitted to : By mail: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''Supplementary Information''. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice (including comments and data submitted electronically). The public docket and docket index, including printed paper versions of electronic comments, which does not include any information claimed as CBI 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 legal holidays.

To request a copy of any of the above listed RED documents, or a RED Fact Sheet, contact the Public Information and Records Integrity Branch, in Rm. 1132 at the address given above or call (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Technical questions on the RED documents listed below should be directed to the appropriate Chemical Review Managers:

Chemical Name	Case No.	Chemical Review Manager	Telephone No.	e-mail Address
Furanone	3138	Emily Mitchell	703–308–8583	Mitchell.Emily@epamail.epa.gov
Pendimethalin	0187	Jane Mitchell	703–308–8061	Mitchell.Jane@epamail.epa.gov
S-Kinoprene	4117	Roy Sjoblad	703–308–8712	Sjoblad.Roy@epamail.epa.gov
Trichlorfon	0104	Dana Lateulere	703–308–8044	Lateulere.Dana@epamail.epa.gov

SUPPLEMENTARY INFORMATION: The Agency has issued Reregistration Eligibility Decision (RED) documents for the pesticidal active ingredients listed above. Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of each of the chemicals listed above is substantially complete.

Please note some of these REDs were finalized and signed prior to August 3, 1996. On that date, the Food Quality Protection Act of 1996 (''FQPA'') became effective, amending portions of both the pesticide law (FIFRA) and the food and drug law (FFDCA). These REDs don't address any issues raised by FQPA, and any tolerance assessment procedures required under FQPA. To the extent that these REDs indicate that a change in any tolerance is necessary, that determination will be reassessed by the Agency under the standards set forth in FQPA before a proposed tolerance is issued. To the extent that the RED does not indicate that a change in the tolerance is necessary, that tolerance, too, will be reassessed in the future pursuant to the requirements of FQPA.

All registrants of products containing one or more of the above listed active ingredients have been sent the appropriate RED documents and must respond to labeling requirements and product specific data requirements (if applicable) within 8 months of receipt. Products containing other active ingredients will not be reregistered until those other active ingredients are determined to be eligible for reregistration.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing these REDs as final documents with a 60–day comment period. Although the 60–day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully

considered by the Agency. If any comment significantly affects a RED, EPA will amend the RED by publishing the amendment in the **Federal Register**.

Electronic copies of the REDs and RED fact sheets are available on the Internet. See http://www.epa.gov/REDs.

The official record for this notice, as well as the public version, has been established for this notice under docket control number ''OPP–34114'' (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 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES''.

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 file format. All comments and data in electronic form must be identified by the docket control number OPP–34114. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection.

Dated: July 31, 1997.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 97–20983 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30437; FRL–5731–1]

Plant Genetics Systems Inc.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register the pesticide product Bt Cry9C Corn, containing an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by September 8, 1997.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30437] and the (File Symbol 70218–R) to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public 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.

FOR FURTHER INFORMATION CONTACT: By mail: Michael Mendelsohn, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703–308–8715); e-mail: mendelsohn.mike@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received an application from Plant Genetics Systems (America), Incorporation, 7200 Hickman Road, Suite 202, Des Moines, IA 50322, to register the pesticide product Bt Cry9C Corn a plant- pesticide (EPA File Symbol 70218–R) for the protection from the European Corn Borer and other lepidopteran corn pests, containing the active ingredient *Bacillus thuringiensis* subsp. *tolworthi* Cry9C protein and the genetic material necessary for its production in corn at 0.0012 percent an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30437] (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 p.m., Monday through Friday, excluding legal holidays. The official notice record is located 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 in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30437]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Written comments filed pursuant to this notice, will be available in the Public Information and Records Integrity Branch, Information Resources and Services Division at the address provided from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: July 29, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–20987 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30418A; FRL–5734–4]

Thermo Trilogy, Inc.; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to register the pesticide products Daza Technical and Daza 4.5 WDG, containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Rita Kumar, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8291; e-mail: kumar.rita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the Fact Sheet are available from the EPA home page at the Environmental Sub-Set entry for this document under ''Regulations'' (http://www.epa.gov/fedrgstr/).

EPA issued a notice, published in the **Federal Register** of September 4, 1996 (61 FR 46642; FRL–5391–9), which announced that AgriDyne Technologies, Inc., 2401 S. Foothill Drive, Salt Lake City, UT 84109, had submitted applications to register the pesticide products Daza Technical and Daza 4.5 WDG (EPA File Symbols 62552–RE and 62552–RU), containing the new active ingredient dihydroazadirachtin at 17.5 and 4.5 percent respectively, an active ingredient not included in any previously registered products.

The applications for Daza Technical and Daza 4.5 WDG were later transferred to Thermo Trilogy, Inc., 1500 Grace Drive, Columbia, MD 21044–4098. The products were designated new EPA File Symbols (70051–RE and 70051–RU), containing the same active ingredient dihydroazadirachtin at 17.5 and 4.5 percent respectively.

The applications were approved on June 11, 1997 and June 23, 1997, respectively, as Daza Technical for manufacturing use only (EPA Registration Number 70051–29) and Daza 4.5 WDG for indoor and outdoor use in ornamentals, turf, agronomic and horticultural crops (EPA Registration Number 70051–31).

The Agency has considered all required data on risks associated with the proposed use of dihydroazadirachtin, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of dihydroazadirachtin when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on these registrations is contained in an EPA Pesticide Fact Sheet on dihydroazadirachtin.

A copy of this fact sheet, which provides a summary description of the pesticides, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, Arlington, VA 22202 (703-305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: July 29, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–20989 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–752; FRL–5732–6]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–752, must be received on or before September 8, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch (7506C), Information Resources and Services Division, Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public 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 legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
George LaRocca (PM 13).	Rm. 204, CM #2, 703–305–6100, e-mail:larocca.george@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Mary Waller Acting (PM 21).	Rm. 265, CM #2, 703–308–9354, e-mail: waller.mary@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–752] (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 p.m., Monday through Friday, excluding legal holidays. The official record is located 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 file format. All comments and data in electronic form must be identified by the docket number [PF–752] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 28, 1997.

Donald R. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. E.I. du Pont de Nemours & Co. (Dupont)

PP 4F3023

EPA has received a request to amend pesticide petition (PP 4F3023) from E.I. du Pont de Nemours & Co. (Dupont), P. O. Box 80038, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of esfenvalerate, (*S*)-cyano-(3-phenoxyphenyl)methyl (*S*)-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodity, celery. The enforcement analytical method for determining residue is gas chromatography with nitrogen phosphorus detection. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism and chemical nature of residues of fenvalerate in plants is adequately understood. The fate of fenvalerate has been extensively studied using radioactive tracers in plant and animal metabolism/nature of the residue studies previously submitted to the Agency. These studies have demonstrated that the parent compound is the only residue of toxicological significance.

2. *Analytical method*. There is a practical analytical method utilizing electron-capture gas chromotography available for enforcement with a limit of detection that allows monitoring food with residues at or above tolerance levels.

3. *Magnitude of residues*. Current tolerances are based on the sum of all isomers of fenvalerate. Fenvalerate is a racemic mixture of four isomers (about 25% each). This product was registered as Pydrin. However since 1992, an *S,S*-isomer enriched formulation, Asana (esfenvalerate), has been the only fenvalerate formulation sold in the U.S. Since the *S,S*-isomer is the insecticidally active isomer, the use rate for Asana is four times lower than that for Pydrin. A petition is pending (PP 4F4329), to convert tolerances based on the use rates for Asana (still to be expressed as the sum of all isomers). Bridging studies have shown Asana residues to be 3-4 times lower than Pydrin residues.

Residue trials were conducted on celery at four sites using Asana XL and at two sites using Pydrin Insecticides in order to bridge data from 14 residue studies previously conducted using Pydrin alone. The mean esfenvalerate residue in untrimmed celery samples treated with Asana XL was 4.40 ppm (range 1.39 to 6.51 ppm). The mean fenvalerate residue in untrimmed celery samples treated with Pydrin was 12.0 ppm (range 4.78 to 19.1 ppm). Total fenvalerate residues were approximately three times lower after application of Asana XL Insecticide than after application of Pydrin Insecticide.

Since there are no processed commodities of celery, processing studies were not conducted. In addition, celery is not an animal feed item and, therefore, secondary residues will not be an issue.

B. Toxicological Profile

The following studies have been submitted to EPA:

1. *Acute toxicity*. A rat acute oral study on esfenvalerate technical with an LD_{50} of 87.2 mg/kg. A rabbit acute dermal study on esfenvalerate with an LD_{50} of > 2,000 mg/kg. Acute inhalation on technical grade a.i. waived due to negligible vapor pressure. A primary eye irritation test using esfenvalerate in the rabbit which showed mild irritation (conjunctivitis) that cleared by day 7. A primary dermal irritation test using esfenvalerate in the rabbit which showed minimal irritation that reversed within 72 hours after treatment (MRID 00156510). A dermal sensitization test on esfenvalerate in guinea pigs which showed no sensitization (MRID 41215203).

2. *Genotoxicty*. Esfenvalerate was not mutagenic in reverse mutation assays in *Salmonella* and *E. Coli* or in HGPRT *in vitro* assay in Chinese hamster lung cells. Esfenvalerate did not induce chromosome aberrations in an *in vitro* assay in Chinese hamster ovary cells. Esfenvalerate did not induce micronuclei in bone marrow of mice given up to 150 mg/kg intraperitoneally. Esfenvalerate did not induce unscheduled DNA synthesis in HeLa cells.

3. *Reproductive and developmental toxicity*. A pilot developmental study in the rat with doses of 0, 1, 2, 3, 4, 5, and 20 mg/kg/day esfenvalerate. The maternal NOEL was 3 mg/kg/day based on maternal clinical signs of abnormal gait or mobility at 4 mg/kg/day and above. A developmental study in the rat with doses of 0, 2.5, 5, 10, and 20 mg/kg/day esfenvalerate by gavage. There was no maternal NOEL but a maternal NOEL was established in the pilot study. Maternal signs observed at 2.5 mg/kg/day were erratic jerking and extension of forelimbs, rapid side-to-side head movement and excessive grooming. There were no fetal or developmental effects in either study at 20 mg/kg/day, the highest dose tested. Therefore, the fetal/developmental NOEL was > 20 mg/kg/day.

A pilot developmental study in the rabbit with doses of 0, 2, 3, 4, 4.5, 5, and 20 mg/kg/day esfenvalerate by gavage. The maternal NOEL was 2 mg/kg/day based on excessive grooming at 3 mg/kg/day and above. A developmental study in the rabbit with doses of 0, 3, 10, and 20 mg/kg/day esfenvalerate by gavage. There was no maternal NOEL but a maternal NOEL was established in the pilot study. There were no fetal or developmental effects in either study at the highest dose tested. Therefore, the fetal/developmental NOEL was > 20 mg/kg/day.

A 2-generation feeding study with esfenvalerate in the rat at dietary levels of 0, 75, 100, or 300 ppm. The high dietary concentration was lowered to 150 ppm for the second generation. Very mild body weight effects and sores at 75 ppm in both generations were considered secondary effects caused by scratching related to skin stimulation from dermal exposure. Therefore 75 ppm (4.2 mg/kg/day for first generation parental males, 5.6 mg/kg/day for first generation parental females, 6.0 mg/kg/day for second generation parental males, and 7.3 mg/kg/day for second generation parental females) was considered an NOAEL for both adult rats and their offspring. Effects were observed in adults and pups of both generations at 100 ppm and above. Pups were no more sensitive than adult animals.

4. *Subchronic toxicity*. A 90-day feeding study in rats conducted at 0, 75, 100, 125, and 300 ppm esfenvalerate with a NOEL of 125 ppm (6.3 mg/kg/day). This study provided intermediate dose levels to supplement a 90-day feeding study in rats conducted at 0, 50, 150, 300 and 500 ppm esfenvalerate with a NOEL of 50 ppm (2.5 mg/kg/day) based on jerky leg movements at 150 ppm (7.5 mg/kg/day) and above.

A 90-day feeding study in mice conducted at 0, 50, 150, and 500 ppm esfenvalerate and 2,000 ppm fenvalerate with a NOEL of 50 ppm esfenvalerate (10.5 mg/kg/day) based on lower glucose and triglycerides at 150 ppm. Neurologic symptoms were observed with 500 ppm esfenvalerate and 2,000 ppm fenvalerate.

Three-month subchronic study in dogs is satisfied by 1-year oral study in dogs, in which the NOEL was 200 ppm esfenvalerate (5 mg/kg/day). A 21-day dermal study in rabbits with fenvalerate conducted at 100, 300, and 1,000 mg/kg/day of fenvalerate with an NOAEL of 1,000 mg/kg/day fenvalerate.

5. *Chronic toxicity*. A 1-year study in which dogs were fed 0, 25, 50, or 200 ppm esfenvalerate with no treatment related effects at any dietary level. The NOEL was 200 ppm (5 mg/kg/day). An effect level for dietary administration of esfenvalerate for dogs of 300 ppm had been established earlier in the 2-week pilot study used to select dose levels for the chronic dog study.

A 20-month study with fenvalerate in mice fed 0, 10, 30, 100, and 300 ppm fenvalerate. The NOEL was 30 ppm (6mg/kg/day) based on red blood cell effects and granulomatous changes at 100 ppm. Fenvalerate was not carcinogenic at any concentration.

An 18-month study with esfenvalerate in mice fed 0, 35, 150, and 350 ppm esfenvalerate. Mice fed the 350 ppm dose were sacrificed within the first 2 months of the study, after excessive morbidity and mortality due to self-trauma induced by pharmacological effects on dermal sensory nerves. Therefore, data collected from the 350 ppm group were not used in the evaluation of the oncogenic potential of esfenvalerate. The NOEL was 35 ppm (4.29 and 5.75 mg/kg/day for males and females, respectively) based on lower body weight and body weight gain at 150 ppm. Esfenvalerate was not carcinogenic at either the 35 ppm or 150 ppm concentrations.

A 2-year study with fenvalerate in rats fed 1, 5, 25, and 250 ppm. A 1,000 ppm group was added to establish an effect level. The NOEL was 250 ppm (12.5 mg/kg/day). At 1,000 ppm, hind limb weakness, lower body weight, and higher organ-to-body weight ratios were observed. Fenvalerate was not carcinogenic at any concentration.

6. *Animal metabolism*.After oral dosing, fenvalerate was eliminated from rats within 5 days after dosing. The metabolic pathway involved cleavage of the ester linkage followed by hydroxylation, oxidation, and conjugation of the acid and alcohol moieties.

7. *Metabolite toxicology*.The parent molecule is the only moiety of toxicological significance which needs regulation in plant and animal commodities.

8. *Other potential toxicology considerations - endocrine effects*. Estrogenic effects have not been observed in any studies conducted on fenvalerate or esfenvalerate. In subchronic or chronic studies there were no lesions in reproductive systems of males or females. In the recent reproduction study with esfenvalerate, full histopathological examination of the pituitary and the reproductive systems of males and females was conducted. There were no compound-related gross or histopathological effects. There were also no compound-related changes in any measures of reproductive performance including mating, fertility, or gestation indices or gestation length in either generation.

C. Aggregate Exposure

1. *Dietary exposure*. For purposes of assessing dietary exposure, chronic and acute dietary assessments have been conducted using all existing and pending tolerances for esfenvalerate. The toxicological endpoints used in both dietary assessments are derived from maternal NOEL's of 2.0 mg/kg/day

from rat and rabbit teratology studies. There were no fetal effects.

2. *Food*. A chronic dietary exposure assessment using anticipated residues and assuming that 100% of all crops are treated, found the percentages of the Reference Dose (RfD) utilized by the two most sensitive sub-populations to be 44% (Non-Nursing Infants <1 yr.) and 48% (Children 1-6 yrs.). This assessment also included all food tolerances for incidental food handling establishments which were set at 0.05 ppm (the limit of quantitation) since there were no detectable residues. The results have been adjusted from the study previously submitted to reflect the new RfD selected by EPA.

The Tier 3 acute dietary assessment has been rerun to incorporate current EPA thinking on processing studies and secondary residues that has arisen since the original study was submitted. The most sensitive sub-populations were determined to be: Non-Nursing Infants (< 1 yr.) with a Margin of Exposure (MOE) of 914 at the 95th percentile of exposure and an MOE of 254 at the 99th percentile of exposure; and Children (1-6 yrs.) with an MOE of 698 at the 95th percentile of exposure and 321 at the 99th percentile. The MOE's for the general population were 1,803 at the 95th percentile of exposure and 676 at the 99th percentile. This analysis used field trial residue data and market share data for the percent of crop treated. It also used Monte Carlo sampling and applied appropriate processing factors for apple juice and apple juice concentrate. Monte Carlo distribution was also used for meat and milk residues. Food handling establishment commodities were not included in the analysis because EPA methodology does not include them in Tier 3 exposure modeling.

3. *Drinking water*. Esfenvalerate is immobile in soil and, therefore, will not leach into groundwater. Additionally, due to the insolubility and lipophilic nature of esfenvalerate, any residues in surface water will rapidly and tightly bind to soil particles and remain with sediment, therefore not contributing to potential dietary exposure from drinking water. In addition, a screening evaluation of leaching potential of esfenvalerate has been conducted using DuPont's Tier 1 Ground Water Exposure Model (TIGEM, Version December 30, 1996) which is based on results from EPA's Pesticide Root Zone Model (PRZM, Version 2.0). Based on this screening assessment, the potential concentrations of esfenvalerate in shallow ground water are judged to be negligible.

4. *Non-dietary exposure*. Dietary exposure is the only significant route of chronic non-occupational exposure to esfenvalerate. However, esfenvalerate is registered for non-crop uses including spray treatments in and around commercial and residential areas, treatments for control of ectoparasites on pets, home care products including foggers, pressurized sprays, crack and crevice treatments, lawn and garden sprays, and pet and pet bedding sprays. For the non-agricultural products, the very low amounts of active ingredient they contain, combined with the low vapor pressure (1.5×10^{-9} mm Mercury at 25° C.) and low dermal penetration, would result in minimal inhalation and dermal exposure.

D. Cumulative Effects

The potential for cumulative effects of esfenvalerate and other pyrethroid insecticides that have a common mechanism of toxicity must also be considered. While risk assessment methodology has not been developed to estimate cumulative exposure to multiple pyrethroids, their similar insecticidal efficacy results in the substitution of one pyrethroid for another, rather than addition of pyrethroids. Because of the breadth of exposures included in the assumptions for esfenvalerate risk assessment, it is unlikely that there will be significant additive exposure to other pyrethroids.

These issues are extremely complex and require an extensive evaluation of a wealth of proprietary and published data across a broad range of pyrethroid insecticides in order to provide a scientifically sound interpretation upon which to base any regulatory judgments. The Pyrethroid Working Group is currently awaiting guidance from the Agency on cumulative effects. They anticipate having some preliminary evaluation data available for the Agency by August, 1997. For any interim decisions, the Agency should take into consideration the relatively benign toxicological profiles of pyrethroid insecticides and their long history of safe use.

E. Safety Determination

1. *U.S. population*.A chronic dietary exposure assessment using anticipated residues and assuming that 100% of all crops are treated, found the percentage of the RfD utilized by the General Population to be 16%. There is generally no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Therefore, there is a reasonable certainty that no harm will result from aggregate exposure to esfenvalerate residues.

A Tier 3 acute dietary exposure assessment found the General Population to have MOE's of 1,803 at the 95th percentile of exposure and 676 at the 99th percentile of exposure. These values were generated using actual field trial residues and market share data for percentage of crop treated. These results depict an accurate exposure pattern at an exaggerated daily dietary exposure rate. Thus, there is a reasonable certainty that no harm will result from aggregate exposure to esfenvalerate residues.

2. *Infants and children*. The chronic dietary assessment using the same assumptions described above, found the two most sensitive sub-populations to be non-nursing infants (<1 yr.) and children (1-6 yrs.) utilizing 44% and 48% of the RfD, respectively. In the Tier 3 acute dietary assessment that was rerun using the assumptions described above, non-nursing infants were found to have an MOE of 914 at the 95th percentile of exposure and an MOE of 254 at the 99th percentile. Children (1-6 yrs.) were determined to have an MOE of 698 at the 95th percentile and 321 at the 99th percentile. Therefore, there is a reasonable certainty that no harm will result from aggregate exposure to esfenvalerate residues.

F. International Tolerances

Codex maximum residue levels (MRL's) have been established for residues of fenvalerate on a number of crops that also have U.S. tolerances. Several of these MRL's are different than the proposed U.S. tolerances for esfenvalerate. Therefore, some harmonization of these maximum residue levels is still needed. (George LaRocca)

2. Elf Atochem North America, Inc.

PP 5F4550

EPA has received a pesticide petition (PP 5F4550) from Elf Atochem North America, Inc., 2000 Market Street, Philadelphia, PA 19103-3222, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of Thiophanate-methyl in or on the raw agricultural commodities grapes at 5.0 parts per million (ppm) and pears at 7 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at

this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of thiophanate-methyl (TM) in plants is well understood. Results of testing in wheat, lima beans, sugar beets and apples indicate that TM can be converted to methyl benzimidazole carbamate (MBC), allophanate (or FH-432), and DX-105 (sulfonated allophanate). TM, MBC, allophanate, and DX-105 are reflected in the tolerance as petitioned.

2. *Analytical method*. A proposed enforcement method for crop residue was submitted to the Agency in April 1996. The new method replaces the acid digestion method currently in widespread use. In contrast to the older method which involves acid hydrolysis of TM to MBC, the new method is capable of analyzing for TM directly and its three metabolites: MBC, allophanate, and DX-105. A proposed enforcement method for animal tissue will be submitted to the Agency in July 1997. The new method will entirely replace the current enforcement method.

3. *Magnitude of residues*—i. *Grapes*. Elf Atochem North America has conducted magnitude of the residue studies on grapes. The petition for the addition of a grape tolerance of 5 ppm was submitted June 16, 1995.

ii. *Pears*. Elf Atochem North America has conducted magnitude of the residue studies on pears. The petition for the addition of a pear tolerance of 7 ppm was submitted June 16, 1995.

B. Toxicological Profile

1. *Acute toxicity*. Technical thiophanate-methyl is practically non-toxic (Toxicity Category III) after administration by the oral, dermal and respiratory routes. Thiophanate-methyl is a skin sensitizer. Exposure to the technical product is not expected to occur to the general public or to infants or children.

2. *Genotoxicty*. Thiophanate-methyl has been extensively tested for genotoxicity and is not genotoxic. This further supports the threshold nature of the thyroid and liver effects. MBC has been tested in a wide range of genotoxicity assays. It is not a heritable gene mutagen. It does not interact with DNA, induce point mutations or result in germ cell mutations. Carbendazim (MBC) does cause numerical chromosome aberrations in experimental systems *in vitro* and *in vivo* as a result of interference with cellular tubulin rather than DNA.

3. *Reproductive and developmental toxicity*. Thiophanate-methyl induced no maternal effects and there were no teratogenic or fetotoxic effects in rats at any of the doses tested up to 2,500 ppm thiophanate-methyl. The maternal No Observable Effect Level, NOEL, is considered to be 250 ppm (12.5 mg/kg/day) based on body weight in the initial dosing phase of the study. The fetal NOEL was 2,500 ppm (125 mg/kg/day).

Thiophanate-methyl was also fed to pregnant rabbits at 0, 2, 6, and 20 mg/kg/day. The NOEL for maternal toxicity is tentatively defined as 6 mg/kg/day based on minimal body weight and food intake changes and the incidence of abortion/total litter loss. The NOEL for developmental effects is tentatively defined by EPA as 2 mg/kg/day. The Lowest Observable Effect Level, LOEL, was tentatively set at 6 mg/kg/day based on non-statistically significant dose-related increases in the incidence of asymmetric pelvis. These effects at the high dosage, 20 mg/kg/day, were well within historical control rates. This effect is not considered a harbinger of more significant findings at higher dosages. There was no evidence of any major teratogenicity. Based on this information, a NOEL of 6 mg/kg/day can be set for developmental effects.

In a 2-generation reproduction study, the thiophanate-methyl NOEL for systemic toxicity is <200 ppm based on hepatocellular hypertrophy/hyperplasia at all dose levels, decreased body weight gain in males, and increased liver and thyroid weights in both sexes at the highest dose tested. This LOEL is considered to be borderline NOEL/LOEL because the effects on the thyroid and liver at 2,100 ppm were minimal. The effects were less (fewer animals and less severe) in the succeeding generation. The NOEL is 200 ppm based on reduced body weights of the F2b pups during lactation at 630 ppm.

4. *Endocrine effects*. Thiophanate-methyl has been evaluated in both reproductive and developmental studies. No effects were observed that would indicate that the endocrine system is disrupted with regard to the reproductive system (i.e., anti-estrogenic, estrogenic, androgenic, anti-androgenic). TM does alter thyroid function through the thyroid stimulating hormone. This effect has been studied further and is documented in the rat chronic/oncogenicity study.

5. *Chronic toxicity*. Thiophanate-methyl was administered by capsule to beagle dogs for one year. Based on the decreased body weight gain in both sexes, decreased T4 levels in males and increased thyroid-to-body weight ratio and hypertrophic histologic changes in the thyroid gland in both sexes, the LOEL for thiophanate-methyl is 40 mg/kg/day and the NOEL is 8 mg/kg/day.

A combined chronic/oncogenicity feeding study was performed in rats at dosages of 0, 75, 200, 1,200 and 6,000 ppm TM for 2 years. No clinical signs attributable to TM were noted in the first 52 weeks. It was concluded that the effects of the treatment with TM included growth depression, anemia, morphological and functional changes in the thyroid and pituita, hepatocellular hypertrophy with lipofuscin, acceleratednephropathy andlipidosis of the adrenal cortex. The MTD was determined to be 1,200 ppm for both males and females. At 6,000 ppm, approximately five times the MTD, an increase in thyroid follicular cell adenomas was observed in males. Thyroid hyperplasia and hypertrophy were observed only at or above the MTD. These effects are considered to be related to the treatment related changes in hormonal homeostasis of the pituitary-thyroid axis. The NOEL is 200 ppm (8.8 mg/kg/day in males and 10.2 mg/kg/day in females) when fed for 104 weeks.

6. *Carcinogenicity*. Thiophanate-methyl was fed to male and female CD-1 mice for 18 months. At 3,000 ppm the males showed an increased incidence of hepatocellular hypertrophy and a small, but statistically significant, decrease in body weight (<8%). Transient increases in serum thyroid stimulating hormone (TSH) and in absolute and relative thyroid weights were also observed in males. At the highest dose tested (7,000 ppm) both males and females showed increased mortality and increased liver weight at both weeks 39 and 78. Females at 7,000 ppm showed a statistically significant decrease in body weight (<8%), decreased serum thyroxine (T4) at week 39, and increased heart weight at weeks 39 and 78. A dose-related statistically significant increase in the incidence of hepatocellular adenomas was observed in both sexes at 3,000 and 7,000 ppm. The systemic NOEL is 150 ppm (23.7 mg/kg/day in males and 28.7 mg/kg/day in females). The LOEL is 640 ppm based on an increased incidence of hepatocellular hypertrophy in females.

Mechanistic studies have been performed in rats and mice to elucidate the role of TM in the disruption of the thyroid. TSH, T3 and T4 are altered by TM treatment. The thyroid effects are alleviated by the addition of T4. The effects noted in both the rat, mouse and dog studies fit the threshold consideration category outlined by the Agency in the document ''Thyroid

Follicular Carcinogenesis: Mechanistic and Science Policy Considerations.''

7. *Animal metabolism*. The metabolism of thiophanate-methyl in animals is well understood. In animal studies in laying hens and lactating goats, some of the metabolites are subsequently hydroxylated. Thiophanate-methyl was also orally administered to male and female rats at dose levels of 10, 13, and 150 mg/kg. The absorption and excretion of the radioactivity was rapid. The maximum concentrations in blood were reached after about 1 to 3 hours in the two lower dose groups and in 4 to 7 hours in the higher. Less than 0.5% of the administered dose was associated with the rat's body. Among the tissues examined, the residue level of thiophanate-methyl equivalents was the highest in the thyroid and liver. About 70% of the radioactivity was quantitatively identified in the urine and feces as TM, 4-OH-TM, 5-OH-MBC and 5-OH-MBC-S (enzymatic hydrolysis from conjugated material).

8. *Metabolite toxicology*. There are three primary plant metabolites of thiophanate-methyl: MBC, allophanate, and DX105 (sulfonated allophanate). The toxic metabolite, MBC, is well understood and documented in the report of the International Programme on Chemical Safety (Environmental Health Criteria 149: Carbendazim, World Health Organization, 1993). MBC is marketed outside the U. S. under the trade name of Carbendazim.

The NOEL for MBC is 500 mg/kg/day in the rat chronic/oncogenicity and 300 mg/kg in the dog chronic studies. Three mouse oncogenicity studies were performed in three different strains of mice with mixed results. In CD-1 mice, MBC induced hepatocellular adenomas in females with a NOEL of 500 mg/kg/day. In SPF mice there was an increase in the incidence of combined hepatocellular adenomas and carcinomas. A study in NMRKf mice showed no carcinogenic effects up to a dose of 5,000 mg/kg/day. The rat oncogenicity study showed no carcinogenicity. The Agency has categorized MBC (carbendazim) as a C oncogen and assigned a Q* of 4.2×10^{-3}.

C. Aggregate Exposure

1. *Dietary exposure*. Dietary exposure is the primary route of exposure to TM.

2. *Drinking water*. Thiophanate-methyl is not expected to be found in water. The half-life of TM is very short in soil and water. When metabolized or chemically converted to MBC, none is expected to leave the soil. Little to no TM exposure is expected in drinking water. In the ''EPA Pesticide in Groundwater Database: A Compilation of Monitoring Studies: 1971-1991: National Summary'' no TM was detected. Based on the environmental fate data, TM or its metabolite MBC is not expected to leach into water systems. There are no uses of TM that are expected to impact water.

3. *Non-dietary exposure*. Thiophanate-methyl has turf use patterns which are primarily commercial (golf course, turf farms). Children are not primary users of golf courses and would have little opportunity for exposure as the result of this use pattern. Homeowner use is expected to be low. Based on sales figures use on lawns should not exceed 1%. Product is applied by commercial applicators. The dermal exposure studies showed no toxicity in a limit test at 2,000 mg/kg. The dermal absorption of thiophanate-methyl, and carbendazim is significantly lower than the oral route of exposure. The NOEL for a 21-day dermal exposure study in rats is 300 mg/kg/day and dermal irritation is 1,000 mg/kg/day dosage.

Based on the limited use of the product on lawns and the low dermal toxicity, little to no contribution to the TM risk cup is expected through non-occupational exposure.

D. Cumulative Effects

Benomyl, MBC, thiabendazole and TM have been evaluated for similar toxicity patterns because of the potential structure-activity relationship. TM, although displaying some similarities to each benzimidazole, is also very different. These benzimidazoles do not share a toxicity profile that would indicate there is common mode of action.

The toxic effects of TM are very different from those published on MBC or benomyl. TM toxicity primarily involves the thyroid. In contrast, no disruption of the thyroid-pituitary-liver axis is documented in either the carbendazim or the benomyl studies. Secondary effects on the liver could be seen in common, but these too are very different. If driven by MBC alone, TM should have a dose effect much higher than MBC. In fact, it is two to three times lower. Reproductive, developmental and genetic toxicity are also different between TM and MBC. Likewise, thiabendazole is different than TM. It does not metabolize to MBC and shows significant differences from TM in the type of toxicities observed. Therefore, there is no scientific basis for aggregating this class of fungicides, due to a lack of common mechanisms of toxicity.

E. Safety Determination

1. *U.S. population*. Assessments have been made for chronic, acute, and cancer risk. In all assessments, there is a reasonable certainty of no harm associated with TM residues on food.

2. *Non-cancer chronic dietary safety determination*. For chronic assessments other than cancer, the Reference Dose (RfD) is 0.08 mg/kg/day based on the results of the chronic dog study. Because the data base is complete, a 100-fold safety factor can be used. The maximum permitted intake (MPI) of TM for a 60 kg human is calculated to be 4.8 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.24002 mg/day. Based on the Agency's calculations, this represents about 5% utilization of the MPI. The addition of grapes would add only 0.00000895 mg/kg/day and pears would add 0.00000512 mg/kg/day. Using anticipated residue rather than tolerances, the actual utilization of the MPI will be significantly lower.

3. *Acute dietary safety determination*. The acute dietary risk Tier 3 analysis has been performed using a Monte Carlo analysis. The NOEL used was from a developmental study in rabbits (6 mg/kg/day). For the total U.S. population, non-nursing infants, children aged 1 to 6, and women aged 13 to 50 all margins of exposure (MOE) exceeded 100 at any percentile evaluated. At the 95 percentile of per-capita days, the MOE for all uses including pending actions for the U.S. population is 3,468; for non-nursing infants the MOE is 1,123; for all infants the MOE is 1,260; children ages 1 to 6 it is 1,620; children ages 7 to 12 the MOE is 2,911 and for females 13 to 50 the MOE is 7,219. The highest exposed sub-population, non-nursing infants, had an MOE of 562 at the 99th percentile. There is an adequate acute dietary safety margin for all current and intended uses of TM.

4. *Cancer risk assessment*. Thiophanate-methyl is regulated based on the metabolite MBC with a designated Q* of 4.2×10^{-3} based on mouse liver tumors. The lifetime cancer dietary risk is calculated by summing all sources of MBC that would result from TM use. Residues measured as MBC on plants were added to the residues from TM that could be converted biologically upon ingestion to MBC. Residue values were averaged and adjusted for percent of the crop treated. The bio-conversion factor was 36.5% based on the rat metabolism study using the low dose preconditioned treatment. Using the USDA's Continued Survey of Food Intake by Individuals (CSFII) conducted

from 1989 through 1992 and field trial residue data, MBC exposure was calculated. This exposure multiplied by the cancer potency factor (Q*) generates the potential cancer risk attributable to MBC at the 95% confidence interval. Life-time cancer risk for the total U.S. population for all seasons is calculated to be 2.71 x 10^{-7}. With the addition of grape and pear uses the lifetime cancer risk is 2.89 x 10^{-7}. The most sensitive sub-population is non-hispanic other than black or white, with a cancer risk of 4.56 x 10^{-7}.

5. *Infants and children*. Based on the acute and chronic dietary assessments, there is reasonable certainty of no harm to children who consume food treated with TM. Potential exposure from water or non-occupational exposure is minimal. Inhalation and dermal exposure is unlikely. The acute MOEs for dietary ingestion are large.

The potential of TM to induce toxic effects in children at a greater sensitivity than the general population has been assessed by the rat and rabbit developmental and 2-generation reproduction studies. No major teratogenic or fetotoxic effects were present in the absence of maternal toxicity. The TM 2-generation reproduction study showed thyroid and liver effects in both the parental and first generation pups. The effects were greater in the parental animals than in subsequent generations. This would indicate that there is no greater sensitivity for neo-nates, infants and children to TM than the general population. The reproductive and developmental data base is complete. There is no need to impose an additional safety factor to protect infants and children. Based on the level of potential exposure and similar sensitivity to the adult population, infants and children are well protected by the current TM regulatory policy.

F. International Tolerances

The CODEX Maximum Residue Limits (MRL) for thiophanate-methyl are expressed as the metabolite MBC. The grape MRL is 10 mg/kg and the pear MRL is 5 mg/kg. (Mary Waller)

[FR Doc. 97–20990 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5871–7]

De Minimis Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, Peerless Industrial Paint Coatings Site, City of St. Louis, St. Louis County, Missouri; Notice of Request for Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice of request for public comment.

SUMMARY: The Environmental Protection Agency (EPA) has entered into a *de minimis* administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9622(g). The settlement is intended to resolve the liability of Westinghouse Electric Corporation (Westinghouse) for the response costs incurred and to be incurred at the Peerless Industrial Paint Coatings Site, City of St. Louis, St. Louis County, Missouri.

DATES: Written comments must be provided on or before September 8, 1997.

ADDRESSES: Comments should be addressed to the Regional Administrator, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101 and should refer to: In the Matter of the Peerless Industrial Paint Coatings Superfund Site, City of St. Louis, St. Louis County, Missouri, EPA Docket Nos. VII–97–F–0001.

FOR FURTHER INFORMATION CONTACT: Denise L. Roberts, Assistant Regional Counsel, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551–7559.

SUPPLEMENTARY INFORMATION: Westinghouse Electric Corporation (''Westinghouse'' or *de minimis* party''), the settling party, is a *de minimis* generator of hazardous substances found at the Peerless Industrial Paint Coatings Site, which is the subject Superfund Site. On April 21, 1997, Region VII entered into a *de minimis* administrative settlement to resolve claims under Section 122(g) of CERCLA, 42 U.S.C. 9622(g).

The Peerless Industrial Paint Coatings Site (the ''Site'') is located in St. Louis at 1265 Lewis Street, St. Louis, Missouri, approximately ¼ mile north of downtown St. Louis in an industrial section of the city. The *de minimis* party, Westinghouse, is a corporation that operated a facility in Manor, Pennsylvania from 1937 until July 1995 which manufactures and sells paints and resins to commercial customers. Westinghouse sold polyester resins and alkyds to Peerless Industrial Paint Coatings (''Peerless''), a St. Louis corporation, at very low prices. Westinghouse admitted that it sold secondary coatings or materials to Peerless at very low prices, which were less than the costs of disposal for hazardous wastes at an authorized permitted facility. Peerless was a manufacturer of paints and magazine coatings that purchased large quantities of paint materials at low prices and accumulated more materials on-site than could be used. In June 1993, the EPA began a removal action at the site. Approximately 3500 drums of hazardous substances that demonstrated the characteristic of ignitability were removed from the facility at the cost of $1,089,062.71.

The settlement has been approved by the U.S. Department of Justice because the response costs in this matter exceed $500,000.00. The EPA estimates the total past and future costs will be approximately $1,342,357.05. Pursuant to the Administrative Order on Consent, the *de minimis* party is responsible for its attributable share of 1.71 percent of the hazardous substances removed from the Site. Westinghouse had agreed to pay a total of $27,920.07 which is further detailed as follows: $17,720.07 is its attributable share of past costs, $5,100.00 is its attributable share of anticipated future costs; and $5,100.00 is a premium of 100% for future cost overruns. The EPA determined these amounts to be the *de minimis* party's fair share of liability based on the amount of hazardous substances found at the Site and contributed by the settling party. The settlement includes contribution protection from lawsuits by other potentially responsible parties as provided for under section 122(g)(5) of CERCLA, 42 U.S.C. 9622(g)(5).

The *de minimis* settlement provides that the EPA covenants not to sue the *de minimis* party for response costs at the Site or for injunctive relief pursuant to Sections 106 and 107 of CERCLA and section 7003 of the Resource Conservation and Recovery Act of 1980, as amended (RCRA), 42 U.S.C. 6973. The settlement contains a reopener clause which nullifies the covenant not to sue if any information becomes known to the EPA that indicates that the parties no longer meet the criteria for a

de minimis settlement set forth in Section 122(g)(1)(A) of CERCLA, 42 U.S.C. 9622(g)(1)(A). The covenant not to sue does not apply to the following matters:

(a) Liability for failure to meet a requirement of the Administrative Order on Consent;

(b) Liability resulting from any future arrangement for disposal or treatment of a hazardous substance, pollutant or contaminant at the Site after the effective date of the Administrative Order on Consent;

(c) Criminal liability; or

(d) Liability for damages or injury to, destruction of, or loss of the natural resources.

The *de minimis* settlement will become effective upon the date which the EPA issues a written notice to the party that the statutory public comment period has closed and that comments received, if any, do not require modification of or EPA withdrawal from the settlement.

William Rice,

Acting Regional Administrator.

[FR Doc. 97–20978 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

August 4, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 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 October 7, 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 Commissions, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–XXXX.

Title: Public Notice—Procedures for Petitions for Preemption under Section 253 of the Communications Act.

Form No.: N/A.

Type of Review: New collection.

Respondents: Individuals or households; business or other for-profit entities; state, local or tribal government.

Number of Respondents: 60.

Estimated Hour Per Response: 125 hours per response (average).

Frequency of Response: On occasion reporting requirement.

Estimated Total Annual Burden: 7,500 hours.

Needs and Uses: Section 253 of the Communications Act of 1934, as amended, added by the Telecommuncations Act of 1996, requires the Commission, with certain important exceptions, to preempt the enforcement of any State or local statute or regulation, or other State or local legal requirement (to the extent necessary) that prohibits or has the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service. The Commission's consideration of preemption begins with the filing of a petition by an aggrieved party. The petition is placed on public notice and commented on by others. The Commission's decision is based on the public record, generally composed of the petition and comments. The Public Notice the Commission proposed to release establishes guidelines relating to its consideration of preemption petitions. Consideration of a petition requesting Commission action pursuant to Section 253 necessarily will involve state or local statutes, regulations, ordinances, or other legal requirements that will likely be initially unfamiliar to the Commission. In order to render a timely and informed decision, the Commission expects petitioners and commenters to provide it with relevant information sufficient to describe the legal regime involved in the controversy and to establish the factual basis necessary for decision. The Commission will use the information to discharge its statutory mandate relating to the preemption of State or local statutes or regulations, or other State or local legal requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–21036 Filed 8–7–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:02 a.m. on Tuesday, August 5, 1997, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider certain corporate, supervisory, and administrative enforcement activities.

In calling the meeting, the Board determined, on motion of Director Joseph H. Neely (Appointive), seconded by Director Nicolas P. Restinas (Acting Director, Office of Thrift Supervision), concurred in by Ms. Leann Britton, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), and Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii)), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC

Dated: August 5, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–21124 Filed 8–6–97; 12:39 pm]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

[97–N–6]

Pilot Mortgage Program Proposed by the Federal Home Loan Bank of Seattle

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is requesting public comment prior to its consideration of a proposal by the Federal Home Loan Bank of Seattle (FHLBank of Seattle) to initiate a pilot mortgage purchase program. The Finance Board will review and consider all comments prior to taking action on the proposal. The FHLBank of Seattle is proposing to invest up to $25 million total in Federal Housing Agency (FHA)-insured loans originated by its members and non-member mortgagees to affordable housing developers and local government agencies. The loans would finance rent-to-own programs for low- and moderate-income households wishing to become homeowners. The FHLBank of Seattle has identified a credit need for the program and anticipates that the program can provide more favorable pricing than would otherwise be available while preserving the Bank's and System's triple-A rating.

DATES: Comments must be received in writing on or before September 8, 1997.

ADDRESSES: Individuals wishing to submit comments should provide written comments by mail to: Elaine L. Baker, Secretary to the Board, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Greg Goggans, Senior Financial Analyst, Office of Policy, (202) 408–2878, or Roy S. Turner, Jr., Attorney-Advisor, (202) 408–2512, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Home Loan Bank Act (Bank Act) provides that the part of the assets of each Federal Home Loan Bank (Bank) except reserves and amounts provided for at 12 U.S.C. 1431(g)) not required for advances to members, may be utilized for certain types of investments. This includes, to such extent as the Bank may deem desirable and subject to such regulations, restrictions, and limitations as may be prescribed by the Finance Board, such securities in which fiduciary and trust funds may be invested under the laws of the State in which the Bank is located. See 12 U.S.C. 1431(h). The Finance Board implements the investment provisions of the Bank Act through the Financial Management Policy (FMP).

The FMP establishes a framework within which the Banks are allowed to implement prudent and responsible financial management strategies that assist them in accomplishing their mission, and in generating income sufficient to meet their financial obligations, in a safe, sound, and profitable manner. Section II of the FMP specifies certain types of assets as permissible investments to the extent they are specifically authorized under 12 U.S.C. 1431(g), 1431(h), or 1436(a) of the Bank Act, or to the extent a Bank has determined that they are securities in which fiduciary or trust funds may be invested under the laws of the state in which the Bank is located. Investments that support housing and community development are permitted, provided that the Bank:

Ensures the appropriate levels of expertise, establishes policies, procedures, and controls, and provides for any reserves required to effectively limit and manage risk exposure and preserve the triple-A rating of the Bank and the Federal Home Loan Bank System:

Ensures that its involvement in such investment activity assists in providing housing and community development financing that is not generally available, or that is available at lower levels or under less attractive terms;

Ensures that such investment activity promotes (or at the very least, does not detract from) the cooperative nature of the System;

Provides a complete description of the contemplated investment activity (including a comprehensive analysis of how the above three requirements are fulfilled) to the Finance Board; and

Receives written confirmation from the Finance Board, prior to entering into such investments, that the above investment eligibility standards and requirements have been satisfied.

II. Pilot Proposal

The FHLBank of Seattle proposes investing up to a total of $25 million in FHA-insured loans originated by its members and non-member mortgagees to Housing and Urban Development (HUD)-eligible public and private non-profit organizations such as affordable housing developers and local government agencies. The purpose of the loans will be to finance rent-to-own programs for low- and moderate-income households. The loans will be 15- to 30-year, fully amortizing, fixed-rate mortgages that are FHA-insured under Section 203 of the Federal Housing Act. The terms of the proposal, which have not yet been considered by the Finance Board and are subject to change as part of the review process, are set out below.

Borrowers (non-profit organizations and local government agencies) will enter into ''lease to own'' arrangements with low- and moderate-income households wishing to become homeowners. A portion of each lease payment will be set aside until a sufficient amount is accumulated to make the 3 percent down-payment required for an FHA-insured loan. At that point, the tenant(s), if qualified under FHA program guidelines, will assume the mortgage. FHA insurance will be maintained throughout the life of the loan.

The loans will be originated by the FHLBank of Seattle's members and non-member mortgagees, that have been certified by HUD as Direct Endorsement Underwriters. The originators or other designated program participants will service the loans and must be HUD-FHA-approved or Government National Mortgage Association (GNMA)-approved servicing agents.

According to the proposal, all risk associated with these loans are manageable. All loans will be underwritten to FHA standards and the FHA will guarantee the principal repayment of each loan. The FHLBank of Seattle will sign a loan purchase and servicing agreement with each program participant. The originators will service the loan or contract with a FHLBank of Seattle-approved loan servicer. The servicer will handle all assignments or foreclosure activities, and assume responsibility for any shortfall in interest income. The servicer will absorb any interest losses. The servicing agreement will require the servicer to recover any expenses, such as foreclosures, from FHA. The agreement will include a buy-back clause for any loan determined to be ineligible for FHA insurance and/or not in compliance with State and Federal housing regulations. The FHLBank of Seattle will periodically review financial statements of all servicers and will monitor whether servicers remain in good standing with HUD.

The FHLBank of Seattle believes that because of these risk management efforts, losses are not probable and estimable and reserves are therefore unnecessary under generally accepted accounting principles. The Finance Board has final authority as to what reserves, if any, may be required for this program.

Interest-rate risk management will be handled the same as a pass-through

security with a mix of consolidated obligations and other asset/liability management tools. Liquidity risk will be mitigated by the relatively small size of the pilot.

The FHLBank of Seattle will purchase the loans at a price/yield equivalent to that quoted for loans securitizing GNMA I securities instead of the lower price/yields for loans securitizing GNMA II securities. The FHLBank of Seattle indicates that the FHA-insured loans that will be purchased under the program are normally securitized into GNMA II securities instead of GNMA I securities because of the low volume of such loans, longer time to originate, and wider range of interest rates.[1]

The proposal also notes that the pilot will assist in providing financing under more attractive terms than are generally available. Program participants may sell such loans for immediate delivery to FHLBank of Seattle instead of accumulating a pool of loans required to securitize a GNMA security. This reduces the cost to the lender since it no longer has to hold the loans and hedge the interest rate risk associated with the loans until such time as sufficient quantity is accumulated for GNMA pooling. The lender may request from the FHLBank of Seattle a forward commitment of up to six months on a loan rate. Additionally, the FHLBank of Seattle will pay a servicing fee of 50 basis points to the servicer (lender) instead of the 44 basis points paid by GNMA (net of a 6 basis points fee for insurance).

The FHLBank of Seattle also believes that the pilot advances the mission of the Bank System because the pilot will stimulate more lending for lease-to-own programs. According to the FHLBank of Seattle, lease-to-own programs are costly for lenders to develop because of the low mortgage amounts as well as the higher costs associated with underwriting loans to non-profits and local housing agencies compared to loans to families/individuals. The FHLBank of Seattle intends to work to reduce the amount of time and hence the cost of underwriting the loans by providing technical advice to lenders and borrowers. In addition, origination of these types of loans for sale to the FHLBank of Seattle creates an opportunity for member and nonmember mortgagees to transact Community Reinvestment Act-eligible lending at more favorable rates.

Finally, the FHLBank of Seattle believes that its proposal would enhance the cooperative nature of the System because the loans will be originated by members and approved non-member mortgagees of the FHLBank of Seattle. In addition, the FHLBank of Seattle will only purchase such loans directly from these originators and thereby provide a secondary market outlet for them. Members have informed the FHLBank of Seattle that the lack of a secondary market outlet has impeded them from making this type of loan. The proposal indicates that the pilot will therefore enhance the flow of credit to an under-served segment of the mortgage market.

Dated: August 1, 1997.

William W. Ginsberg,

Managing Director.

[FR Doc. 97–20815 Filed 8–7–97; 8:45 am]

BILLING CODE 6725–01–M

[1] Single-Family pools for GNMA I securities are required to be $1 million or more while such pools for GNMA II securities have a minimum of $250,000. Loans placed into GNMA I securities may not vary by more than 50 basis points in rate whereas loans securitized into GNMA II securities may vary by 50 to 150 basis points in rate. The small pool size and the broader range enables more loans to fit into the GNMA II pools.

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register.**

Agreement No.: 202–011284–030.

Title: Equipment Interchange Discussion Agreement.

Parties:

A.P. Moller-Maersk Line
American President Lines
Hapag-Lloyd Container Linie GmbH
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha Line
Orient Overseas Container Line, Inc.
Orient Overseas Container Line (UK) Ltd.
P&O Nedlloyd B.V.
P&O Nedlloyd Limited
Sea-Land Service, Inc.

Synopsis: The proposed Amendment modifies the authority of the Agreement to include discussion of matters within the scope of EIDA which were pending, or decided by other carrier agreements to which one or more of the members is a party. The authority is further modified to authorize the members to meet with the owners or operators of inland equipment depots, equipment pools or inland terminals to discuss and agree upon the terms, conditions and procedures related to the use of such facilities, as well as joint leases, joint contracts and joint purchase of such facilities. The Amendment also modifies Article 7 of the Agreement to create an Associate Membership, which permits new members to join the Agreement and participate in all discussions and agreements, with the exception of free time and detention charges. Article 8 is modified to state what matters the Associate Members may vote upon.

Agreement No.: 202–011375–031.

Title: Trans-Atlantic Conference Agreement.

Parties:

Atlantic Container Line AB
Cho Yang Shipping Co. Ltd.
Sea-Land Service, Inc.
A.P. Moller-Maersk Line
P&O Nedlloyd B.V.
Hapag-Lloyd Container Linie GmbH
Mediterranean Shipping Co., S.A.
DSR–Senator Lines
Pol-Atlantic
Orient Overseas Container Line (UK) Ltd.
Transportacion Maritima Mexicana, S.A. de C.V.
Neptune Orient Lines Ltd.
Hyundai Merchant Marine Co., Ltd.
P&O Nedlloyd Limited
Nippon Yusen Kaisha
Tecomar S.A. de C.V.
Hanjin Shipping Co., Ltd.

Synopsis: The proposed modification provides that Agreement parties are not precluded from sharing vessels with and or chartering space to or from vessel operating common carriers that are not Agreement parties, and that parties with related companies that offer non-vessel operating common carrier service in the trade pursuant to independent tariffs, shall not be obligated to ship only with Agreement parties. The modification also specifies that the parties are not authorized to coordinate sailing schedules, except when necessary for ad hoc, sporadic or emergency movements.

Agreement No.: 203–011584.

Title: NYKNOS/HUAL Rate Discussion and Voluntary Rate Adherence Agreement.

Parties: NYKNOS (East/West) Joint Service (FMC No. 207–011441) Hoegh-Ugland Auto Liners A/S

Synopsis: The proposed Agreement would permit the parties to meet, discuss, and agree upon rates, terms, and conditions of service in the trade

between United States Atlantic and Gulf Coast ports and ports in the Eastern Mediterranean Sea, Red Sea, and Arabian Gulf. Adherence to any agreement reached would be voluntary.

By Order of the Federal Maritime Commission.

Dated: August 4, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–20918 Filed 8–7–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register.**

Agreement No.: 224–201031.

Title: Jacksonville/NPR Truck Scale Weigh Rates Agreement.

Parties: Jacksonville Port Authority (''Port'') NPR, Inc. (''NPR'').

Synopsis: The Agreement establishes truck scale weigh rates for NPR cargo arriving at or departing from the Port's terminal facilities.

Dated: August 5, 1997.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–21035 Filed 8–7–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Submission to OMB Under Delegated Authority

Background

Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Chief, Financial Reports Section—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860)

Final approval under OMB delegated authority of the extension for three years, without revision, of the following report:

1. Report title: Report of Changes in Foreign Investments (Made Pursuant to Regulation K)

Agency form number: FR 2064

OMB Control number: 7100-0109

Frequency: On occasion

Reporters: U.S. member banks, bank holding companies, and Edge and agreement corporations

Annual reporting hours: 750

Estimated average hours per response: 0.50

Number of respondents: 50

Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 602, 625 and 1844) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: Member banks, Edge and agreement corporations, and bank holding companies are required to file the FR 2064 to record changes in their international investments. Sections 25 and 25A of the Federal Reserve Act (FRA) and Sections 4(c)(13) and 4(c)(14) of the Bank Holding Company Act govern the formation of Edge and agreement corporations and export trading companies and the international and foreign activities of U.S. banking organizations, including those of national banks, state member banks, Edge and agreement corporations, and bank holding companies. Pursuant to these statutory provisions, the Board adopted various regulatory provisions, all of which were consolidated in the Board's Regulation K, setting forth the procedures for making investments and engaging in activities under these statutes. Investments made under these procedures are reported on the FR 2064 whenever the reporting criteria are met. The FR 2064 report is filed no later than the last day of the month following the month in which the reportable investment occurred.

On December 29, 1995, the Board published proposed revisions to the FR 2064 in the *Federal Register* (60 FR 67357 - 67359) to be implemented as of March 31, 1996. On April 4, 1996, the Board published another notice (61 FR 15070) indicating that the implementation of these changes would be delayed while the Board contemplated revisions to Regulation K. Since the Board is still reviewing possible revisions to Regulation K, the FR 2064 has been extended for three years without change. When the review of Regulation K is complete, the Board will coordinate changes to the FR 2064 with any changes to the relevant portions of Regulation K. Respondents should continue to use the current form and instructions until further notice.

Board of Governors of the Federal Reserve System, August 4, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–20919 Filed 8–7–97; 8:45 am]

Billing Code 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 22, 1997.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Kirk F. and Patricia A. McConachie, Andover, Kansas; to acquire voting shares of Andover Financial Corporation, Andover, Kansas, and thereby indirectly acquire The Andover State Bank, Andover, Kansas.

Board of Governors of the Federal Reserve System, August 4, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–20921 Filed 8–7–97; 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 September 2, 1997.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Packers Management Company, Omaha, Nebraska, and thereby indirectly acquire Packers Bank, Omaha, Nebraska.

2. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of First Valley Bank Group, Los Fresons, Texas, and thereby indirectly acquire First Valley Delaware Financial Corp, Dover, Delaware, and First Valley Bank, Harlingen, Texas.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Keene Bancorp Employee Stock Ownership Plan & Trust, Keene, Texas; to acquire 35.22 percent of the voting shares of Keene Bancorp, Inc., Keene, Texas, and thereby acquire First State Bank, Keene, Texas.

Board of Governors of the Federal Reserve System, August 4, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–20922 Filed 8–7–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 97-20271) published on page 41387 of the issue for Friday, August 1, 1997.

Under the Federal Reserve Bank of Atlanta heading, the entry for Rockdale National Bankshares, Inc., Conyers, Georgia, is revised to read as follows:

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Rockdale National Bankshares, Conyers, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Rockdale National Bank, Conyers, Georgia (in organization).

Comments on this application must be received by August 22, 1997.

Board of Governors of the Federal Reserve System, August 4, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–20923 Filed 8–7–97; 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 September 2, 1997.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Emprise Financial Corporation, Wichita, Kansas; to acquire up to 9.9 percent of Mid Continent Bancshares, Inc., El Dorado, Kansas, and Mid Continent Federal Savings & Loan Association, El Dorado, Kansas, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 4, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–20920 Filed 8–7–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System .

TIME AND DATE: 10:00 a.m., Wednesday, August 13, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 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: August 6, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–21125 Filed 8–6–97; 12:40 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science

Federal Policies Affecting the Future of Academic Health Centers

AGENCY: Office of Public Health and Science.

ACTION: Correction to notice of two public hearings and comment.

SUMMARY: This notice corrects an announcement published in the **Federal Register**: July 29, 1997 (Volume 62, Number 145) page 40532–40533.

CORRECTION: On page 40532, column 2, in **DATES** section, the deadline for receiving requests to give oral testimony is changed from August 7, 1997 to August 12, 1997. The hearing scheduled on August 25, 1997 in Houston, TX is changed to September 2, 1997 in Houston, TX, with the starting time to be announced. Written comments accompanying oral testimony for the September 2, 1997 hearing is changed from August 11, 1997 to August 13, 1997. Submission deadline for final written comments, without oral testimony, and for final written comments accompanying oral testimony is changed from August 23, 1997 to August 25, 1997.

Dated: August 5, 1997.

Ciro V. Sumaya,

Deputy Assistant Secretary for Health

[FR Doc. 97–21105 Filed 8–7–97; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA); Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel II in August.

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–7390.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual contract proposals. This discussion could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. This discussion may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c) (3),(4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: August 12, 1997.

Place: Residence Inn—Bethesda, 7335 Wisconsin Avenue, Gatehouse Boardroom, Bethesda, Maryland 20814.

Closed: August 12, 1997, 8:30 a.m.–5:00 p.m.

Contact: Herman Diesenhaus, 7A102, Rockwall II Building, Telephone: 301–443–6575 and FAX: 301–480–3144.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: August 5, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–21038 Filed 8–7–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA); Notice of Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panel I in August.

A summary of the meetings and rosters of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: 301–443–7390.

Substantive program information may be obtained from the individual named as Contact for the meetings listed below.

The meetings will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, these meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: August 25, 1997.

Place: Westin Hotel, 2350 M Street, NW., Dupont Room, Washington, DC 20037–5788.

Closed: August 25, 1997 9:00 a.m.–5:00 p.m.

Panel: Center for Mental Health Services Coalminers and Farmers Outreach Program.

Contact: Ferdinand W. Hui, Ph.D., Room 17–89, Parklawn Building, Telephone: 301–443–9919 and FAX: 301–443–3437.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Date: August 25, 1997.

Place: Westin Hotel, 2350 M Street, NW., Dupont Room, Washington, DC 20037–5788.

Closed: August 25, 1997 9:00 a.m.–3:00 p.m.

Panel: Center for Substance Abuse Prevention U.S.-Mexico Border Initiative.

Contact: Stanley Kusnetz, M.S. Ed., Room 17–89, Parklawn Building, Telephone: 301–443–3042, and FAX: 301–443–3437.

Dated: August 5, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–21039 Filed 8–7–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4240–C–02]

Notice of Funding Availability Community Partnerships for Resident Uplift and Economic Development; Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability (NOFA); correction.

SUMMARY: On July 29, 1997 (62 FR 40642), a notice was published in the **Federal Register** announcing the availability of approximately $5 million in FY 1997 funding under a joint initiative sponsored by HUD, the Department of Health and Human Services, the Department of Agriculture, and the Boys & Girls Clubs of America. The purpose of the initiative, entitled ''Community Partnerships for Resident Uplift and Economic Development,'' is to create neighborhood-based programs to move families residing in public housing and the adjacent neighborhood from welfare to self-sufficiency. The July 29, 1997 NOFA contained a typographical error in the section specifying the necessary Public Housing Management Assessment Program score for Housing Authority co-applicants. This document makes the necessary correction.

DATES: This notice does not affect the deadline date provided in the July 29,

1997 NOFA. Applications must still be physically received at the correct HUD Headquarters Office on or before September 12, 1997 at 3:00 pm, local time.

FOR FURTHER INFORMATION CONTACT: Patricia Arnaudo, Office of Community Relations and Involvement, 451 7th Street SW, Washington, DC 20410, telephone (202) 619–8201 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On July 29, 1997 (62 FR 40642), a NOFA was published in the **Federal Register** announcing the availability of approximately $5 million in FY 1997 funding under a joint initiative entitled ''Community Partnerships for Resident Uplift and Economic Development.'' The sponsors of this initiative are three separate Federal departments (HUD, the Department of Health and Human Services, and the Department of Agriculture), as well as a major national private sector organization (the Boys & Girls Club of America).

The purpose of the joint initiative is to create neighborhood-based programs to move families residing in public housing and the adjacent neighborhood from welfare to self-sufficiency. To accomplish this, the sponsors are pursuing and linking two (2) primary strategies:

1. Encourage the creation of employment and business development opportunities for low-income people through business, physical or commercial development in the neighborhood; and

2. Provide an array of supportive services in neighborhood-based comprehensive service centers (and accessible to persons with disabilities) to enable participants to successfully make and sustain the transition to self-sufficiency.

Among other application requirements, the July 29, 1997 NOFA specified the necessary Public Housing Management Assessment Program (PHMAP) score for Housing Authority (HA) co-applicants. This section of the NOFA contained a typographical error. Specifically, the July 29, 1997 NOFA provided that an HA co-applicant must provide documentation that its most recent PHMAP score included an overall ''B'' average (62 FR 40649). The NOFA should have correctly required an overall ''C'' average on the HA's most recent PHMAP score. This document makes the necessary correction.

Accordingly, FR Doc. 97–19917, Notice of Funding Availability for the Community Partnerships for Resident Uplift and Economic Development, published in the **Federal Register** on July 29, 1997 (62 FR 40642), is corrected as follows:

1. On page 40649, first column, paragraph (9), PHMAP Score, is corrected to read as follows:

(9) *PHMAP Score:* An HA co-applicant must provide documentation that its last Public Housing Management Assessment Program (PHMAP) score included an overall ''C'' average, as well as a ''C'' on Indicator #7, Resident Services and Community Building, and a ''C'' on Indicator 6(a), Operating Reserves. (See 24 CFR Part 901 published December 30, 1996.) If the HA's most recent PHMAP score was based on the prior PHMAP regulation, the HA must provide documentation that its overall score included an overall ''C'' average, as well as a ''C'' on Indicator #11, Resident Initiatives, and at least a ''C'' on Indicator #9, Operating Reserve. No HA co-applicant designated as ''troubled'' as a result of its most recent PHMAP score is eligible for this initiative.

Dated: August 5, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–20992 Filed 8–7–97; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4235–N–15]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: COE: Mr. Bob Swieconek, Army Corps of Engineers, Management and Disposal Division, Pulaski Building, Room 4224, 20 Massachusetts Avenue NW., Washington, DC 20314–1000; (202) 761–1749; GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets NW., Washington, DC 20405; (202) 501–2059; NAVY: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–7342; (These are not toll-free numbers).

Dated: July 31, 1997.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 08/08/97

Suitable/Available Properties

Buildings (by State)

Alaska

10 Office Buildings
Anchorage Native Medical Center
255 Gambell St.
Anchorage Co: Anchorage AK 99501–
Landholding Agency: GSA
Property Number: 549710002
Status: Surplus
Comment: High maintenance costs, does not meet Fed. seismic standards, presence of asbestos, PCB's, lead paint
GSA Number 9–F–AK–750

3 Storage Buildings
Anchorage Native Medical Center
255 Gambell St.
Anchorage Co: Anchorage AK 99501–
Landholding Agency: GSA
Property Number: 549710003
Status: Surplus
Comment: High maintenance costs, does not meet Fed. seismic standards, presence of asbestos, PCB's, lead paint
GSA Number 9–F–AK–750

1 Hospital
Anchorage Native Medical Center
255 Gambell St.
Anchorage Co: Anchorage AK 99501–
Landholding Agency: GSA
Property Number: 549710004
Status: Surplus
Comment: 173,336 sq. ft., high maintenance costs, does not meet Fed. seismic standards, presence of asbestos, PCB's, lead paint
GSA Number 9–F–AK–750

California

Bldg. 29
Naval Support Activity
Monterey Co: Monterey CA 93943–
Landholding Agency: Navy
Property Number: 779730013
Status: Unutilized
Comment: 2500 sq. ft., wood, poor condition, presence of asbestos, most recent use—storage

Bldg 218
Naval Support Activity
Monterey Co: Monterey CA 93943–
Landholding Agency: Navy
Property Number: 779730014
Status: Unutilized
Comment: 463 sq. ft., presence of asbestos, most recent use—marine biology lab, environmentally sensitive

Colorado

Residence
Cherry Creek Lake Project
3311 Parker Road
Aurora Co: Arapahoe CO 80112–
Landholding Agency: COE
Property Number: 319720001
Status: Excess
Comment: 1000 sq. ft. house and 900 sq. ft. garage, needs rehab, off-site use only

Storage Shed
Cherry Creek Lake Project
3311 Parker Road
Aurora Co: Arapahoe CO 80112–
Landholding Agency: COE
Property Number: 319720002
Status: Excess
Comment: 600 sq. ft. w/dirt floor, off-site use only

District of Columbia

Dalecarlia Reservoir
Bldgs. 5900, 5902, 5904, 5906, 5908, 5910
Washington Aqueduct
Washington DC 20016–
Landholding Agency: COE
Property Number: 319610004
Status: Excess
Comment: Brick/frame residences in poor condition w/2 floors and basement, presence of asbestos, on National Historic Register, off-site use only

Iowa

Bldg.—Bridgeview
Rathbun Lake Project, R.R. #3
Centerville, Co: Appanoose IA 52544–
Landholding Agency: COE
Property Number: 319340003
Status: Unutilized
Comment: 416 sq. ft., 1-story, most recent use—storage, needs major rehab, off-site use only

Bldg.—Island View
Rathbun Lake Project, R.R. #3
Centerville, Co: Appanoose IA 52544–
Landholding Agency: COE
Property Number: 319340004
Status: Unutilized
Comment: 416 sq. ft., 1-story, most recent use—storage, needs major rehab, off-site use only

Bldg.—Rolling Cove
Rathbun Lake Project, R.R. #3
Centerville, Co: Appanoose IA 52544–
Landholding Agency: COE
Property Number: 319340005
Status: Unutilized
Comment: 416 sq. ft., 1-story, most recent use—storage, needs major rehab, off-site use only

Tract 141
Melos, Stanley, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319610005
Status: Excess
Comment: 1104 sq. ft., most recent use—storage, needs rehab, possible asbestos, off-site use only.

2 Residence/1 Garage
Rathbun Lake Project
Centerville Co: Appanoose IA 52544–
Landholding Agency: COE
Property Number: 319710001
Status: Excess
Comment: 1315 sq. ft. each house, 576 sq. ft. garage, off-site use only.

Kansas

Trailer—Clinton Lake
Rt. 5, Box 109B
Lawrence Co: Douglas KS 66046–
Landholding Agency: COE
Property Number: 319410003
Status: Excess
Comment: Double-wide trailer (24×50), most recent use—residence, needs repair, off-site use only.

Washhouse/shower
Pomona Lake
Vassar Co: Osage KS 66543–
Landholding Agency: COE
Property Number: 319620002
Status: Excess
Comment: 1274 sq. ft. metal bldg., most recent use—storage, needs repair, off-site use only.

Water Treatment Bldg.
Pomona Lake
Vassar Co: Osage KS 66543–
Landholding Agency: COE
Property Number: 319620003
Status: Excess
Comment: 720 sq. ft. bldg., needs repair, off-site use only.

Dwelling
Kanopolis Project Co: Ellsworth KS 67464–
Landholding Agency: COE
Property Number: 319710002

Status: Excess
Comment: 670 sq. ft., residence.

Residence, Perry Lake
Perry Co: Jefferson KS 66073–
Landholding Agency: COE
Property Number: 319710003
Status: Excess
Comment: 1440 sq. ft. residence, presence of asbestos, off-site use only.

Mobile Home
Hillsdale Lake
Paola Co: Miami KS 66071–
Landholding Agency: COE
Property Number: 319710004
Status: Unutilized
Comment: 23′ × 62′ modular, most recent use—storage, major repairs required, off-site use only.

Kentucky

Green River Lock & Dam #3
Rochester Co: Butler KY 42273–
Location: SR 70 west from Morgantown, KY., approximately 7 miles to site.
Landholding Agency: COE
Property Number: 319010022
Status: Unutilized
Comment: 980 sq. ft.; 2 story wood frame; two story residence; potential utilities; needs major rehab.

Kentucky River Lock and Dam 3
Pleasureville Co: Henry KY 40057–
Location: SR 421 North from Frankfort, KY. to highway 561, right on 561 approximately 3 miles to site.
Landholding Agency: COE
Property Number: 319010060
Status: Unutilized
Comment: 897 sq. ft.; 2 story wood frame; structural deficiencies.

Bldg. 1
Kentucky River Lock and Dam
Carrolton Co: Carroll KY 41008–
Location: Take I–71 to Carrolton, KY exit, go east on SR #227 to highway 320, then left for about 1.5 miles to site.
Landholding Agency: COE
Property Number: 319011628
Status: Unutilized
Comment: 1530 sq. ft.; 2 story wood frame house; subject to periodic flooding; needs rehab.

Bldg. 2
Kentucky River Lock and Dam
Carrolton Co: Carroll KY 41008–
Location: Take I–71 to Carrolton, KY exit, go east on SR #227 to highway 320, then left for about 1.5 miles to site.
Landholding Agency: COE
Property Number: 319011629
Status: Unutilized
Comment: 1530 sq. ft.; 2 story wood frame house; subject to periodic flooding; needs rehab.

Utility Bldg, Nolin River Lake
Moutardier Recreation Site Co: Edmonson KY
Landholding Agency: COE
Property Number: 319320002
Status: Unutilized
Comment: 541 sq. ft. concrete block, off-site use only

Maine

51 Housing Units w/garages
Charleston Family Housing Complex
Maxwell Lane & Randolph Drive
Bangor Co: Penobscot ME 04401–
Landholding Agency: GSA
Property Number: 549640012
Status: Excess
Comment: 1300 sq. ft. each, 1-story
GSA Number: 1–D–ME–526H

Missouri

Tract 113—House
Smithville Lake
Smithville Co: Clay MO 64089–
Landholding Agency: COE
Property Number: 319540002
Status: Excess
Comment: 1200 sq. ft. residence, presence of lead base paint, off-site use only

Bldg. A
Harry S. Truman Project
Warsaw Co: Benton MO 65355–
Landholding Agency: COE
Property Number: 319620004
Status: Excess
Comment: 1440 sq. ft. residence, off-site use only

Bldg. B
Harry S. Truman Project
Warsaw Co: Benton MO 65355–
Landholding Agency: COE
Property Number: 319620005
Status: Excess
Comment: 1440 sq. ft. residence, off-site use only

Residence
Pomme de Terre Project
Hermitage Co: Hickory MO 65668–
Landholding Agency: COE
Property Number: 319710005
Status: Excess
Comment: 1255 sq. ft. residence, presence of asbestos/lead paint, off-site use only

Nebraska

Bldg. A
Harlan County Lake Project
Republican City Co: Harlan NE 68971–
Landholding Agency: COE
Property Number: 319710006
Status: Excess
Comment: 1760 sq. ft. residence, needs repair, off-site use only

Bldg. B
Harlan County Lake Project
Republican City Co: Harlan NE 68971–
Landholding Agency: COE
Property Number: 319710007
Status: Excess
Comment: 720 sq. ft. residence, needs repair, off-site use only

Bldg. C
Harlan County Lake Project
Republican City Co: Harlan NE 68971–
Landholding Agency: COE
Property Number: 319710008
Status: Excess
Comment: 720 sq. ft. residence, needs repair, off-site use only

New York

Fed. Office Building
35 Ryerson Street
Brooklyn Co: Kings NY
Landholding Agency: GSA
Property Number: 549630011
Status: Excess
Comment: Nine floors and basement, possible asbestos, needs rehab, most recent use—VA Clinic
GSA Number: 1–G–NY–637A

North Dakota

House #1 (OJ1)
OMEGA Station
213 2nd St. NE
LaMoure Co: LaMoure ND 58458–
Landholding Agency: GSA
Property Number: 549720010
Status: Excess
Comment: 1500 sq. ft., most recent use—residential, federally endangered and threatened species may be present in area
GSA Number: 7–U–ND–0494A & B

House #2 (OJ2)
OMEGA Station
216 2nd St. NE
LaMoure Co: LaMoure ND 58458–
Landholding Agency: GSA
Property Number: 549720011
Status: Excess
Comment: 1500 sq. ft., most recent use—residential, federally endangered and threatened species may be present in area
GSA Number: 7–U–ND–0494A & B

House #3 (OJ3)
OMEGA Station
310 2nd St. NE
LaMoure Co: LaMoure ND 58458–
Landholding Agency: GSA
Property Number: 549720012
Status: Excess
Comment: 1500 sq. ft., most recent use—residential, federally endangered and threatened species may be present in area
GSA Number: 7–U–ND–0494A & B

House #4 (OJ4)
OMEGA Station
316 2nd St. NE
LaMoure Co: LaMoure ND 58458–
Landholding Agency: GSA
Property Number: 549720013
Status: Excess
Comment: 1500 sq. ft., most recent use—residential, federally endangered and threatened species may be present in area
GSA Number: 7–U–ND–0494A & B

House # (OJ5)
OMEGA Station
122 4th Ave. NW
LaMoure Co: LaMoure ND 58458–
Landholding Agency: GSA
Property Number: 549720014
Status: Excess
Comment: 1500 sq. ft., most recent use—residential, federally endangered and threatened species may be present in area
GSA Number: 7–U–ND–0494A & B

House # (OJ6)
OMEGA Station
417 2nd St. NW
LaMoure Co: LaMoure ND 58458–
Landholding Agency: GSA
Property Number: 549720015
Status: Excess
Comment: 1500 sq. ft., most recent use—residential, federally endangered and threatened species may be present in area
GSA Number: 7–U–ND–0494A & B

House # (OJ7)
OMEGA Station
421 2nd St. NW

LaMoure Co: LaMoure ND 58458–
Landholding Agency: GSA
Property Number: 549720016
Status: Excess
Comment: 1500 sq. ft., most recent use—residential, federally endangered and threatened species may be present in area
GSA Number: 7–U–ND–0494A & B

House # (OJ8)
OMEGA Station
123 5th Ave. NW
LaMoure Co: LaMoure ND 58458–
Landholding Agency: GSA
Property Number: 549720017
Status: Excess
Comment: 1500 sq. ft., most recent use—residential, federally endangered and threatened species may be present in area
GSA Number: 7–U–ND–0494A & B

House # (OJ9)
OMEGA Station
517 2nd St. NW
LaMoure Co: LaMoure ND 58458–
Landholding Agency: GSA
Property Number: 549720018
Status: Excess
Comment: 1700 sq. ft., most recent use—residential, federally endangered and threatened species may be present in area
GSA Number: 7–U–ND–0494A & B

House # (OJ0)
OMEGA Station
521 2nd St. NW
LaMoure Co: LaMoure ND 58458–
Landholding Agency: GSA
Property Number: 549720019
Status: Excess
Comment: 1700 sq. ft., most recent use—residential, federally endangered and threatened species may be present in area
GSA Number: 7–U–ND–0494A & B

Ohio

Barker Historic House
Willow Island Locks and Dam
Newport Co: Washington OH 45768–9801
Location: Located at lock site, downstream of lock and dam structure
Landholding Agency: COE
Property Number: 319120018
Status: Unutilized
Comment: 1600 sq. ft., bldg. with ½ acre of land, 2 story brick frame, needs rehab, on Natl Register of Historic Places, no utilities, off-site use only

Oklahoma

Water Treatment Plant
Belle Starr, Eufaula Lake
Eufaula Co: McIntosh OK 74432–
Landholding Agency: COE
Property Number: 319630001
Status: Excess
Comment: 16′×16′, metal, off-site use only

Water Treatment Plant
Gentry Creek, Eufaula Lake
Eufaula Co: McIntosh OK 74432–
Landholding Agency: COE
Property Number: 319630002
Status: Excess
Comment: 12′×16′, metal, off-site use only

Pennsylvania

Mahoning Creek Reservior
New Bethlehem Co: Armstrong PA 16242–
Landholding Agency: COE
Property Number: 319210008
Status: Unutilized
Comment: 1015 sq. ft., 2 story brick residence, off-site use only

One Unit/Residence
Conemaugh River Lake, RD #1, Box 702
Saltburg Co: Indiana PA 15681–
Landholding Agency: COE
Property Number: 319430011
Status: Unutilized
Comment: 2642 sq. ft., 1-story, 1-unit of duplex, fair condition, access restrictions

Dwelling
Lock & Dam 6, Allegheny River, 1260 River Rd.
Freeport Co: Armstrong PA 16229–2023
Landholding Agency: COE
Property Number: 319620008
Status: Unutilized
Comment: 2652 sq. ft., 3-story brick house, in close proxmity to Lock and Dam, available for interim use for nonresidential purposes

Dwelling
Lock & Dam 4, Allegheny River
Natrona Co: Allegheny PA 15065–2609
Landholding Agency: COE
Property Number: 319710009
Status: Unutilized
Comment: 1664 sq. ft., 2-story brick residence, needs repair, off-site use only

Presque Isle Light Station
Erie Co: Erie PA 16505–
Landholding Agency: GSA
Property Number: 549730009
Status: Excess
Comment: 1200 sq. ft., 2-story, lighthouse with attached residence, historic property
GSA Number: 4–U–PA–775

South Carolina

Bldg. 5
J. S. Thurmond Dam and Reservoir
Clark Hill Co: McCormick SC
Location: ½ mile east of Resource Managers Office.
Landholding Agency: COE
Property Number: 319011548
Status: Excess
Comment: 1900 sq. ft., 1 story, masonry frame; possible asbestos; most recent use—storage, off-site removal only.

Tennessee

Cheatham Lock & Dam
Tract D, Lock Road
Nashville Co: Davidson TN 37207–
Landholding Agency: COE
Property Number: 319520003
Status: Unutilized
Comment: 1100 sq. ft., dwelling w/storage bldgs on 7 acres, needs major rehab, contamination issues, approx. 1 acre in fldwy, modif. to struct. subj. to approval of St. Hist. Presv. Ofc.

Federal Building
130 Main Street
Carthage Co: Smith TN 37030–
Landholding Agency: GSA
Property Number: 549730010
Status: Excess
Comment: 7295 sq. ft., 3-story, excellent condition, most recent use—office space
GSA Number: 4–G–TN–643

Virginia

Peters Ridge Site
Gathright Dam
Covington VA
Landholding Agency: COE
Property Number: 319430013
Status: Excess
Comment: 64 sq. ft., metal bldg.

Coles Mountain Site
Gathright Dam, Rt. 607 Co: Bath VA
Landholding Agency: COE
Property Number: 319430015
Status: Excess
Comment: 64 sq. ft., 1-story, metal bldg.

Metal Bldg.
John H. Kerr Dam & Reservoir Co: Boydton VA
Landholding Agency: COE
Property Number: 319620009
Status: Excess
Comment: 800 sq. ft., most recent use—storage, off-site use only

West Virginia

German Ridge Radio Transmitter
Huntington Co: Wayne WV 25701–
Landholding Agency: COE
Property Number: 319610002
Status: Unutilized
Comment: 187 sq. ft., cinder block bldg. on .55 acre in remote area, most recent use—radio equipment room

Guthrie Center Property
4860 Brenda Lane
Charleston Co: Kanauha WV
Landholding Agency: GSA
Property Number: 549640018
Status: Excess
Comment: 18 frame houses/one cinder block bldg., 1200 sq. ft., each, most recent use—residential, needs repair
GSA Number: 4–GR–WV–470

Wisconsin

Former Lockmaster's Dwelling
Cedar Locks
4527 East Wisconsin Road
Appleton Co: Ouragamie WI 54911–
Landholding Agency: COE
Property Number: 319011524
Status: Unutilized
Comment: 1224 sq. ft., 2 story, brick/wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Appleton 4th Lock
905 South Lowe Street
Appleton Co: Outagamie WI 54911–
Landholding Agency: COE
Property Number: 319011525
Status: Unutilized
Comment: 908 sq. ft., 2 story, wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Kaukauna 1st Lock
301 Canal Street
Kaukauna Co: Ouragamie WI 54131–
Landholding Agency: COE
Property Number: 319011527
Status: Unutilized
Comment: 1290 sq. ft., 2 story, wood frame residence; needs rehab; secured area with alternate access

Former Lockmaster's Dwelling
Appleton 1st Lock
905 South Oneida Street
Appleton Co: Outagamie WI 54911–
Landholding Agency: COE

Property Number: 319011531
Status: Unutilized
Comment: 1300 sq. ft., potential utilities; 2 story, wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Rapid Croche Lock
Lock Road
Wrightstown Co: Outagamie WI 54180–
Location: 3 miles southwest of intersection State Highway 96 and Canal Road.
Landholding Agency: COE
Property Number: 319011533
Status: Unutilized
Comment: 1952 sq. ft.; 2 story wood frame residence; potential utilities; needs rehab.

Former Lockmaster's Dwelling
Little KauKauna Lock
Little KauKauna
Lawrence Co: Brown WI 54130–
Location: 2 miles southeasterly from intersection of Lost Dauphin Road (County Trunk Highway ''D'') and River Street.
Landholding Agency: COE
Property Number: 319011535
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Little Chute, 2nd Lock
214 Mill Street
Little Chute Co: Outagamie WI 54140–
Landholding Agency: COE
Property Number: 319011536
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; potential utilities; needs rehab; secured area with alternate access.

Land (by State)

Arkansas

Parcel 01
DeGray Lake
Section 12
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010071
Status: Unutilized
Comment: 77.6 acres

Parcel 02
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010072
Status: Unutilized
Comment: 198.5 acres

Parcel 03
DeGray Lake
Section 18
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010073
Status: Unutilized
Comment: 50.46 acres

Parcel 04
DeGray Lake
Section 24, 25, 30 and 31
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010074
Status: Unutilized
Comment: 236.37 acres

Parcel 05
DeGray Lake
Section 16
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010075
Status: Unutilized
Comment: 187.30 acres

Parcel 06
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010076
Status: Unutilized
Comment: 13.0 acres

Parcel 07
DeGray Lake
Section 34
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010077
Status: Unutilized
Comment: 0.27 acres

Parcel 08
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010078
Status: Unutilized
Comment: 14.6 acres

Parcel 09
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010079
Status: Unutilized
Comment: 6.60 acres

Parcel 10
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010080
Status: Unutilized
Comment: 4.5 acres

Parcel 11
DeGray Lake
Section 19
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010081
Status: Unutilized
Comment: 19.50 acres

Lake Greeson
Section 7, 8 and 18
Murfreesboro Co: Pike AR 71958–9720
Landholding Agency: COE
Property Number: 319010083
Status: Unutilized
Comment: 46 acres

California

Lake Mendocino
1160 Lake Mendocino Drive
Ukiah Co: Mendocino CA 95482–9404
Landholding Agency: COE
Property Number: 319011015
Status: Unutilized
Comment: 20 acres; steep, dense brush, potential utilities.

Colorado

Otis Lake
Chatfield Lake Project
Littleton Co: Jefferson CO 80123–
Landholding Agency: COE
Property Number: 319540001
Status: Excess
Comment: 25 ft. wide (5000 sq. ft.), subject to easements

Idaho

160 acres
Idaho National Engineering Lab Co: Jefferson ID 83415–
Landholding Agency: GSA
Property Number: 549720008
Status: Surplus
Comment: 160 acres, most recent use—buffer zone
GSA Number: 9–B–ID–542

Kansas

Parcel 1
El Dorado Lake
Section 13, 24, and 18
(See County) Co: Butler KS
Landholding Agency: COE
Property Number: 319010064
Status: Unutilized
Comment: 61 acres; most recent use—recreation.

Kentucky

Tract 2625
Barley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211–
Location: Adjoining the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010025
Status: Excess
Comment: 2.57 acres; rolling and wooded.

Tracts 2709–10 and 2710–2
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010026
Status: Excess
Comment: 2.00 acres; steep and wooded.

Tracts 2708–1 and 2709–1
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010027
Status: Excess
Comment: 3.59 acres; rolling and wooded; no utilities.

Tract 2800
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 4½ miles in a southeasterly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010028
Status: Excess
Comment: 5.44 acres; steep and wooded.

Tract 2915
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 6½ miles west of Cadiz.
Landholding Agency: COE
Property Number: 319010029
Status: Excess
Comment: 5.76 acres; steep and wooded; no utilities.

Tract 2702
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 1 mile in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010031
Status: Excess
Comment: 4.90 acres; wooded; no utilities.

Tract 4318
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: Trigg Co. adjoining the city of Canton, KY. on the waters of Hopson Creek.
Landholding Agency: COE
Property Number: 319010032
Status: Excess
Comment: 8.24 acres; steep and wooded.

Tract 4502
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 3½ miles in a southerly direction from Canton, KY.
Landholding Agency: COE
Property Number: 319010033
Status: Excess
Comment: 4.26 acres; steep and wooded.

Tract 4611
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 5 miles south of Canton, KY.
Landholding Agency: COE
Property Number: 319010034
Status: Excess
Comment: 10.51 acres; steep and wooded; no utilities.

Tract 4619
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319010035
Status: Excess
Comment: 2.02 acres; steep and wooded; no utilities.

Tract 4817
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 6½ miles south Canton, KY.
Landholding Agency: COE
Property Number: 319010036
Status: Excess
Comment: 1.75 acres; wooded.

Tract 1217
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: On the north side of the Illinois Central Railroad.
Landholding Agency: COE
Property Number: 319010042
Status: Excess
Comment: 5.80 acres; steep and wooded.

Tract 1906
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4 miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010044
Status: Excess
Comment: 25.86 acres; rolling steep and partially wooded; no utilities.

Tract 1907
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: On the waters of Pilfen Creek, 4 miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010045
Status: Excess
Comment: 8.71 acres; rolling steep and partially wooded; no utilities.

Tract 2001 #1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010046
Status: Excess
Comment: 47.42 acres; steep and wooded; no utilities.

Tract 2001 #2
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010047
Status: Excess
Comment: 8.64 acres; steep and wooded; no utilities.

Tract 2005
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 5½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010048
Status: Excess
Comment: 4.62 acres; steep and wooded; no utilities.

Tract 2307
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 7½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010049
Status: Excess
Comment: 11.43 acres; steep; rolling and wooded; no utilities.

Tract 2403
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 7 miles southeasterly of Eddyville, Ky.
Landholding Agency: COE
Property Number: 319010050
Status: Excess
Comment: 1.56 acres; steep and wooded; no utilities.

Tract 2504
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 9 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010051
Status: Excess
Comment: 24.46 acres; steep and wooded; no utilities.

Tract 214
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of the Illinois Central Railroad, 1 mile east of the Cumberland River.
Landholding Agency: COE
Property Number: 319010052
Status: Excess
Comment: 5.5 acres; wooded; no utilities.

Tract 215
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 319010053
Status: Excess
Comment: 1.40 acres; wooded; no utilities.

Tract 241
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319010054
Status: Excess
Comment: 1.26 acres; steep and wooded; no utilities.

Tracts 306, 311, 315 and 325
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 2.5 miles southwest of Kuttawa, KY. on the waters of Cypress Creek.
Landholding Agency: COE
Property Number: 319010055
Status: Excess
Comment: 38.77 acres; steep and wooded; no utilities.

Tracts 2305, 2306, and 2400–1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 6½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010056
Status: Excess
Comment: 97.66 acres; steep rolling and wooded; no utilities.

Tract 500–2
Barkley Lake, Kentucky and Tennessee
Kuttawa Co: Lyon KY 42055–
Location: Situated on the waters of Poplar Creek, approximately 1 mile southwest of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319010057
Status: Excess
Comment: 3.58 acres; hillside ridgeland and wooded; no utilities.

Tracts 5203 and 5204
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: Village of Linton, KY state highway 1254.
Landholding Agency: COE
Property Number: 319010058
Status: Excess
Comment: 0.93 acres; rolling, partially wooded; no utilities.

Tract 5240
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: 1 mile northwest of Linton, KY.
Landholding Agency: COE
Property Number: 319010059
Status: Excess
Comment: 2.26 acres; steep and wooded; no utilities.

Tract 4628
Barkley Lake, Kentucky and Tennessee

Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319011621
Status: Excess
Comment: 3.71 acres; steep and wooded; subject to utility easements.

Tract 4619–B
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319011622
Status: Excess
Comment: 1.73 acres; steep and wooded; subject to utility easements.

Tract 2403–B
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038–
Location: 7 miles southeasterly from Eddyville, KY.
Landholding Agency: COE
Property Number: 319011623
Status: Unutilized
Comment: 0.70 acres, wooded; subject to utility easements.

Tract 241–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319011624
Status: Excess
Comment: 11.16 acres; steep and wooded; subject to utility easements.

Tracts 212 and 237
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319011625
Status: Excess
Comment: 2.44 acres; steep and wooded; subject to utility easements.

Tract 215–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 319011626
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract 233
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 319011627
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract B—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130002
Status: Unutilized
Comment: 10 acres, most recent use—recreational, possible periodic flooding

Tract A—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130003
Status: Unutilized
Comment: 8 acres, most recent use—recreational, possible periodic flooding

Tract C—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130005
Status: Unutilized
Comment: 4 acres, most recent use—recreational, possible periodic flooding

Tract N–819
Dale Hollow Lake & Dam Project
Illwill Creek, Hwy 90
Hobart Co: Clinton KY 42601–
Landholding Agency: COE
Property Number: 319140009
Status: Underutilized
Comment: 91 acres, most recent use—hunting, subject to existing easements

Portion of Lock & Dam No. 1
Kentucky River
Carrolton Co: Carroll KY 41008–0305
Landholding Agency: COE
Property Number: 319320003
Status: Unutilized
Comment: approx. 3.5 acres (sloping), access monitored

Portion of Lock & Dam No. 2
Kentucky River
Lockport Co: Henry KY 40036–9999
Landholding Agency: COE
Property Number: 319320004
Status: Underutilized
Comment: approx. 13.14 acres (sloping), access monitored

Louisiana

Wallace Lake Dam and Reservoir
Shreveport Co: Caddo LA 71103–
Landholding Agency: COE
Property Number: 319011009
Status: Underutilized
Comment: 11 acres; wildlife/forestry; no utilities.

Bayou Bodcau Dam and Reservoir
Haughton Co: Caddo LA 71037–9707
Location: 35 miles Northeast of Shreveport, LA.
Landholding Agency: COE
Property Number: 319011010
Status: Unutilized
Comment: 203 acres; wildlife/forestry; no utilities.

Massachusetts

Estate of S. Newburg
Lois and Ellen Street
Haverhill Co: Essex MA 01830–
Landholding Agency: GSA
Property Number: 549630017
Status: Excess
Comment: land—36,425 sq. ft.—two noncontiguous parcels, heavily wooded
GSA Number: 1–G–MA–793

Minnesota

Parcel D
Pine River
Cross Lake Co: Crow Wing MN 56442–
Location: 3 miles from city of Cross Lake, between highways 6 and 371.
Landholding Agency: COE
Property Number: 319011038
Status: Excess
Comment: 17 acres; no utilities.

Tract 92
Sandy Lake
McGregor Co: Aitkins MN 55760–
Location: 4 miles west of highway 65, 15 miles from city of McGregor.
Landholding Agency: COE
Property Number: 319011040
Status: Excess
Comment: 4 acres; no utilities.

Tract 98
Leech Lake
Benedict Co: Hubbard MN 56641–
Location: 1 mile from city of Federal Dam, MN.
Landholding Agency: COE
Property Number: 319011041
Status: Excess
Comment: 7.3 acres; no utilites.

Mississippi

Parcel 7
Grenada Lake
Sections 22, 23, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011019
Status: Underutilized
Comment: 100 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 8
Grenada Lake
Section 20, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011020
Status: Underutilized
Comment: 30 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 9
Grenada Lake
Section 20, T24N, R7E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011021
Status: Underutilized
Comment: 23 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 10
Grenada Lake
Sections 16, 17, 18 T24N R8E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011022
Status: Underutilized
Comment: 490 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 2
Grenada Lake
Sections 20 and T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011023
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 3
Grenada Lake
Section 4, T23N, R5E

Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011024
Status: Underutilized
Comment: 120 acres; no utilities; most recent use—wildlife and forestry management; (13.5 acres/agriculture lease).

Parcel 4
Grenada Lake
Section 2 and 3. T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011025
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 5
Grenada Lake
Section 7, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011026
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management; (14 acres/agriculture lease).

Parcel 6
Grenada Lake
Section 9, T24N, R6E
Grenada Co: Yalobusha MS 38903–0903
Landholding Agency: COE
Property Number: 319011027
Status: Underutilized
Comment: 80 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 11
Grenada Lake
Section 20, T24N, R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 319011028
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 12
Grenada Lake
Section 25, T24N, R7E
Grenada Co: Yalobusha MS 38390–10903
Landholding Agency: COE
Property Number: 319011029
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 13
Grenada Lake
Section 34, T24N, R7E
Grenada Co: Yalobusha MS 38903–0903
Landholding Agency: COE
Property Number: 319011030
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management; (11 acres/agriculture lease).

Parcel 14
Grenada Lake
Section 3, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011031
Status: Underutilized
Comment: 15 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 15
Grenada Lake
Section 4, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011032
Status: Underutilized
Comment: 40 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 16
Grenada Lake
Section 9, T23N, R6E
Grenada Co: Yalobusa MS 38901–0903
Landholding Agency: COE
Property Number: 319011033
Status: Underutilized
Comment: 70 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 17
Grenada Lake
Section 17, T23N, R7E
Grenada Co: Calhoun MS 28901–0903
Landholding Agency: COE
Property Number: 319011034
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 18
Grenada Lake
Section 22, T23N, R7E
Grenada Co: Grenada MS 28902–0903
Landholding Agency: COE
Property Number: 319011035
Status: Underutilized
Comment: 10 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 19
Grenada Lake
Section 9, T22N, R7E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 319011036
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management.

Missouri

Harry S Truman Dam & Reservoir
Warsaw Co: Benton MO 65355–
Location: Triangular shaped parcel southwest of access road ''B'', part of Bledsoe Ferry Park Tract 150.
Landholding Agency: COE
Property Number: 319030014
Status: Underutilized
Comment: 1.7 acres; potential utilities.

Ohio

Hannibal Locks and Dam
Ohio River
P.O. Box 8
Hannibal Co: Monroe OH 43913–0008
Location: Adjacent to the new Martinsville Bridge.
Landholding Agency: COE
Property Number: 319010015
Status: Underutilized
Comment: 22 acres; river bank.

Receiver Site
Bethany Relay Station
Wayne Co: Butler OH 45040–
Landholding Agency: GSA
Property Number: 549720001
Status: Surplus
Comment: 29 acres with concrete bldg. (1560 sq. ft.)
GSA Number: 1–GR–OH–0726C

Oklahoma

Pine Creek Lake
Section 27
(See County) Co: McCurtain OK
Landholding Agency: COE
Property Number: 319010923
Status: Unutilized
Comment: 3 acres; no utilities; subject to right of way for Oklahoma State Highway 3.

Pennsylvania

Mahoning Creek Lake
New Bethlehem Co: Armstrong PA 16242–9603
Location: Route 28 north to Belknap, Road #4
Landholding Agency: COE
Property Number: 319010018
Status: Excess
Comment: 2.58 acres; steep and densely wooded.

Tracts 610, 611, 612
Shenango River Lake
Sharpsville Co: Mercer PA 16150–
Location: I–79 North, I–80 West, Exit Sharon. R18 North 4 miles, left on R518, right on Mercer Avenue.
Landholding Agency: COE
Property Number: 3190011001
Status: Excess
Comment: 24.09 acres; subject to flowage easement.

Tracts L24, L26
Crooked Creek Lake Co: Armstrong PA 03051–
Location: Left bank—55 miles downstream of dam.
Landholding Agency: COE
Property Number: 319011011
Status: Unutilized
Comment: 7.59 acres; potential for utilities.

Portion of Tract L–21A
Crooked Creek Lake, LR 03051
Ford City Co: Armstrong PA 16226–
Landholding Agency: COE
Property Number: 319430012
Staus: Unutilized
Comment: Approximately 1.72 acres of undeveloped land, subject to gas rights.

Tennessee

Tract 6827
Barley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles west to Dover, TN.
Landholding Agency: COE
Property Number: 319010927
Status: Excess
Comment: .57 acres; subject to existing easements.

Tracts 6002–2 and 6010
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3½ miles south of village of Tabaccoport.
Landholding Agency: COE
Property Number: 319010928
Status: Excess
Comment: 100.86 acres; subject to existing easements.

Tract 11516
Barkley Lake
Ashland City Co: Dickson TN 37015–
Location: ½ mile downstream from Cheatham Dam

Landholding Agency: COE
Property Number: 319010929
Status: Excess
Comment: 26.25 acres; subject to existing easements.

Tract 2319
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: West of Buckeye Bottom Road
Landholding Agency: COE
Property Number: 319010930
Status: Excess
Comment: 14.48 acres; subject to existing easements.

Tract 2227
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: Old Jefferson Pike
Landholding Agency: COE
Property Number: 319010931
Status: Excess
Comment: 2.27 acres; subject to existing easements.

Tract 2107
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: Across Fall Creek near Fall camping area.
Landholding Agency: COE
Property Number: 319010932
Status: Excess
Comment: 14.85 acres; subject to existing easements.

Tracts 2601, 2602, 2603, 2604
Cordell Hull Lake and Dam Project
Doe Row Creek
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 56
Landholding Agency: COE
Property Number: 319010933
Status: Unutilized
Comment: 11 acres; subject to existing easements.

Tract 1911
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: East of Lamar Road
Landholding Agency: COE
Property Number: 319010934
Status: Excess
Comment: 15.31 acres; subject to existing easements.

Tract 2321
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: South of Old Jefferson Pike
Landholding Agency: COE
Property Number: 319010935
Status: Excess
Comment: 12 acres; subject to existing easements.

Tract 7206
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 319010936
Status: Excess
Comment: 10.15 acres; subject to existing easements.

Tracts 8813, 8814
Barkley Lake
Cumberland Co: Stewart TN 37050–
Location: 1½ miles East of Cumberland City.
Landholding Agency: COE
Property Number: 319010937
Status: Excess
Comment: 96 acres; subject to existing easements.

Tract 8911
Barkley Lake
Cumberland City Co: Montgomery TN 37050–
Location: 4 miles east of Cumberland City.
Landholding Agency: COE
Property Number: 319010938
Status: Excess
Comment: 7.7 acres; subject to existing easements.

Tract 11503
Barkley Lake
Ashland City Co: Cheatham TN 37015–
Location: 2 miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 319010939
Status: Excess
Comment: 1.1 acres; subject to existing easements.

Tracts 11523, 11524
Barkley Lake
Ashland City Co: Cheatham TN 37015–
Location: 2½ miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 319010940
Status: Excess
Comment: 19.5 acres; subject to existing easements.

Tract 6410
Barkley Lake
Bumpus Mills Co: Stewart TN 37028–
Location: 4½ miles SW. of Bumpus Mills.
Landholding Agency: COE
Property Number: 319010941
Status: Excess
Comment: 17 acres; subject to existing easements.

Tract 9707
Barkley Lake
Palmyer Co: Montgomery TN 37142–
Location: 3 miles NE of Palmyer, TN. Highway 149
Landholding Agency: COE
Property Number: 319010943
Status: Excess
Comment: 6.6 acres; subject to existing easements.

Tract 6949
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 1½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 319010944
Status: Excess
Comment: 29.67 acres; subject to existing easements.

Tracts 6005 and 6017
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3 miles south of Village of Tobaccoport.
Landholding Agency: COE
Property Number: 319011173
Status: Excess
Comment: 5 acres; subject to existing easements.

Tract K–1191, K–1135
Old Hickory Lock and Dam
Hartsville Co: Trousdale TN 37074–
Landholding Agency: COE
Property Number: 319130007
Status: Underutilized
Comment: 92 acres (38 acres in floodway), most recent use—recreation

Tract A–102
Dale Hollow Lake & Dam Project
Canoe Ridge, State Hwy 52
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 319140006
Status: Underutilized
Comment: 351 acres, most recent use—hunting, subject to existing easements

Tract A–120
Dale Hollow Lake & Dam Project
Swann Ridge, State Hwy No. 53
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 319140007
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements

Tracts A–20, A–21
Dale Hollow Lake & Dam Project
Red Oak Ridge, State Hwy No. 53
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 319140008
Status: Underutilized
Comment: 821 acres, most recent use—hunting, subject to existing easements

Tract D–185
Dale Hollow Lake & Dam Project
Ashburn Creek, Hwy No. 53
Livingston Co: Clay TN 38570–
Landholding Agency: COE
Property Number: 319140010
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements

Texas

Parcel #222
Lake Texoma Co: Grayson TX
Location: C. Meyerheim survey A–829 J. Hamilton survey A–529
Landholding Agency: COE
Property Number: 319010421
Status: Excess
Comment: 52.80 acres; most recent use—recreation

Suitable/Unavailable Properties

Buildings (by State)

Alaska

Nome Marineway & Warehouse
Belmont Point
Nome AK 99762–
Landholding Agency: COE
Property Number: 319630005
Status: Unutilized
Comment: 2400 sq. ft., needs major rehab, floodplain, most recent use—office w/living space

California

Santa Fe Flood Control Basin
Irwindale Co: Los Angeles CA 91706–
Landholding Agency: COE
Property Number: 319011298
Status: Unutilized

Comment: 1400 sq. ft.; 1 story stucco; needs rehab; termite damage; secured area with alternate access

Bakersfield Federal Building
800 Truxton Avenue
Bakersfield Co: Kern CA 93302–
Landholding Agency: GSA
Property Number: 549710013
Status: Excess
Comment: 33,755 sq. ft., 3 floors plus basement, most recent use—court/office, presence of non-friable asbestos/lead base paint
GSA Number: 9–G–CA–1478

Colorado

Bldg. 08000
Lamar Comm. Facility
La Mar Co: Prowers CO 81052–
Landholding Agency: GSA
Property Number: 189620034
Status: Excess
Comment: 2332 sq. ft. bldg. on approx. 3.67 acres, hook-ups disconnected, needs repair
GSA Number: 7–D–CO–6025

Weather Service Forecast Ofc.
Limon Co: Lincoln CO 80828–
Landholding Agency: GSA
Property Number: 549640019
Status: Excess
Comment: 2650 sq. ft., needs repair, most recent use—office, existing easements.
GSA Number: 7–C–CO–640

Florida

Bldg. CN7
Ortona Lock Reservation, Okeechobee Waterway
Ortona Co: Glades FL 33471–
Location: Located off Highway 78 approximately 7 miles west of intersection with Highway 27.
Landholding Agency: COE
Property Number: 319010012
Status: Unutilized
Comment: 1468 sq. ft.; one floor wood frame; most recent use—residence; secured with alternate access

Bldg. CN8
Ortona Lock Reservation, Okeechobee Waterway
Ortona Co: Glades FL 33471–
Location: Located off Highway 78 approximately 7 miles west of intersection with Highway 27.
Landholding Agency: COE
Property Number: 319010013
Status: Unutilized
Comment: 1468 sq. ft.; one floor wood frame; most recent use—residence; secured with alternate access.

Illinois

Bldg. 7
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain.
Landholding Agency: COE
Property Number: 319010001
Status: Unutilized
Comment: 900 sq. ft.; 1 floor wood frame; most recent use—residence.

Bldg. 6
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010002
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 5
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010003
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 4
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010004
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 3
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010005
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame.

Bldg. 2
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010006
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Bldg. 1
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010007
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most recent use—residence.

Parcel 2
Portion Former Lock & Dam 51
Golconda Co: Pope IL 62938–
Landholding Agency: GSA
Property Number: 549610011
Status: Excess
Comment: 1274 sq. ft., bldg. which housed the lock control structures 2160 sq. ft. warehouse and ofc. bldg., presence of lead base paint, periodic flooding, Fed. Reg. of Historic Places.
GSA Number: 2–D–IL–703

Parcel 3
Portion Former Lock & Dam 51
Golconda Co: Pope IL 62938–
Landholding Agency: GSA
Property Number: 549610012
Status: Excess
Comment: 3244 sq. ft. metal bldg., 11852 sq. ft. marina dock and parking lot, 100 year floodplain
GSA Number: 2–IL–D–703

Iowa

Naval Family Housing
23-Units
Waverly Co: Bremer IA 50677–
Landholding Agency: GSA
Property Number: 549720009
Status: Excess
Comment: 23-housing units, sq. ft. varies from 864–1760, capehart, wood frame, 1-story
GSA Number: 7–D–LA–0463B

Kansas

Federal Office Building
400 Houston Street
Manhattan Co: Riley KS 66502–
Landholding Agency: GSA
Property Number: 549640014
Status: Surplus
Comment: Portion of 11398 sq. ft. bldg., 1½ story w/basement, most recent use—office/storage
GSA Number: 7–G–KS–0519

Massachusetts

17 Single Family Residences
Navy Family Housing, Westover AFB
Chicopee Co: Hampden MA 01022–
Landholding Agency: GSA
Property Number: 549520002
Status: Excess
Comment: Various sq. ft., good condition, utilities systems modification

20 Fourplex Residences
Navy Family Housing, Westover AFB
Chicopee Co: Hampden MA 01022–
Landholding Agency: GSA
Property Number: 549520004
Status: Excess
Comment: Various sq. ft., good condition, utilities systems modification

Michigan

Detroit Job Corps Center
10401 E. Jefferson & 1438 Garland;
1265 St. Clair
Detroit Co: Wayne MI 42128–
Landholding Agency: GSA
Property Number: 549510002
Status: Surplus
Comment: Main bldg. is 80,590 sq. ft., 5-story, adjacent parking lot, 2nd bldg. on St. Clair Ave. is 5140 sq. ft., presence of asbestos in main bldg., to be vacated 8/97
GSA Number: 2–L–MI–757

Seul Choix Point Light
Gulliver Co: Schoolcraft MI 49840–
Landholding Agency: GSA
Property Number: 549640005
Status: Excess
Comment: 1000 sq. ft. lighthouse, lease with Gulliver Historical Society thru Dec. 2009
GSA Number: 1–U–MI–679A

Minnesota

Coast Guard Family Housing
404 East Hamilton Avenue
Baudette Co: Lake of the Woo MN 56623–
Landholding Agency: GSA
Property Number: 549230007
Status: Surplus
Comment: 1333 sq. ft., 1-story frame residence

GSA Number: 2–U–MN–503–E

Coast Guard Family Housing
406 East Hamilton Avenue
Baudette Co: Lake of the Woo MN 56623–
Landholding Agency: GSA
Property Number: 549230008
Status: Surplus
Comment: 1633 sq. ft., 1-story wood frame residence
GSA Number: 2–U–MN–503–E

Coast Guard Family Housing
408 East Hamilton Avenue
Baudette Co: Lake of the Woo MN 56623–
Landholding Agency: GSA
Property Number: 549230009
Status: Surplus
Comment: 1633 sq. ft., 1-story wood frame residence
GSA Number: 2–U–MN–503–E

Coast Guard Family Housing
418 East Hamilton Avenue
Baudette Co: Lake of the Woo MN 56623–
Landholding Agency: GSA
Property Number: 549230010
Status: Surplus
Comment: 1633 sq. ft., 1-story wood frame residence
GSA Number: 2–U–MN–503–E

Mississippi

Old Greenville Depot
Greenville Co: Washington MS 38701–
Landholding Agency: GSA
Property Number: 549640020
Status: Excess
Comment: 3365 sq. ft. bldg., 3.442 acres, most recent use—office, garage and mooring site for Coast Guard, periodic flooding, wetlands
GSA Number: 4–U–MS–551

Montana

Bldg.—Conrad Training Site
15 miles east of the City of Conrad Co: Pondera MT 59425–
Landholding Agency: GSA
Property Number: 189420025
Status: Excess
Comment: 7000 sq. ft., 1-story brick, most recent use—technical training site

Malstrom Communications Annex
(Transmitter), 39 78th St., N.
Malstrom AFB Co: Cascade MT 59405–
Landholding Agency: GSA
Property Number: 189510023
Status: Excess
Comment: 1966 sq. ft., limited utilities, needs roof replacement
GSA Number: 7–D–MT–4240

USARC Bozeman Reserve Center
32 South Tracy Ave.
Bozeman Co: Gallatin MT
Landholding Agency: GSA
Property Number: 219420391
Status: Excess
Comment: 7600 sq. ft., 2-story, most recent use—office, sound condition, presence of asbestos, on list of historic buildings
GSA Number: 7–D–MT–0605

Nevada

5 Single Family Residences
Tonopah Housing Complex
Tonopah Co: Nye NV 89049–
Landholding Agency: GSA
Property Number: 549430004
Status: Excess
Comment: 1192 to 1378 sq. ft., 1 story wood residences, 3 bedrooms/1 bathroom
GSA Number: 9–U–NV–467–C

13 Single Family Residences
Tonopah Housing Complex
Tonopah Co: Nye NV 89049–
Landholding Agency: GSA
Property Number: 549430005
Status: Excess
Comment: 1192–1898 sq. ft., 1 story wood residences, 4 bedrooms/2 bathrooms
GSA Number: 9–U–NV–467–C

Ohio

Bldg.—Berlin Lake
7400 Bedell Road
Berlin Center Co: Mahoning OH 44401–9797
Landholding Agency: COE
Property Number: 319640001
Status: Unutilized
Comment: 1420 sq. ft., 2-story brick w/garage and basement, most recent use—residential, secured w/alternate access

Zanesville Federal Building
65 North Fifth Street
Zanesville Co: Muskingum OH
Landholding Agency: GSA
Property Number: 549520018
Status: Excess
Comment: 18750 sq. ft., most recent use—office, possible asbestos, eligible for listing on the Natl Register of Historic Places
GSA Number: 2–G–OH–781A

Natl. Weather Met. Observatory
Huber Heights Co: Montgomery OH
Landholding Agency: GSA
Property Number: 549540005
Status: Excess
Comment: 1100 sq. ft., 1 story, most recent use—office/admin.
GSA Number: 2–C–OH–796

Marblehead Light Tower
East Harbor State Park
Marblehead Co: Ottawa OH 43440–
Landholding Agency: GSA
Property Number: 549710005
Status: Excess
Comment: 67 foot tall light tower w/87-step spiral staircase, one room/60 sq. ft., covenants and restrictions must be complied with
GSA Number: 1–U–OH–655–C

Pennsylvania

Tract 302B
Grays Landing Lock & Dam Project
Old Glassworks Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430017
Status: Unutilized
Comment: 502 sq. ft., 2-story, needs repair, most recent use—beauty shop/residence, if used for habitation must be flood proofed or removed off-site.

Tract 353
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430019
Status: Unutilized
Comment: 812 sq. ft., 2-story, log structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 402
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430020
Status: Unutilized
Comment: 728 sq. ft., 2-story, needs repairs, most recent use—residential/parsonage, if used for habitation must be flood proofed or removed off-site.

Tract 403A
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430021
Status: Unutilized
Comment: 620 sq. ft., 2-story, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 403B
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430022
Status: Unutilized
Comment: 1600 sq. ft., 2-story, brick structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 403C
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430023
Status: Unutilized
Comment: 672 sq. ft., 2-story carriage house/stable barn type structure, needs repair, most recent use—storage/garage, if used for habitation must be flood proofed or removed.

Tract 434
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430024
Status: Unutilized
Comment: 1059 sq. ft., 2-story, wood frame, 2 apt. units, historic property, if used for habitation must be flood proofed or removed off-site.

Tract No. 224
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319440001
Status: Unutilized
Comment: 1040 sq. ft., 2-story bldg., needs repair, historic struct., flowage easement, if habitation is desired property will be required to be flood proofed or removed off site.

Govt. Dwelling
Youghiogheny River Lake
Confluence Co: Fayette PA 15424–9103
Landholding Agency: COE
Property Number: 319640002
Status: Unutilized
Comment: 1421 sq. ft., 2-story brick w/basement, most recent use—residential.

DuBois Federal Bldg.
127 North Brady St.
DuBois Co: Clearfield PA 15801–
Landholding Agency: GSA
Property Number: 549710006
Status: Surplus

Comment: 9200 sq. ft., 2-story, most recent use—office/post office
GSA Number: 4–G–PA–0774

Texas

7 Office Buildings
Former SW Regional Headquarters
4400 Blue Mound Road TX 76106–
Landholding Agency: GSA
Property Number: 549630007
Status: Excess
Comment: 1–3 stories, potential restrictive covenants (historic)
GSA Number: 7–U–TX–1041

5 Storage Buildings
Former SW Regional Headquarters
4400 Blue Mound Road TX 76106–
Landholding Agency: GSA
Property Number: 549630008
Status: Excess
Comment: 1-story, potential restrictive covenants (historic)
GSA Number: 7–U–TX–1041

6 Misc. Buldings
Former SW Regional Headquarters
4400 Blue Mound Road TX 76106–
Landholding Agency: GSA
Property Number: 549630009
Status: Excess
Comment: Including cafeteria, guard shacks, pumphouse, transformer eng. gen. bldg., potential restrictive covenants (historic)
GSA Number: 7–U–TX–1041

Vermont

Bennington Federal Building
118 South Street
Bennington VT 05201–
Landholding Agency: GSA
Property Number: 549620009
Status: Excess
Comment: 3326 sq. ft., most recent use—office/courts, listed on National Register of Historic Places/preservation restrictions
GSA Number: 1–G–VT–470

Virginia

National Weather Service
Route 3
Volens Co: Halifax VA
Landholding Agency: GSA
Property Number: 549710001
Status: Excess
Comment: 1859 sq. ft. brick veneer, most recent use—office with 1.3 acres/parking lot
GSA Number: 4–C–VA–713

Washington

Coast Guard Housing
9551 Avondale Rd., NE
Redmond Co: King WA 98052–
Landholding Agency: GSA
Property Number: 549620008
Status: Excess
Comment: 3.6 existing units, major rehab, maybe economically infeasible to rehab due to present zoning
GSA Number: 9–U–WA–1109

West Virginia

R.T. Price House
U.S. Route 2
Williamson Co: Mingo WV 25661–
Landholding Agency: GSA
Property Number: 319520004
Status: Excess
Comment: 3116 sq. ft., brick, most recent use—office/conf., listed on Natl. Reg. of Historic Places, restriction against human habitation, recommend flood protection measures.
GSA Number: 4–D–WV–525

Ravenswood Public Access Site
No. 2, 4, 6 Washington Street South
Ravenswood Co: Jackson WV 26164–
Landholding Agency: GSA
Property Number: 549640013
Status: Excess
Comment: 3 bldgs., most recent use—senior citizens center, museum, residence, preservation restrictions, subject to lease
GSA Number: 4–D–WV–526

Wisconsin

Former Lockmaster's Dwelling
DePere Lock
100 James Street
De Pere Co: Brown WI 54115–
Landholding Agency: COE
Property Number: 319011526
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab; secured area with alternate access.

Washburn Ranger's Dwelling
3 East 3rd St.
Washburn Co. Bayfield WI 54891–
Landholding Agency: GSA
Property Number: 549630010
Status: Excess
Comment: 619 sq. ft., wood frame residence w/garage, historic preservation covenant
GSA Number: 1–A–WI–590

Wind Point Light Station
Racine Co: Racine WI 53402–
Landholding Agency: GSA
Property Number: 549710007
Status: Excess
Comment: 4500 sq. ft. dwelling w/attached tower, garage, and 4 storage bldgs., covenants and restrictions must be complied with
GSA Number: I–U–WI–574

Land (by State)

California

(P) Camp Elliott
Rosedale Tract
San Diego Co: San Diego CA
Landholding Agency: GSA
Property Number: 549310008
Status: Surplus
Comment: Parcel 1—0.15 acre, Parcel 2—0.17 acre, located in the narrow median strip between Murphy Canyon Rd. and State Highway 15, previously leased by homeless provider
GSA Number: 9–GR(6)–CA–694A

Colorado

Cotter Transfer Site
White Water Co: Mesa CO 81527–
Landholding Agency: GSA
Property Number: 549630006
Status: Excess
Comment: 109.63 acres, portion may be in floodplain, most recent use—train, truck transfer
GSA Number: 7–B–CO–626

Guam

Unimproved Land
Rt. 2A
Agat GU
Landholding Agency: GSA
Property Number: 549630019
Status: Excess
Comment: 44.37 acres
GSA Number: 9–N–GU–420D

Illinois

Lake Shelbyville
Shelbyville Co: Shelby & Moultr IL 62565–9804
Landholding Agency: COE
Property Number: 319240004
Status: Unutilized
Comment: 5 parcels of land equalling 0.70 acres, improved w/4 small equipment storage bldgs. and a small access road, easement restrictions.

Indiana

Portion
Bureau of Prisons Vigo Farm
Linden Twp Co: Vigo IN
Landholding Agency: GSA
Property Number: 549620002
Status: Excess
Comment: 17.65 acres, most recent use—agriculture
GSA Number: 2–J–IN–507C

Kentucky

Carr Fork Lake
5 miles SE of Hindman, Ky., Hwy. 60
Hindman Co: Knott KY
Landholding Agency: COE
Property Number: 319240003
Status: Unutilized
Comment: 2.81 acres, most recent use—drainage area for bank stabilization for adjacent cemetery.

West Point Access Site No. 12
Cannelton Locks & Dam
West Point Co: Hardin KY 40177–
Landholding Agency: GSA
Property Number: 549630005
Status: Excess
Comment: 20.55 acres w/comfort station, periodic flooding, most recent use—recreational area GSA Number: 4–D–KY–0539B

Land—5 acres
Cannelton Locks & Dams Project
Located on the banks of the Ohio River
Hawesville Co: Hancock KY
Landholding Agency: GSA
Property Number 549710008
Status: Excess
Comment: 5 acres, most recent use—construction equipment storage
GSA Number: 4–D–KY–539C

Maine

Remote Center Air
Ground Communication Facility
Westford Hill Road
Hodgdon Co: Aroostock ME 04730–
Landholding Agency: GSA
Property Number 549610014
Status: Excess
Comment: 0.91 acre with 554 sq. ft. bldg and tower, most recent use—unmanned communications facility
GSA Number: 1–ME–624

Montana

U.S. Army Reserve Center

Marcella Avenue
Lewistown Co: Fergus MT
Landholding Agency: GSA
Property Number 219420009
Status: Unutilized
Comment: 4.16 acres of bare land
GSA Number: 7–D–MT–0607

New York

Galeville Army Training Site
Shawangunk Co: Ulster NY 12589–
Landholding Agency: GSA
Property Number 219510128
Status: Excess
Comment: 621 acres, improved w/inactive runways, 234 acres is wetlands and habitat for threatened species
GSA Number: 2–D–NY–807

North Carolina

Greenville Relay Station
Site C
Greenville Co: Pitts NC 27834
Landholding Agency: GSA
Property Number 549710017
Status: Excess
Comment: 594 acres w/27,830 sq. ft. concrete block bldg., (2 acre chemical waste storage site located on SE portion of property
GSA Number: 4–Z–N721

North Dakota

Tracts V–1971B, V–1971
Garrison Dam/Lake Sakakawea Co: McKenzie ND
Landholding Agency: COE
Property Number 319620006
Status: Unutilized
Comment: approx. 4.49 acres, most recent use—cattle ranching operations, rough broken ground—Badlands

Lot 3/0.16 acre
Snake Creek Cabin Site/Tract C272A Co: Mclean ND
Landholding Agency: COE
Property Number 319720003
Status: Unutilized
Comment: 0.16 of an acre most recent use—private recreation (cottage site), floodplain

Ohio

Bethany Relay Station
8070 Tylersville Road
Union Township Co: Butler OH 45040–
Landholding Agency: GSA
Property Number 549610008
Status: Excess
Comment: 625 acres, most recent use—radio relay station, bldg. and approx. 125 acres are unsuitable due to distance from flammable explosive material
GSA Number: 1–Z–OH–726B

Oregon

Portion, Astoria Field Office
Via Hwy 30
Astoria Co: Clatsop OR 97103–
Landholding Agency: GSA
Property Number: 549640015
Status: Excess
Comment: 20.6 acres, includes wetlands & tidelands, parking lot under construction, portion located within floodplain
GSA Number: 9–D–OR–447F

Pennsylvania

East Branch Clarion River Lake
Wilcox Co: Elk PA
Location: Free camping area on the right bank off entrance roadway.
Landholding Agency: COE
Property Number: 319011012
Status: Underutilized
Comment: 1 acre; most recent use—free campground

Dashields Locks and Dam
(Glenwillard, PA)
Crescent Twp. Co: Allegheny PA 15046–0475
Landholding Agency: COE
Property Number: 319210009
Status: Unutilized
Comment: 0.58 acres, most recent use—baseball filed

Former Warehouse Site
1020 South Broad Street
Philadelphia PA 19146–
Landholding Agency: GSA
Property Number: 549640017
Status: Excess
Comment: 1.82 acres, most recent use—parking lot
GSA Number: 4–G–PA–0773

Puerto Rico

La Hueca—Naval Station
Roosevelt Roads
Vieques PR 00765–
Landholding Agency: GSA
Property Number: 549420006
Status: Excess
Comment: 323 acres, cultural site

Virginia

4.619 (P) Atlantic Marine Ctr
561 Front Street
Norfolk VA 23510–
Landholding Agency: GSA
Property Number: 549620010
Status: Excess
Comment: 4.619 acres, most recent use—storage, easement/lease restrictions, subject to Chesapeake Bay Preservation Act
GSA Number: 4–C–VA–712

Washington

Portion of Tract 905
Lower Monumental Lock & Dam
½ mi SE of Lyons Ferry Marina Co: Whitman WA
Landholding Agency: COE
Property Number: 319320005
Status: Excess
Comment: 3.788 acres with encroaching private well

Sandpoint Control Tower
Near 7600 Sandpoint Way, NE
Seattle Co: King WA 98115–
Landholding Agency: GSA
Property Number: 549440003
Status: Excess
Comment: 11.3 acres w/deteriorated bldg. and parking lot
GSA Number: 9–C–WA–1069

Second Stadium Home Site
1701 Martin Luther King Blvd.
Seattle Co: King WA 98144–
Landholding Agency: GSA
Property Number: 549540008
Status: Excess
Comment: 1.5061 acres of unimproved land, most recent use—temporary storage for construction equipment
GSA Number: 9–GRI–WA–543

Suitable/To Be Excessed

Land (by State)

Georgia

Lake Sidney Lanier Co: Forsyth GA 30130–
Location: Located on Two Mile Creek adj. to State Route 369
Landholding Agency: COE
Property Number: 319440010
Status: Unutilized
Comment: 0.25 acres, endangered plant species

Lake Sidney Lanier—3 parcels
Gainesville Co: Hall GA 30503–
Location: Between Gainesville H.S. and State Route 53 By-Pass
Landholding Agency: COE
Property Number: 319440011
Status: Unutilized
Comment: 3 parcels totalling 5.17 acres, most recent use—buffer zone, endangered plant species

Indiana

Brookville Lake—Land
Liberty Co: Union IN 47353–
Landholding Agency: COE
Property Number: 319440009
Status: Unutilized
Comment: 6.91 acres, limited utilities

Kansas

Parcel #1
Fall River Lake
Section 26 Co: Greenwood KS
Landholding Agency: COE
Property Number: 319010065
Status: Unutilized
Comment: 126.69 acres; most recent use—recreation and leased cottage sites.

Parcel No. 2, El Dorado Lake
Approx. 1 mi east of the town of El Dorado Co: Butler KS
Landholding Agency: COE
Property Number: 319210005
Status: Unutilized
Comment: 11 acres, part of a relocated railroad bed, rural area

Massachusetts

Buffumville Dam
Flood Control Project
Gale Road
Carlton Co: Worcester MA 01540–0155
Location: Portion of tracts B–200, B–248, B–251, B–204, B–247, B–200 and B–256
Landlanding Agency: COE
Property Number: 319010016
Status: Excess
Comment: 1.45 acres.

Minnesota

Tract #3
Lac Qui Parle Flood Control Project
County Rd. 13
Watson Co: Lac Qui Parle MN 56295–
Landholding Agency: COE
Property Number: 319340006
Status: Unutilized
Comment: approximately 2.9 acres, fallow land

Tract #34
Lac Qui Parle Flood Control Project
Marsh Lake
Watson Co: Lac Qui Parle MN 56295–
Landholding Agency: COE
Property Number: 319340007

Status: Unutilized
Comment: Approx. 8 acres, fallow land

Tennessee

Tract D–456
Cheatham Lock and Dam
Ashland Co: Cheatham TN 37015–
Location: Right downstream bank of Sycamore Creek.
Landholding Agency: COE
Property Number: 319010942
Status: Excess
Comment: 8.93 acres; subject to existing easements.

Texas

Corpus Christi Ship Channel
Corpus Christi Co: Neuces TX
Location: East side of Carbon Plant Road, approx. 14 miles NW of downtown Corpus Christi
Landholding Agency: COE
Property Number: 319240001
Status: Unutilized
Comment: 4.4 acres, most recent use—farm land.

Unsuitable Properties

Buildings (by State)

Alabama

Sand Island Light House
Gulf of Mexico
Mobile AL
Landholding Agency: GSA
Property Number: 549610001
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 4–U–AL–763

Alaska

Unalakleet Health Clinic
(Former)
Unalakleet AK 99684–
Landholding Agency: GSA
Property Number: 549620007
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–F–AK–748

USCG MSD Office (2 buildings)
2958 Tongass Avenue
Ketchikan Co: Ketchikan AK 99901–
Landholding Agency: GSA
Property Number: 879130004
Status: Excess
Reason: Extensive deterioration

Arizona

Clifton Administrative Site
Clifton Co: Greenlee AZ 85533–
Landholding Agency: GSA
Property Number: 549640006
Status: Excess
Reason: Floodway
GSA Number: 9–A–AZ–0797

California

National Weather Service Ofc.
Kern County Airport
Bakersfield Co: Kern CA
Landholding Agency: GSA
Property Number: 549640011
Status: Excess
Reason: Within airport runway clear zone
GSA Number: 9–C–CA–1481

Marine Pollution Laboratory
Granite Canyon
Monterey Co: Monterey CA 93940–
Landholding Agency: GSA
Property Number: 549720005
Status: Surplus
Reason: Secured Area
GSA Number: 9–C–CA–1499

Bldg. 863
Naval Air Weapons Station, Point Mugu
Oxnard Co: Ventura CA 93042–5001
Landholding Agency: Navy
Property Number: 779730009
Status: Excess
Reason: Secured Area

Bldg. 15
Naval Support Activity
Monterey Co: Monterey CA 93943–
Landholding Agency: Navy
Property Number: 779730010
Status: Unutilized
Reason: Extensive deterioration

Bldg. 28
Naval Support Activity
Monterey Co: Monterey CA 93943–
Landholding Agency: Navy
Property Number: 779730011
Status: Unutilized
Reason: Extensive deterioration

Bldg. 500
Naval Support Activity
Monterey Co: Monterey CA 93943–
Landholding Agency: 779730012
Status: Unutilized
Reason: Extensive deterioration

Delaware

Delaware Breakwater Light
Lewes Co: Sussex DE 19958–
Landholding Agency: GSA
Property Number: 549640007
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 4–U–DE–460

Illinois

Parcel 1
Portion Former Lock & Dam 51
Golconda Co: Pope IL 62938–
Landholding Agency: GSA
Property Number: 549610010
Status: Excess
Reason: Extensive deterioration
GSA Number: 2–D–IL–703

Indiana

Brookville Lake—Bldg.
Brownsville Rd. in Union
Liberty Co: Union IN 47353–
Landholding Agency: COE
Property Number: 319440004
Status: Excess
Reason: Extensive deterioration
Coast Guard Housing
5 Houses
Dana Co: Vermillion IN 47847
Landholding Agency: GSA
Property Number: 549620011
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–U–IN–505D

Iowa

House, Tract 100
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530002
Status: Excess
Reason: Extensive deterioration

Play House, Tract 100
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530003
Status: Excess
Reason: Extensive deterioration

House, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530004
Status: Excess
Reason: Extensive deterioration

Shed, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530005
Status: Excess
Reason: Extensive deterioration

Garage, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530006
Status: Excess
Reason: Extensive deterioration

Machine Shed, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530007
Status: Excess
Reason: Extensive deterioration

Barn, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530008
Status: Excess
Reason: Extensive deterioration

2-Car Garage, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530009
Status: Excess
Reason: Extensive deterioration

Barn, Tract 128
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530010
Status: Excess
Reason: Extensive deterioration

Shed, Tract 128
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530011
Status: Excess
Reason: Extensive deterioration

House, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530012
Status: Excess
Reason: Extensive deterioration

Play House, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530013
Status: Excess
Reason: Extensive deterioration

Kennel, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530014
Status: Excess
Reason: Extensive deterioration

Corn Crib, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530015
Status: Excess
Reason: Extensive deterioration

Barn W, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530016
Status: Excess
Reason: Extensive deterioration.

Barn E, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530017
Status: Excess
Reason: Extensive deterioration.

Shed, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530018
Status: Excess
Reason: Extensive deterioration.

House, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530019
Status: Excess
Reason: Extensive deterioration.

Out House, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530020
Status: Excess
Reason: Extensive deterioration.

Chicken House, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530021
Status: Excess
Reason: Extensive deterioration.

Shed, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530022
Status: Excess
Reason: Extensive deterioration.

Barn, Tract 135
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530023
Status: Excess
Reason: Extensive deterioration.

Smokehouse, Tract 135
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530024
Status: Excess
Reason: Extensive deterioration.

Shed, Tract 137
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530025
Status: Excess
Reason: Extensive deterioration.

Shed—White, Tract 137
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530026
Status: Excess
Reason: Extensive deterioration.

Leanto, Tract 137
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530027
Status: Excess
Reason: Extensive deterioration.

Tract 116, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319630006
Status: Unutilized
Reason: Extensive deterioration.

Kentucky

Spring House
Kentucky River Lock and Dam No. 1
Highway 320
Carrollton Co: Carroll KY 41008–
Landholding Agency: COE
Property Number: 219040416
Status: Unutilized
Reason: Other
Comment: Spring House

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Avenue
Frankfort Co: Franklin KY 40601–9999
Landholding Agency: COE
Property Number: 219040417
Status: Unutilized
Reason: Other
Comment: Coal Storage

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Aven8e
Frankfort Co: Franklin KY 40601–9999
Landholding Agency: COE
Property Number: 219040418
Status: Unutilized
Reason: Other
Comment: Coal Storage

Barn
Kentucky River Lock and Dam No. 3
Highway 561
Pleasureville Co: Henry KY 40057–
Landholding Agency: COE
Property Number: 219040419
Status: Underutilized
Reason: Other
Comment: 110 year old barn with crumbled foundation.

Latrine
Kentucky River Lock and Dam Number 3
Highway 561
Pleasureville Co: Henry KY 40057–
Landholding Agency: COE
Property Number: 319040009
Status: Unutilized
Reason: Other
Comment: Detached Latrine

6-Room Dwelling
Green River Lock and Dam No. 3
Rochester Co; Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120010
Status: Unutilized
Reason: Floodway

2-Car Garage
Green River Lock and Dam No.
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120011
Status: Unutilized
Reason: Floodway

Office and Warehouse
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120012
Status: Unutilized
Reason: Floodway

2 Pit Toilets
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Landholding Agency: COE
Property Number: 319120013
Status: Unutilized
Reason: Floodway

Louisiana

Bldg. A102—3.507 acres
Portion/Louisiana Army Ammunition Plant
Shreveport Co: Webster Parish LA 71055–
Landholding Agency: GSA
Property Number: 549720023
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 7–D–LA–420–J

Maryland

Upper Waldorf Field Site
Rt. 228—Bensville Rd.
Waldorf Co: Charles MD 20601–
Landholding Agency: GSA
Property Number: 549630013
Status: Excess
Reason: Extensive deterioration
GSA Number: 4–N–MD–0587

Lower Waldorf Field Site
Waldorf Co: Charles MD 20603–
Landholding Agency: GSA

Property Number: 549720002
Status: Excess
Reason: deterioration
GSA Number: 4–N–MD–587A

Michigan

15 Offshore Lighthouses
Great Lakes MI
Landholding Agency: GSA
Property Number: 549630014
Status: Excess
Reason: Extensive deterioration

Fog Signal Building
St. Martins Island Co: Delta MI 49829–
Landholding Agency: GSA
Property Number: 549640001
Reason: Other
Status: Unutilized
Comment: Inaccessible
GSA Number: 1–U–MI–760

Paint Locker
St. Martins Island/Lake Michigan
Co: Delta MI 49829–
Landholding Agency: GSA
Property Number: 549640009
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 1–U–MI–760

Dwelling/Light Tower
St. Martins Island/Lake Michigan
Co: Delta MI 49829–
Landholding Agency: GSA
Property Number: 549640010
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 1–U–MI–760

Missouri

Track 2222
Stockton Project
Aldrich Co: Polk MO 65601–
Landholding Agency: COE
Property Number: 319510001
Status: Excess
Reason: Extensive deterioration

Barn, Longview Lake
Kansas City Co: Jackson MO 64134–
Landholding Agency: COE
Property Number: 319620001
Status: Excess
Reason: Extensive deterioration

New York

Warehouse
Whitney Lake Project
Whitney Point Co: Broome NY 13862–0706
Landholding Agency: COE
Property Number: 319630007
Status: Unutilized
Reason: Extensive deterioration

Naval Indus. Rsv. Ordnance Pl.
121 Lincoln Avenue
Rochester Co: Monroe NY 14611–
Landholding Agency: GSA
Property Number: 549430011
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: TENT–2–N–NY–592

Fed. Bldg.
Multi Bldg. Complex, 252 7th Avenue
New York NY 10001–
Landholding Agency: GSA
Property Number: 549630001
Status: Excess
Reason: Extensive deterioration
GSA Number: NY–0783A

2 Offshore Lighthouses
Great Lakes NY
Landholding Agency: GSA
Property Number: 549630015
Status: Excess
Reason: Extensive deterioration

Bldgs. 501, 502
Scotia Storage Depot
Scotia NY 12302–
Landholding Agency: GSA
Property Number: 549640021
Status: Excess
Reason: Extensive deterioration

Fort Niagara Light
Town of Porter Co: Niagara NY 14174–
Landholding Agency: GSA
Property Number: 549720007
Status: Surplus
Reason: Other
Comment: Landlocked
GSA Number: 1–U–NY–0842

Point AuRoche Light
Beekmantown Co: Clinton, NY 12901–
Landholding Agency: GSA
Property Number: 879420002
Status: Excess
Reason: Floodway, Extensive deterioration
GSA Number: 2–4–NY–817

North Dakota

Monitor Site (OW3)
OMEGA Station
Dickey Co: LaMoure ND 58431–
Landholding Agency: GSA
Property Number: 549720020
Status: Excess
Reason: Secured Area
GSA Number: 7–U–ND–0494A & B

Ohio

Lab
Ohio River Division Laboratories
Mariemont Co: Hamilton OH 15227–4217
Landholding Agency: COE
Property Number: 319510002
Status: Unutilized
Reason: Secured Area

Storage Facility
Ohio River Division Laboratories
Mariemont Co: Hamilton OH 15227–4217
Landholding Agency: COE
Property Number: 319510003
Status: Unutilized
Reason: Secured Area

Office Building
Ohio River Division Laboratories
Mariemont Co: Hamilton OH 15227–4217
Landholding Agency: COE
Property Number: 319510004
Status: Unutilized
Reason: Secured Area

Toledo Harbor Lighthouse
Lake Erie
Toledo Co: Lucas OH 43611–
Landholding Agency: GSA
Property Number: 549710014
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 1–U–OH–801

Puerto Rico

Dry Dock & Ship Repair Fac.
U.S. Navy
San Juan PR
Landholding Agency: GSA
Property Number: 549710012
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Floodway
GSA Number: 1–N–PR–491

NIH Primate Research Facility
Sabena Seca PR
Landholding Agency: GSA
Property Number: 549720021
Status: Excess
Reason: Other
Comment: landlocked
GSA Number: 1–H–PR–503

Tennessee

Bldg. 204
Cordell Hull Lake and Dam Project.
Defeated Creek Recreation Area
Carthage Co: Smith TN 37030–
Location: US Highway 85
Landholding Agency: COE
Property Number: 319011499
Status: Unutilized
Reason: Floodway

Tract 2618 (Portion)
Cordell Hull Lake and Dam Project
Roaring River Recreation Area
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 135
Landholding Agency: COE
Property Number: 319011503
Status: Underutilized
Reason: Floodway

Water Treatment Plant
Dale Hollow Lake & Dam Project
Obey River Park, State Hwy 42
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 319140011
Status: Excess
Reason: Other
Comment: water treatment plant

Water Treatment Plant
Dale Hollow Lake & Dam Project
Lillydale Recreation Area, State Hwy 53
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 319140012
Status: Excess
Reason: Other
Comment: water treatment plant

Water Treatment Plant
Dale Hollow Lake & Dam Project
Willow Grove Recreational Area, Hwy No. 53
Livingston Co: Clay TN 38351–
Landholding Agency: COE
Property Number: 319140013
Status: Excess
Reason: Other
Comment: water treatment plant

West Virginia

Flight Service Station
Morgantown Airport
Morgantown Co: Monogahelia WV 26505–
Landholding Agency: GSA
Property Number: 549710011
Status: Surplus
Reason: Within airport runway clear zone
GSA Number: 4–U–WV–527

Wisconsin

2 Offshore Lighthouses

Great Lakes WI
Landholding Agency: GSA
Property Number: 549630016
Status: Excess
Reason: Extensive deterioration

North Point Light Station
North Point Co: Milwaukee WI 53211–5860
Landholding Agency: GSA
Property Number: 549720004
Status: Excess
Reason: Other
Comment: No legal access
GSA Number: 1–U–WI–577

Port Washington Light Station
Port Washington Co: Ozaukee WI 53074–
Landholding Agency: GSA
Property Number: 549720006
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–U–WI–577

Land (by State)

California

Parcel B
Santa Rosa Co: Sonoma CA
Landholding Agency: GSA
Property Number: 549310016
Status: Excess
Reason: Other
Comment: Seweage Treatment Plant
GSA Number: 9–G–CA–580C

Georgia

Former Honor Farm #1
McDonough Blvd. & Thomasville Blvd.
Atlanta Co: Fulton GA 30315–
Landholding Agency: GSA
Property Number: 549710010
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 4–GR(1)–GA–530A&B

Guam

Submerged Lands
Ritidian Point GU
Landholding Agency: GSA
Property Number: 549640003
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 9–N–GU–437

Kentucky

Tract 4626
Barkley Lake, Kentucky and Tennessee
Donaldson Creek Launching Area
Cadiz Co: Trigg KY 42211–
Location: 14 miles from US Highway 68
Landholding Agency: COE
Property Number: 319010030
Status: Underutilized
Reason: Floodway

Tract AA–2747
Wolf Creek Dam and Lake Cumberland
US HWY. 27 to Blue John Road
Burnside Co: Pulaski KY 42519–
Landholding Agency: COE
Property Number: 319010038
Status: Underutilized
Reason: Floodway

Tract AA–2726
Wolf Creek Dam and Lake Cumberland
KY HWY. 80 to Route 769
Burnside Co: Pulaski KY 42519–
Landholding Agency: COE
Property Number: 319010039
Status: Underutilized
Reason: Floodway

Tract 1358
Barkley Lake, Kentucky and Tennessee
Eddyville Recreation Area
Eddyville Co: Lyon KY 42038–
Location: US Highway 62 to state highway 93
Landholding Agency: COE
Property Number: 319010043
Status: Excess
Reason: Floodway

Red River Lake Project
Stanton Co: Powell KY 40380–
Location: Exit Mr. Parkway at the Stanton and Slade Interchange, then take SR Hand 15 north to SR 613.
Landholding Agency: COE
Property Number: 319011684
Status: Unutilized
Reason: Floodway

Barren River Lock & Dam No. 1
Richardsville Co: Warren KY 42270–
Landholding Agency: COE
Property Number: 319020008
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy. 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120009
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 4
Woodbury Co: Butler KY 42288–
Location: Off State Hwy. 403, which is off State Hwy 231
Landholding Agency: COE
Property Number: 319120014
Status: Underutilized
Reason: Floodway

Green River Lock & Dam No. 5
Readville Co: Butler KY 42275–
Location: Off State Highway 185
Landholding Agency: COE
Property Number: 319120015
Status: Unutilized
Reason: Floodway

Green River Lock & Dam No. 6
Brownsville Co: Edmonson KY 42210–
Location: Off State Highway 259
Landholding Agency: COE
Property Number: 319120016
Status: Unutilized
Reason: Floodway

Vacant land west of locksite
Greenup Locks and Dam
5121 New Dam Road
Rural Co: Greenup KY 41144–
Landholding Agency: COE
Property Number: 319120017
Status: Unutilized
Reason: Floodway

Tract 6404, Cave Run Lake
U.S. Hwy 460
Index Co: Morgan KY
Landholding Agency: COE
Property Number: 319240005
Status: Underutilized
Reason: Floodway

Tract 6803, Cave Run Lake
State Road 1161
Pomp Co: Morgan KY
Landholding Agency: COE
Property Number: 319240006
Status: Underutilized
Reason: Floodway

9 Tracts
Daniel Boone National Forest
Co: Owsley KY 37902–
Landholding Agency: GSA
Property Number: 549620012
Status: Excess
Reason: Floodway
GSA Number: 4–G–KY–607

2.15 Acres
Owensboro Moorings
Owensboro Co: Daviess KY 42301–
Landholding Agency: GSA
Property Number: 549710015
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Floodway
GSA Number: 4–U–KY–605

Louisiana

Site No. 17
Lazarre Point
West Monore Co: Ouachita Parish LA 71291–
Landholding Agency: GSA
Property Number: 549630021
Status: Excess
Reason: Floodway
GSA Number: 7–D–LA–0550

Harrison Lock & Dam No. 2
Harrisonburg Co: Catahoula LA 71340–
Landholding Agency: GSA
Property Number: 549720003
Status: Excess
Reason: Floodway
GSA Number: 7–D–LA–0552

Maryland

Tract 131R
Youghiogheny River Lake, Rt. 2, Box 100
Friendsville Co: Garrett MD
Landholding Agency: COE
Property Number: 319240007
Status: Underutilized
Reason: Floodway

Michigan

Port/EPA Large Lakes Rsch Lab
Grosse Ile Twp Co: Wayne MI
Landholding Agency: GSA
Property Number: 549720022
Status: Excess
Reason: Within airport runway clear zone
GSA Number: 1–Z–MI–554–A

Minnesota

Parcel G
Pine River
Cross Lake Co: Crow Wing MN 56442–
Location: 3 miles from city of Cross Lake between highways 6 and 371.
Landholding Agency: COE
Property Number: 319011037
Status: Excess
Reason: Other
Comment: highway right of way

Mississippi

Parcel 1
Grenada Lake
Section 20
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE

Property Number: 319011018
Status: Underutilized
Reason: Within airport runway clear zone

Missouri

Ditch 19, Item 2, Tract No. 230
St. Francis Basin Project
2½ miles west of Malden
Co: Dunklin MO
Landholding Agency: COE
Property Number: 319130001
Status: Unutilized
Reason: Floodway

New York

Cooke's Island—32 acres
Lake Champlain
Whitehall Co: Washington NY
Landholding Agency: GSA
Property Number: 549710009
Status: Excess
Reason: Other
Comment: Inaccessible
GSA Number: 1–D–NY–847

North Dakota

Tracts 1 & 2
Garrison Dam
Lake Sakakawea
Williston Co: Williams ND 58801–
Landholding Agency: COE
Property Number: 319410015
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Floodway

Ohio

Mosquito Creek Lake
Everett Hull Road Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 319440007
Status: Underutilized
Reason: Floodway

Mosquito Creek Lake
Housel—Craft Rd., Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 319440008
Status: Underutilized
Reason: Floodway

Lewis Research Center
Cedar Point Road
Cleveland Co: Cuyahoga OH 44135–
Landholding Agency: GSA
Property Number: 549610007
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone
GSA Number: 2–Z–OH–598–I

Pennsylvania

Lock and Dam #7
Monongahela River
Greensboro Co: Greene PA
Location: Left hand side of entrance roadway to project
Landholding Agency: COE
Property Number: 319011564
Status: Unutilized
Reason: Floodway

South Carolina

Land—2.66 acres
Port Royal Co: Beaufort SC 29902–6148
Landholding Agency: GSA
Property Number: 549240009
Status: Excess
Reason: Floodway
GSA Number: 4–N–SC–0489A

Tennessee

Brooks Bend
Cordell Hull Dam and Reservoir
Highway 85 to Brooks Bend Road
Gainesboro Co: Jackson TN 38562–
Location: Tracts 800, 802–806, 835–837, 900–902, 1000–1003, 1025
Landholding Agency: COE
Property Number: 219040413
Status: Underutilized
Reason: Floodway

Cheatam Lock and Dam
Highway 12
Ashland City Co: Cheatham TN 37015–
Location: Tracts E–513, E–512–1 and E–512–2
Landholding Agency: COE
Property Number: 219040415
Status: Underutilized
Reason: Floodway

Tract 6737
Blue Creek Recreation Area
Barkley Lake, Kentucky and Tennessee
Dover Co: Stewart TN 37058–
Location: U.S. Highway 79/TN Highway 761
Landholding Agency: COE
Property Number: 319011478
Status: Underutilized
Reason: Floodway

Tracts 3102, 3105, and 3106
Brimstone Launching Area
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011479
Status: Excess
Reason: Floodway

Tract 3507
Proctor Site
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551–
Location: TN Highway 52
Landholding Agency: COE
Property Number: 319011480
Status: Unutilized
Reason: Floodway

Tract 3721
Obey
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011481
Status: Unutilized
Reason: Floodway

Tracts 608, 609, 611 and 612
Sullivan Bend Launching Area
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011482
Status: Underutilized
Reason: Floodway

Tract 920
Indian Creek Camping Area
Cordell Hull Lake and Dam Project
Granville Co: Smith TN 38564–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011483
Status: Underutilized
Reason: Floodway

Tracts 1710, 1716 and 1703
Flynns Lick Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Whites Bend Road
Landholding Agency: COE
Property Number: 319011484
Status: Underutilized
Reason: Floodway

Tract 1810
Wartrace Creek Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011485
Status: Underutilized
Reason: Floodway

Tract 2524
Jennings Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011486
Status: Unutilized
Reason: Floodway

Tracts 2905 and 2907
Webster
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011487
Status: Unutilized
Reason: Floodway

Tracts 2200 and 2201
Gainesboro Airport
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011488
Status: Underutilized
Reason: Within airport runway clear zone, Floodway

Tracts 710C and 712C
Sullivan Island
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011489
Status: Unutilized
Reason: Floodway

Tract 2403, Hensley Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011490
Status: Unutilized
Reason: Floodway

Tracts 2117C, 2118 and 2120
Cordell Hull Lake and Dam Project
Trace Creek
Gainesboro Co: Jackson TN 38562–
Location: Brooks Ferry Road
Landholding Agency: COE
Property Number: 319011491
Status: Unutilized

Reason: Floodway

Tracts 424, 425 and 426
Cordell Hull Lake and Dam Project
Stone Bridge
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011492
Status: Unutilized
Reason: Floodway

Tract 517
J. Percy Priest Dam and Reservoir
Suggs Creek Embayment
Nashville Co: Davidson TN 37214–
Location: Interstate 40 to S. Mount Juliet Road.
Landholding Agency: COE
Property Number: 319011493
Status: Underutilized
Reason: Floodway

Tract 1811
West Fork Launching Area
Smyrna Co: Rutherford TN 37167–
Location: Florence road near Enon Springs Road
Landholding Agency: COE
Property Number: 319011494
Status: Underutilized
Reason: Floodway

Tract 1504
J. Perry Priest Dam and Reservoir
Lamon Hill Recreation Area
Smyrna Co: Rutherford TN 37167–
Location: Lamon Road
Landholding Agency: COE
Property Number: 319011495
Status: Underutilized
Reason: Floodway

Tract 1500
J. Perry Priest Dam and Reservoir
Pools Knob Recreation
Smyrna Co: Rutherford TN 37167–
Location: Jones Mill Road
Landholding Agency: COE
Property Number: 319011496
Status: Underutilized
Reason: Floodway

Tracts 245, 257, and 256
J. Perry Priest Dam and Reservoir
Cook Recreation Area
Smyrna Co: Davidson TN 37214–
Location: 2.2 miles south of Interstate 40 near Saunders Ferry Pike.
Landholding Agency: COE
Property Number: 319011497
Status: Underutilized
Reason: Floodway

Tracts 107, 109, and 110
Cordell Hull Lake and Dam Project
Two Prong
Carthage Co: Smith TN 37030
Location: US Highway 85
Landholding Agency: COE
Property Number: 319011498
Status: Unutilized
Reason: Floodway

Tracts 2919 and 2929
Cordell Hull Lake and Dam Project
Sugar Creek
Gainesboro Co: Jackson TN 38562–
Location: Sugar Creek Road
Landholding Agency: COE
Property Number: 319011500
Status: Unutilized
Reason: Floodway

Tract 1218 and 1204
Cordell Hull Lake and Dam Project
Granville—Alvin Yourk Road
Granville Co: Jackson TN 38564–
Landholding Agency: COE
Property Number: 319011501
Status: Unutilized
Reason: Floodway

Tract 2100
Cordell Hull Lake and Dam Project
Galbreaths Branch
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011502
Status: Unutilized
Reason: Floodway

Tract 104 et. al.
Cordell Hull Lake and Dam Project
Horshoe Bend Launching Area
Carthage Co: Smith TN 37030–
Location: Highway 70 N
Landholding Agency: COE
Property Number: 319011504
Status: Underutilized
Reason: Floodway

Tracts 510, 511, 513 and 514
J. Percy Priest Dam and Reservoir Project
Lebanon Co: Wilson TN 37087–
Location: Vivrett Creek Launching Area, Alvin Sperry Road
Landholding Agency: COE
Property Number: 319120007
Status: Underutilized
Reason: Floodway

Tract A–142, Old Hickory Beach
Old Hickory Blvd.
Old Hickory Co: Davidson TN 37138–
Landholding Agency: COE
Property Number: 319130008
Status: Underutilized
Reason: Floodway

Texas

Tracts 104, 105–1, 105–2 & 118
Joe Pool Lake Co: Dallas TX
Landholding Agency: COE
Property Number: 319010397
Status: Underutilized
Reason: Floodway

Part of Tract 201–3
Joe Pool Lake Co: Dallas TX
Landholding Agency: COE
Property Number: 319010398
Status: Underutilized
Reason: Floodway

Part of Tract 323
Joe Pool Lake Co: Dallas Tx
Landholding Agency: COE
Property Number: 319010399
Status: Underutilized
Reason: Floodway

Tract 702–3
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 319010401
Status: Unutilized
Reason: Floodway

Tract 706
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 319010402
Status: Unutilized
Reason: Floodway

Utah

4.3 acres -Portion
Wendover Airport
Wendover Co: Tooele UT 83354–
Landholding Agency: GSA
Property Number: 549630003
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 7–G–UT–401–L

West Virginia

Morgantown Lock and Dam
Box 3 RD #2
Morgantown Co: Monongahelia WV 26505–
Landholding Agency: COE
Property Number: 319011530
Status: Unutilized
Reason: Floodway

London Lock and Dam
Route 60 East
Rural Co: Kanawha WV 25126–
Location: 20 miles east of Charleston, W. Virginia.
Landholding Agency: COE
Property Number: 319011690
Status: Unutilized
Reason: Other
Comment: .03 acres; very narrow strip of land located too close to busy highway.

[FR Doc. 97–20625 Filed 8–7–97; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10 (a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No: 808242.

Applicant: Scott Cameron, Agoura Hills, California.

The applicant requests an amendment to his permit to take (harass by survey) the Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) in conjunction with presence or absence surveys in San Bernardino and Riverside Counties, California for the purpose of enhancing its survival.

Permit No: 831908.

Applicant: The Nature Conservancy, Las Vegas, Nevada.

The applicant requests a permit to remove and reduce to possession specimens of *Eriogonum ovalifolium* var. *williamsiae* (Steamboat buckwheat) in conjunction with genetics and pollination research on Federal lands in Washoe County, Nevada for the purpose of enhancing its survival.

Permit No: 831910.

Applicant: Michael San Miguel, Arcadia, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), and coastal California gnatcatcher (*Polioptila californica californica*) in conjunction with population monitoring and removal of brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests of these species throughout the species range in California for the purpose of enhancing their survival.

Permit No: 787392.

Applicant: San Bernardino County Museum, Redlands, California.

The applicant requests an amendment of his permit to take (harass by survey, locate and monitor nests, capture, band, color-band, and release) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with life history studies and population monitoring to include the following locations: the Virgin River, Nevada, and the Lower Colorado River, including the Lake Mead National Recreation area south to Yuma, Arizona for the purpose of enhancing its survival.

Permit No: 832200.

Applicant: Felix A. H. Sperling, University of California, Berkeley, California.

The applicant requests a permit to take (collect and sacrifice) 20 male Lange's metalmark butterflies (*Apodemia mormo langei*) in conjunction with genetic research at Antioch Dunes National Wildlife Refuge, Contra Costa County, California for the purpose of enhancing its survival.

Permit No: 796271.

Applicant: Shana C. Dodd, San Diego, California.

The applicant requests an amendment to her permit to take (harass by survey) the Pacific pocket mouse (*Perognathus longimembris pacificus*) in conjunction with presence or absence surveys and population monitoring in Orange, Los Angeles, and San Diego Counties, California for the purpose of enhancing its survival.

Permit No: 832262.

Applicant: Department of Parks and Recreation, San Luis Obispo, California.

The applicant requests a permit to take (harass by survey) the Morro shoulderband (= banded dune) snail (*Helminthoglypta walkeriana*) in conjunction with presence or absence surveys and ecological research in Montana de Oro and Morro Bay State Parks, San Luis Obispo County, California for the purpose of enhancing its survival.

Permit No: 789266.

Applicant: Patricia A. Campbell, Murrieta, California.

The applicant requests an amendment to her permit to take (harass by survey, locate and monitor nests, capture, band, color-band, and release) the California least tern (*Sterna antillarum browni*) in conjunction with population monitoring in Orange, Los Angeles, Ventura, Santa Barbara, and San Luis Obispo Counties, California for the purpose of enhancing its survival.

Permit No: 768251.

Applicant: Mark L. Allaback, Biosearch Surveys, Santa Cruz, California.

The applicant requests an amendment to his permit to take (harass by survey, capture, measure, and release) the Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*) in conjunction with scientific research in Santa Cruz and Monterey Counties, California for the purpose of enhancing its survival.

Permit No: 832515.

Applicant: Jim Jennings, Glendale, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*), and coastal California gnatcatcher (*Polioptila californica*) in conjunction with population monitoring and removal of brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests of these species throughout the species range for the purpose of enhancing their survival.

Permit No: 787376.

Applicant: Peter Bloom, Santa Ana, California.

The applicant requests an amendment to his permit to take (harass by survey, locate and monitor nests, capture, band, color-band, and release) the southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*), and coastal California gnatcatcher (*Polioptila californica*) in conjunction with population monitoring and removal of brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests of these species throughout the species range in California for the purpose of enhancing their survival.

Permit No: 832579.

Applicant: Michael L. Johnson, University of California, Davis, California.

The applicant requests a permit to take (capture, mark, measure, and release) the salt marsh harvest mouse (*Reithrodontomys raviventris*) in conjunction with ecological research throughout the range of the species in California for the purpose of enhancing its survival.

DATES: Written comments on these permit applications must be received on or before September 8, 1997.

ADDRESSES: Written data or comments should be submitted to the Chief, Division of Consultation and Conservation Planning, Ecological Services, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; FAX: 503–231–6243. Please refer to the respective permit number for each application when submitting comments. All comments, including names and addresses, received will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: 503–231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: August 1, 1997.

Thomas J. Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–20953 Filed 8–7–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

This is published in the exercise of authority delegated by the Secretary of

the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(a) notice is hereby given that the Point Au Chien Indian Tribe, Lower Hwy. 665 Box 1408, Montegut, Louisiana 70377, has filed a letter of intent to be considered for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. This letter was received by the Bureau of Indian Affairs (BIA) on July 22, 1996, and was signed by members of the group's governing body.

The petitioner, the Point Au Chien Indian Tribe (PACIT) was part of the United Houma Nation (UHN, #56), which received a proposed finding December 22, 1994. 62 **Federal Register** 8982. The proposed finding stated that the Assistant Secretary—Indian Affairs proposed to decline to acknowledge the UHN in that they did not meet all seven mandatory criteria under 25 CFR part 83. In response, this portion of the UHN has requested that it be considered separately from UHN.

The PACIT shall be treated as a separate petitioner from July 22, 1996, forward, with the same proposed finding as UHN. This is a notice that the petition is under active consideration. Notice that the petitioner has separated from the UHN will be sent by mail to the Governor of Louisiana, the Attorney General of Louisiana, the UHN, and other interested parties. The public comment period on the UHN proposed finding ended November 13, 1996. Under 83.9(a) of the regulations, PACIT and interested or informed parties have until 90 days from publication of this notice in the **Federal Register** to submit factual and/or legal arguments in support of or in opposition to the proposed finding as it pertains to PACIT. Comments must be provided simultaneously to the petitioner by the interested or informed parties. Under 83.10(h) a copy of the technical report evaluating the evidence upon which the proposed finding was based is available upon written request to the BIA. After the close of this response period, the BIA will issue an amended proposed finding, which will be published in the **Federal Register**.

Under Section 83.10(i) of the regulations, the PACIT and interested or informed third parties will be provided 180 days from the date of publication of the amended proposed finding pertaining to the Point au Chien Indian Tribe in the **Federal Register** to submit factual and/or legal arguments in support of or in opposition to the group's amended proposed finding. The petitioner will have a 60-day period in which to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Room 3427, 1849 C Street, N.W., Washington, D.C. 20240, Phone: (202) 208–3592.

Dated: July 28, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–20951 Filed 8–7–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; NVN 55116]

Notice of Realty Action; Termination of Recreation and Public Purposes Act Classification; Churchill County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action terminates Recreation and Public Purposes (R&PP) Classification NVN 55116 in its entirety.

EFFECTIVE DATE: Termination of the classification is effective 10 a.m. on September 8, 1997.

FOR FURTHER INFORMATION CONTACT: Jo Ann Hufnagle, Bureau of Land Management, Carson City District, 1535 Hot Springs Road, Carson City, Nevada 89706, 702–885–6000.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by Appendix 1 of Bureau of Land Management Manual 1203, R&PP Classification NVN 55116 is hereby terminated in its entirety on the following described federal land:

Mount Diablo Meridian, Nevada

T. 16 N., R. 28E.,
Sec. 12, NE¼SE¼,N½NW¼SE¼, N½S½NW¼SE¼.
T. 16 N., R, 29 E.,
Sec. 7, Lot 3, NE¼SW¼, NW¼SE¼.

Containing 189.99 acres.

The classification made pursuant to the act of June 14, 1926, as amended (43 U.S.C. 869 et seq.), segregated the federal land from all forms of appropriation under the public land laws, including location under the United States mining laws, but not leasing under the mineral leasing laws. The land was previously leased to Churchill County for a motor racing complex. This land is excess to Churchill County's needs and the classification no longer serves any purpose.

At 10 a.m. on September 8, 1997, the land will become open to the operation of the public land laws including the mining laws, subject to valid existing rights, the provisions of an existing reclamation withdrawal and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on September 8, 1997 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: July 30, 1997.

Clifford D. Ligons,

Assistant District Manager, Non-Renewable Resources.

[FR Doc. 97–20928 Filed 8–7–97; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Adaptive Management Work Group

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Public Meetings.

SUMMARY: The first meeting of the Glen Canyon Dam Adaptive Management Work Group (AMWG) will be an open public meeting to discuss administrative and program related issues. This meeting will discuss the following agenda items: Work Group organization, technical work group formation, annual reporting and coordination with the Annual Operating Plan for the Colorado River, and updates on the Glen Canyon Dam temperature control device, Monitoring and Research Center report, endangered species, cultural resources, and hydrology in the basin.

DATE AND LOCATION: The public meetings will be held at the following times and location:

Phoenix, Arizona—Wednesday, September 10, 1997, from 8:00 a.m. to 4:30 p.m. and Thursday, September 11, 1997, from 8:00 a.m. to 11:30 a.m. at the Ramada Suites Hotel, 1635 North Scottsdale Road, Phoenix, Arizona.

Anyone wishing to make formal oral comments (limited to 10 minutes) at the meeting must provide written notice to Mr. Steven Lloyd, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102 no later than noon (eastern standard time) on Friday, September 5, 1997, telephone (801) 524–3690, faxogram (801) 524–5499; or E-mail:

slloyd@uc.usbr.gov. A block of time will be provided on the second day of the meeting agenda for informal public comments. Written comments will be provided to the Work Group at the first meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Magnussen, Secretarial Designee for the AMWG, telephone (202) 208–4081, faxogram (202) 208–3887, E-mail: smagnussen@usbr.gov.; Bruce Moore, telephone (801) 524–3702, faxogram (801) 524–5499, E-mail: bmoore@uc.usbr.gov.; or Steven Lloyd, telephone (801) 524–3690, E-mail: slloyd@uc.usbr.gov.

Dated: August 4, 1997.

Eluid L. Martinez,

Commissioner.

[FR Doc. 97–20908 Filed 8–7–97; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Existing Collection; Comments Requested

ACTION: Extension of an existing collection: application for issuance or replacement of Northern Mariana Card.

The Department of Justice, Immigration and Naturalization Service, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until October 7, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following points.

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

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

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

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

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application for Issuance or Replacement of Northern Mariana Card.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–777. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. Applicants may apply for a Northern Mariana identification card if they received United States citizenship pursuant to Public Law 94–241 (Covenant to Establish a Commonwealth of the Northern Mariana Island).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 respondents at 30 minutes (.5) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: August 4, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–20927 Filed 8–7–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,559]

American Oil and Gas A/K/A KN Energy A/K/A Westar Transmission Company A/K/A HR Options, Incorporated, Amarillo, Texas; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 9, 1997 in response to a worker petition which was filed on behalf of workers at American Oil and Gas, A/K/A KN Energy, A/K/A Westar Transmission Company, A/K/A HR Options, Incorporated operating at various locations in Amarillo, Texas.

All workers of the subject firm are covered under an existing certification (TA–W–30,836). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 29th day of July, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–21020 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,612]

Baker School Specialty Company, Incorporated, Orange, Massachusetts; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 30, 1997 in response to a worker petition which was filed by the company on behalf of workers at Baker School Specialty Company, Incorporated, located in Orange, Massachusetts.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 30th day of July, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–21019 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,506]

Louisiana-Pacific Corporation, Chilco OSB, Chilco, Idaho; Including Leased Workers of Industrial Personnel, Coeur D'Alene, Idaho; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on May 30, 1997, applicable to all workers of Louisiana-Pacific Corporation, Chilco OSB, located in Chilco, Idaho. The notice was published in the **Federal Register** on June 27, 1997 (62 FR 34711).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the State shows that some workers of Louisiana-Pacific Corporation, Chilco OSB were leased from Industrial Personnel to produce Oriented Strand Board (OSB) for the construction industry at the Chilco, Idaho plant. Based on these findings, the Department is amending the certification to include workers of Industrial Personnel, Coeur D'Alene, Idaho leased to Louisiana-Pacific Corporation, Chilco OSB, Chilco, Idaho.

The intent of the Department's certification is to include all workers of Louisiana-Pacific Corporation adversely affected by imports of Oriented Strand Board (OSB).

The amended notice applicable to TA–W–33,506 is hereby issued as follows:

All workers of Louisiana-Pacific Corporation, Chilco OSB, Chilco, Idaho and leased workers of Industrial Personnel, Coeur D'Alene, Idaho engaged in employment related to the production of Oriented Strand Board (OSB) for Louisiana-Pacific Corporation, Chilco OSB, Chilco, Idaho who became totally or partially separated from employment on or after June 5, 1997, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 29th day of July 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–21021 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33, 195]

Reynolds Metals Company, Fulton Can Plant, Fulton, New York; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Acting Director of the Office of Trade Adjustment Assistance for workers at Reynolds Metals Company, Fulton Can Plant, Fulton, New York. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–33, 195; Reynolds Metals Company, Fulton Can Plant, Fulton, New York (July 30, 1997)

Signed at Washington, D.C. this 30th day of July, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–21025 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–32,487 and TA–W–32,487B]

Savannah Manufacturing Corporation, Savannah, Tennessee; and Hickory Hills Industries, Incorporated, Fort Lauderdale, Florida; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certificate of Eligibility to Apply for Worker Adjustment Assistance on July 3, 1996, applicable to all workers of Savannah Manufacturing Corporation, Savannah, Tennessee. The notice was published in the **Federal Register** on August 2, 1996 (61 FR 40454).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred at Hickory Hills Industries, Inc., Fort Lauderdale, Florida when it closed during the later half of 1996. The workers at Fort Lauderdale, Florida location provided sales office functions to support the production of children's sportswear at Savannah Manufacturing. Accordingly, the Department is amending the certification to cover workers at Hickory Hills Industries, Inc., Fort Lauderdale, Florida.

The intent of the Department's certification is to include all workers of Savannah Manufacturing Corporation adversely affected by increased imports.

The amended notice applicable to TA–W–32,487 is hereby issued as follows:

All workers of Savannah Manufacturing Corporation, Savannah, Tennessee (TA–W–32,487), and Hickory Hills Industries, Incorporated, Fort Lauderdale, Florida (TA–W–32,487B) who became totally or partially separated from employment on or after June 7, 1995 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of July, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–21024 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training 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 and Training Administration is soliciting comments concerning the proposed extension collection of the *Domestic Agricultural In-Season Wage Report*, ETA–232 and *Wage Survey Interview Record*, ETA–232A. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before October 7, 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: James Norris, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Room N–4470, 200 Constitution Avenue NW., Washington, DC 20210–0001, 202–219–5263, X–162 (this is not a toll-free number), fax: 202–208–5844.

SUPPLEMENTARY INFORMATION:

Background

The Wagner-Peyser Act, as amended, provides that the U.S. Employment Service shall assist in coordinating the State public employment services throughout the country and in promoting uniformity in their administrative and statistical procedures, furnishing and publishing information as to opportunities for employment and other information of value in the operation of the system and maintaining a system for clearing labor between the States.

Pursuant to the Wagner Peyser Act, the U.S. Department of Labor has established regulations at 20 CFR 653.500 covering the processing of agricultural intrastate and interstate job orders. Section 653.501 provides that wages offered by employers must not be less than the prevailing wages * * * or the applicable Federal or State minimum wage, whichever is higher. Also regulations for the temporary employment of alien agricultural and logging workers in the United States, 20 CFR, Part 655, Subparts B and C, the H–2A program, under the Immigration Reform and Control Act of 1986, require farmers and other agricultural employers to pay workers the adverse effect wage rate, the prevailing wage rate, or the legal Federal or State minimum wage rate, whichever is highest.

The prevailing wage rate is used to implement these regulations covering intrastate and interstate recruitment of farmworkers. The vehicle for establishing the prevailing wage rate is Form ETA–232, *The Domestic Agricultural In-Season Wage Report*, and Form ETA–232A, *Wage Survey Interview Record*. The ETA–232 report contains the prevailing wage finding based on survey data collected from employers and reported by the State on the ETA–232A.

II. Current Actions: Activity covered by regulations at 20 CFR 653.500 and 20 CFR 655 (B)(C), particularly the H–2A program, continues to expand, further increasing the need for accurate and timely wage information on which to base prevailing agricultural wage determinations. There is no similar wage information which is available or can be used for these determinations which apply to a specific crop or livestock activity, in a specific agricultural wage reporting area for a specific period of time during the peak harvest season.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Domestic Agricultural In-Season Wage Report, ETA–232 and *Wage Survey Interview Record*, ETA–232A.

OMB Number: 1205–0017.

Agency Numbers: ETA–232 and ETA–232A.

Affected Public: Business and State Government.

Total Respondents: 39,375.

Frequency: Annually.

Cite/ reference	Total respondents	Frequency	Total responses	Average time per response (hours)	Burden (hours)
ETA–232	600	Annually	600	11 hours	6,600
ETA–232A	38,775	Annually	38,775	¼ hour	9,694
Totals			39,375		16,294

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining):

Business: The salary range of representatives of business respondents (employees of small family owned farms up through large agribusiness firms) could be from the minimum wage to several hundred thousand dollars of a CEO. Therefore, the hourly salaries of individuals participating in the wage survey can range from about $4.75 to $300.00 or more per hour.

State Government: Average cost to the State agencies conducting the agricultural wage surveys range from $1,500.00 to $6,000.00 per survey, depending upon the complexity of the crop or livestock activity to be surveyed, including considerations such as size of employer and worker universes, and geographic expanse of wage reporting areas.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: August 4, 1997.

James Norris,

Chief, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration.

[FR Doc. 97–21026 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H–1B Visas in Specialty Occupations and as Fashion Models

AGENCY: Employment and Training Administration, 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 Employment and Training Administration is soliciting comments concerning the proposed extension to the collection of information on the Labor Condition Application for H–1B nonimmigrants. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before October 7, 1997.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed information collection 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 collections techniques or other forms of information, *e.g.*, permitting electronic submissions of responses.

ADDRESSES: Comments and questions regarding the collection of information on Form ETA 9035, Labor Condition Application for H–1B Nonimmigrants, should be directed to James Norris, Chief, Division of Foreign Labor Certifications, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–4456, Washington, DC 20210 ((202) 219–5263 (this is not a toll-free number)).

SUPPLEMENTARY INFORMATION:

I. Background

The Immigration and Naturalization Act (INA) requires that before any alien may be admitted or otherwise provided status as an H–1B nonimmigrant, the prospective employer must have filed with the Department a labor condition application stating that they will offer prevailing wages and working conditions, that there is not a strike or lockout in the course of a labor dispute in the occupational classification at the place of employment, and that they have provided notice of such filing to the bargaining representative or, if there is none, by posting notice of filing in conspicuous locations at the place of employment. Further, the employer must make certain documentation available for public examination. Complaints may be filed with the Department alleging a violation of the labor condition application process. If reasonable cause is found to believe a violation has been committed, the Department will conduct an investigation and, if appropriate, assess penalties. The INA places a limit of 65,000 per year on the number of aliens who can be admitted to the U.S. on H–1B visas and further limits these workers to a maximum of six years duration of stay under H–1B status.

The INA requires that the Department make available for public examination in Washington, DC, a list of employers which have filed labor conditions applications.

II. Current Actions

In order for the Department to meet its statutory responsibilities under the INA there is a need for an extension of an existing collection of information pertaining to employers' seeking to use H–1B nonimmigrants in specialty occupations or as fashion models of distinguished merit and ability. There is an increase in burden due to a sustained increase in the number of labor condition applications filed by employers each year.

Type Of Review: Extension of a currently approved collection without change.

Agency: Employment and Training Administration, Labor.

Title: Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H–1B Visas in Specialty Occupations and as Fashion Models.

OMB Number: 1205–0310.

Affected Public: Businesses or other for-profit, not-for-profit institutions; Federal government; State, Local or Tribal government.

Form: Form ETA 9035.

Total Respondents: 200,000.

Frequency of Response: On occasion.

Total Responses: 200,200.

Average Burden Hours per Response: 1.25.

Estimate Total Annual Burden Hours: 200,050.

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.

Signed at Washington, D.C. this 1st day of August, 1997.

John R. Beverly, III,

Director, U.S. Employment Service.

[FR Doc. 97–21027 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01068 and 01068B]

Hickory Hills Industries, Incorporated, Savannah Manufacturing Company, Savannah, Tennessee and Fort Lauderdale, Florida; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on July 22, 1996, applicable to all workers of Hickory Hills Industries, Incorporated, Savannah Manufacturing Company, Savannah, Tennessee. The notice was published in the **Federal Register** on August 6, 1996 (61 FR 40853).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred at Hickory Hills Industries, Incorporated, Fort Lauderdale, Florida when it closed during the last half of 1996. The workers at the Fort Lauderdale, Florida location provided sales office functions to support the production of children's sportswear at Savannah Manufacturing. Accordingly, the Department is amending the certification to cover workers at the Hickory Hills Industries, Incorporated, Fort Lauderdale, Florida.

The intent of the Department's certification is to include all workers of

Hickory Industries, Incorporated adversely affected by imports from Mexico.

The amended notice applicable to NAFTA–01068 is hereby issued as follows:

All workers of Hickory Hills Industries, Incorporated, Savannah (Savannah Manufacturing Company), Tennessee (NAFTA–01068) and Hickory Hills Industries, Incorporated, Fort Lauderdale, Florida (NAFTA–01068B) who became totally or partially separated from employment on or after June 7, 1995 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of July 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–21023 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01651]

Louisiana-Pacific Corporation, Chilco OSB, Chilco, Idaho; Including Leased Workers of Industrial Personnel, Coeur D'Alene, Idaho; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on May 30, 1997, applicable to all workers of Louisiana-Pacific Corporation, Chilco OSB, Chilco, Idaho. The notice was published in the **Federal Register** on June 13, 1997 (62 FR 32376).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the State shows that some employees of Louisiana-Pacific Corporation, Chilco OSB were leased from Industrial Personnel to produce Oriented Strand Board (OSB) for the construction industry at the Chilco, Idaho plant. Based on these findings, the Department is amending the certification to include workers of Industrial Personnel, Coeur D'Alene, Idaho leased to Louisiana-Pacific Corporation, Chilco OSB, Chilco, Idaho.

The intent of the Department's certification is to include all workers of Louisiana-Pacific Corporation adversely affected by imports from Canada.

The amended notice applicable to NAFTA–01651 is hereby issued as follows:

All workers of Louisiana-Pacific Corporation, Chilco OSB, Chilco, Idaho and leased workers of Industrial Personnel, Coeur D'Alene, Idaho engaged in employment related to the production of Oriented Strand Board (OSB) for Louisiana-Pacific Corporation, Chilco OSB, Chilco, Idaho who became totally or partially separated from employment on or after June 5, 1997 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of July, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 97–21022 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (P.L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Program Manager of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment of after December 8, 1993 (date of enactment of P.L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Program Manager of OTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request is filed in writing with the Program Manager of OTAA not later than August 18, 1997.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Program Manager of OTAA at the address shown below not later than August 18, 1997.

Petitions filed with the Governors are available for inspection at the Office of the Program Manager, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 23rd day of July, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Subject firm	Location	Date received at Governor's office	Petition number	Articles produced
Yonah Realty (Co.)	Cornelia, GA	06/20/97	NAFTA–1,742	Baby products.
Continental Sprayers (Wkrs)	El Paso, TX	06/23/97	NAFTA–1,743	Plastic injection molder.
Fair Haven Industries (IBT)	Fair Haven, MI	06/12/97	NAFTA–1,744	Automotive sewing.
Morrison Farms (Co.)	McAlphin, FL	05/27/97	NAFTA–1,745	Corn, green beans.
Hundley Farms (Co.)	Lozahatchee, FL	05/27/97	NAFTA–1,746	Corn.
John F. Spooner (Co.)	Belle Glade, FL	05/27/97	NAFTA–1,747	Green beans.
Rivergold (Co.)	Ft. Pierce, FL	05/27/97	NAFTA–1,748	Pick citrus.
Glades H and P (Co.)	Belle Glade, FL	05/27/97	NAFTA–1,749	Cane and corn.
Tina Borek Farm (Wkrs)	Miami, FL	05/06/97	NAFTA–1,750	Corn.
Paul Miller (Co.)	Belle Glade, FL	05/27/97	NAFTA–1,751	Sweet corn, sugar cane.
Tricor Direct (Wkrs)	Ft. Lauderdale, FL	06/18/97	NAFTA–1,752	Custom die cut label plates.
Ag Labors (Co.)	Belle Glade, FL	05/27/97	NAFTA–1,753	Sugar cane.

Subject firm	Location	Date received at Governor's office	Petition number	Articles produced
T.K.M. Farms (Co.)	Belle Glade, FL	05/27/97	NAFTA–1,754	Lettuce.
Billy R. Evans Harvesting (Co.)	Belle Glade, FL	05/27/97	NAFTA–1,755	Sweet corn harvest, sugar cane.
Seminole Farms (Co.)	Clewiston, FL	05/27/97	NAFTA–1,756	Cucumbers, peppers.
Frank Miller (Co.)	Belle Glade, FL	05/27/97	NAFTA–1,757	Labor.
Henry Franklin Green (Co.)	Pahokee, FL	05/27/97	NAFTA–1,758	Corn, green beans.
Flatland Harvesting (Co.)	Indiantown, FL	05/27/97	NAFTA–1,759	Farm labor services.
Brooks Tropicals (Co.)	Homestead, FL	03/31/97	NAFTA–1,760	Lime and mangos.
Big Lake Contractors (Co.)	Belle Glade, FL	05/27/97	NAFTA–1,761	Sweet corn, squash.
B and J Sheffield Leaf (Co.)	Loxahatchee, FL	05/27/97	NAFTA–1,762	Sweet corn harvest.
Roth Farms (Co.)	Belle Glade, FL	05/27/97	NAFTA–1,763	Parlsey harvest.
E and R Harvesting (Co.)	Belle Glade, FL	05/27/97	NAFTA–1,764	Sweet corn.
A. Duda and Sons (Co.)	Belle Glade, FL	05/27/97	NAFTA–1,765	Sweet corn.
Seminole Tribe of Florida (Co.)	Hollywood, FL	05/27/97	NAFTA–1,766	Squash, bell peppers, cucumbers.
A–1 Harvesting (Co.)	Belle Glade, FL	05/27/97	NAFTA–1,767	Sweet corn.
Cane Tech (Co.)	Clewiston, FL	05/27/97	NAFTA–1,768	Sugar cane.
Gargiulo-Collier Farms (Co.)	Immokalee, FL	05/27/97	NAFTA–1,769	Bell peppers, tomatoes.
Du Bois Farms (Co.)	Boynton Beach, FL	05/27/97	NAFTA–1, 770	Cucumber eggplant, bell peppers.
Zenith Goldine Pharmaceuticals (Co.)	Ft. Lauderdale, FL	05/29/97	NAFTA–1, 771	Pharmaceuticals.
Iori Farm (Wkrs)	Homestead, FL	05/27/97	NAFTA–1, 772	Tomatoes, pickles, melons.
Fresh Pick Farm (Wkrs)	Princeton, FL	05/29/97	NAFTA–1, 773	Tomatoes, beans.
Petelaine (Co.)	Lozahatchee, FL	05/27/97	NAFTA–1, 774	Citrus, sugar cane, vegetables.
General Cable (IUE)	Montoursville, PA	06/24/97	NAFTA–1, 775	Cords.
Littlestown (Wkrs)	Littlestown, PA	06/24/97	NAFTA–1, 776	Pants, shirts, knits, toddler suits.
Stanley Door Systems (UAW)	Troy, MI	06/18/97	NAFTA–1, 777	Slab production.
LeTarte Co. (UAW)	Smiths Creek, MI	06/20/97	NAFTA–1, 778	Dry floor sheetmetal.
Singer Furniture (Wkrs)	Roanoke, VA	06/23/97	NAFTA–1, 779	Bedroom and dining room furniture.
Arkady Industries (Co.)	Malvern, AR	06/26/97	NAFTA–1, 780	Garment finishing trousers.
RCM Converters (Wkrs)	El Paso, TX	06/29/97	NAFTA–1, 781	Assembly sample sheets.
Flexel (UNITE)	Covington, IN	06/25/97	NAFTA–1, 782	Cellophane.
K and K Packing House (Wkrs)	Florida City, FL	06/26/97	NAFTA–1, 783	Beans.
F and T Farms (Wkrs)	Homestead, FL	06/26/97	NAFTA–1, 784	Zuchini, squash, beans.
Gulfsteam Tomato Packers (Wkrs)	Perrine, FL	06/26/97	NAFTA–1, 785	Tomatoes, packing house.
Sutter (Co.)	San Diego, CA	06/27/97	NAFTA–1, 786	Orthologic.
Economy Color Card Company (UPIU)	Elizabeth, NJ	06/11/97	NAFTA–1, 787	Sample books of wallpaper fabrics.
Alleglance Healthcare (Co.)	Riverside, CA	06/30/97	NAFTA–1, 788	Health products.
Barnett Farms (Co.)	Immokalee, FL	05/27/97	NAFTA–1, 789	Watermelons and green peppers.
West Apparel (Co.)	Woodville, AL	07/01/97	NAFTA–1, 790	T-shirts.
P.B.I. (Co.)	New York, NY	07/01/97	NAFTA–1, 791	Service organization.
Motor Coils Manufacturing (IUE)	Braddock, PA	07/01/97	NAFTA–1, 792	Bull gears and pinions.
Motor Coils (IUE)	Lawrenceville, PA	07/01/97	NAFTA–1, 792	Bull gears and pinions.
Alpha Mills (Wkrs)	Annville, PA	07/01/97	NAFTA–1, 793	T-shirts and ladies undergarments.
Williamson Products (Wkrs)	Lawrenceville, PA	07/01/97	NAFTA–1, 794	TV cable components.
A.K. Stamping (Co.)	Mountainside, NJ	07/07/97	NAFTA–1,795	Stampings for computers.
IMPAC Manufacturing (Co.)	Cyress, CA	07/03/97	NAFTA–1,796	P.C. board.
Garden Way (IAM)	Port Washington, WI	07/02/97	NAFTA–1,797	Garden tractors, chippers, shredders.
O and H Manufacturing (UNITE)	Allentown, PA	07/03/97	NAFTA–1,798	Knit undergarments.
Roise Cascade (WCIW)	Elgin, OR	07/01/97	NAFTA–1,799	Lumber.
Zenith Data Systems Direct (Wkrs)	State College, PA	07/03/97	NAFTA–1,800	Personal computer.
Kimberly Clark (UPI)	Winslow, ME	07/07/97	NAFTA–1,801	Paper towels and toilet paper.
Batesville Manufacturing (Wkrs)	Clarkesville, GA	07/03/97	NAFTA–1,802	Pants, shorts, skirts.
Weyerhaeuser Wood Products (Wkrs)	Plymouth, NC	07/07/97	NAFTA–1,803	Plywood panels.
L.A. Jeans (Wkrs)	Commerce, CA	07/07/97	NAFTA–1,804	Womens clothing, denim jeans and shorts.
Connie Casuals Limited (UNITE)	Bangor, PA	07/08/97	NAFTA–1,805	Ladies blouses.
Scotch Maid (Wkrs)	Allentown, PA	07/08/97	NAFTA–1,806	Gym, activewear.
Levi Strauss (Co.)	El Paso, TX	07/09/97	NAFTA–1,807	Jeans and jackets.
BASF (Wkrs)	Hobyoko, MA	07/01/97	NAFTA–1,808	Polystyrene Pellets.
Berg Electronics (Wkrs)	St. Louis, MO	07/09/97	NAFTA–1,809	Paddle board connectors.
Kimberly Clark (UPIU)	Marinette, WI	07/08/97	NAFTA–1,810	Tissue paper, towels, wipers.
White Cap (GMP)	Hayward, CA	07/11/97	NAFTA–1,811	Metal and plastic caps.
Excel of Battle Creek (UPWU)	Battle Creek, MI	07/09/97	NAFTA–1,812	Recliners for auto seat.
MagnaTek (CBO)	Huntington, IN	07/08/97	NAFTA–1,813	Recreational vehicle converters.
Chesterfield (Wkrs)	Chesterfield, SC	07/14/97	NAFTA–1,814	Knit shirts.
Jostens (Wkrs)	Webster, NY	07/10/97	NAFTA–1,815	Film processing.
United Steering Systems—Breed Technolo (UPIU).	Farmington Hills, MI	07/09/97	NAFTA–1,816	Automotive products.
Xentek, Inc. (Wkrs)	San Marcos, CA	07/14/97	NAFTA–1,817	Electronic power supplies.
Tubafor Mill (Wkrs)	Amanda Park, WA	07/17/97	NAFTA–1,818	Cedar & hemlock weather treated fencing.
Bemis Company (Wkrs)	Cordova, TN	07/18/97	NAFTA–1,819	Paper bags.
ACCO USA (IBT)	Long Island, NY	07/18/97	NAFTA–1,820	Staples and staplers.
Evergreen Trails (Co.)	Seattle, WA	07/17/97	NAFTA–1,821	Transportation.
Bausch and Lomb (Co.)	Rochester, NY	07/18/97	NAFTA–1,822	Sunglass frames.

Subject firm	Location	Date received at Governor's office	Petition number	Articles produced
Givaudan Roure (OCAW)	Clifton, NJ	07/18/97	NAFTA–1,823	Specialty aroma chemicals.
Allen Bradley-Rockwell Automation (Wkrs)	Rhinelander, WI	07/21/97	NAFTA–1,824	Terminal blocks, remote resets.
Lightolier West (IBEW)	Compton, CA	07/21/97	NAFTA–1,825	Lighting and fixture parts.
Elgin (Wkrs)	Erie, PA	07/21/97	NAFTA–1,826	Power supplies equipment.
Bend Manufacturing (Co.)	Bend, OR	07/21/97	NAFTA–1,827	
Memorex Telex Computer products (Wkrs).	Raleigh, NC	07/21/97	NAFTA–1,828	Computer products.
Gasbarre Products (Wkrs)	DuBois, PA	07/21/97	NAFTA–1,829	Compaction presses.
Industrial Systems Associates (Co.)	Feasterville, PA	07/18/97	NAFTA–1,830	Tools.
Precision Rotary Instruments (Wkrs)	Bridgewater Cors, VT.	07/21/97	NAFTA–1,831	Dental instruments.
Magna Interior Systems (Wkrs)	Del Rio, TX	07/22/97	NAFTA–1,832	Auto seat covers.

[FR Doc. 97–21018 Filed 8–7–97; 8:45 am]

BILLING CODE 4310–30–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 a proposed extension information collection: CM–936, Authorization for Release of Medical Information.

Copies of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before October 8, 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., NW., Room S–3201, Washington, DC 20210, telephone (202) 219–7601. (This is not a toll-free number.) Fax 202–219–6592.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 923) and 20 CFR 725.405 require that all relevant medical evidence be considered before a decision can be made regarding a claimant's eligibility for benefits. The CM–936 is a form that gives the claimant's consent for the release of medical information covered by the Privacy Act of 1974, and contains information required by medical institutions and private physicians to enable them to release pertinent medical information.

II. Current Actions

The Department of Labor (DOL) seeks extension of approval to collect this information in order to obtain the claimant's consent for medical institutions and private physicians to release medical information to the Division of Coal Mine Workers Compensation, as evidence to support their claim. Failure to gather this information would inhibit the adjudication of black lung claims because pertinent medical data would not be considered, during claims processing.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Authorization for Release of Medical Information.

OMB Number: 1215–0057.

Agency Numbers: CM–936.

Affected Public: Individuals or households.

Total Respondents: 3,000.

Frequency: Once.

Total Response: 3,000.

Average Time Per Response for Reporting: 5 minutes.

Estimated Total Burden Hours: 250.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintenance): 0.

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: August 5, 1997.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 97–21028 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Employment Standards Administration/Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are

based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

MASSACHUSETTS
MA970001 (FEB. 14, 1997)
MASSACHUSETTS
MA970007 (FEB. 14, 1997)
MASSACHUSETTS
MA970018 (FEB. 14, 1997)
MASSACHUSETTS
MA970019 (FEB. 14, 1997)
NEW JERSEY
NJ970002 (FEB. 14, 1997)
NEW JERSEY
NJ970003 (FEB. 14, 1997)
NEW JERSEY
NJ970004 (FEB. 14, 1997)
NEW YORK
NY970041 (FEB. 14, 1997)
RHODE ISLAND
RI970001 (FEB. 14, 1997)

Volume II

PENNSYLVANIA
PA970025 (FEB. 14, 1997)

Volume III

FLORIDA
FL970032 (FEB. 14, 1997)

Volume IV

ILLINOIS
IL970001 (FEB. 14, 1997)
ILLINOIS
IL970002 (FEB. 14, 1997)
ILLINOIS
IL970005 (FEB. 14, 1997)
ILLINOIS
IL970007 (FEB. 14, 1997)
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IL970008 (FEB. 14, 1997)
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IL970043 (FEB. 14, 1997)
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IL970069 (FEB. 14, 1997)
ILLINOIS
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INDIANA
IN970003 (FEB. 14, 1997)
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IN970005 (FEB. 14, 1997)
INDIANA
IN970006 (FEB. 14, 1997)
WISCONSIN
WI970030 (FEB. 14, 1997)

Volume V

KANSAS
KS970006 (FEB. 14, 1997)

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KS970008 (FEB. 14, 1997)
KANSAS
KS970012 (FEB. 14, 1997)
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KS970022 (FEB. 14, 1997)
MISSOURI
MO970001 (FEB. 14, 1997)
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MO970002 (FEB. 14, 1997)
MISSOURI
MO970003 (FEB. 14, 1997)
MISSOURI
MO970010 (FEB. 14, 1997)
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TX970003 (FEB. 14, 1997)
TEXAS
TX970081 (FEB. 14, 1997)

Volume VI

COLORADO
CO970002 (FEB. 14, 1997)
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CO970020 (FEB. 14, 1997)
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CO970022 (FEB. 14, 1997)
NORTH DAKOTA
ND970001 (FEB. 14, 1997)
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ND970002 (FEB. 14, 1997)
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ND970005 (FEB. 14, 1997)
NORTH DAKOTA
ND970019 (FEB. 14, 1997)
NORTH DAKOTA
ND970024 (FEB. 14, 1997)
NORTH DAKOTA
ND970027 (FEB. 14, 1997)

Volume VII

ARIZONA
AZ970001 (FEB. 14, 1997)
ARIZONA
AZ970002 (FEB. 14, 1997)
ARIZONA
AZ970003 (FEB. 14, 1997)
CALIFORNIA
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CALIFORNIA
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CA970092 (FEB. 14, 1997)
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CA970096 (FEB. 14, 1997)
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CA970102 (FEB. 14, 1997)
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CA970103 (FEB. 14, 1997)
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CA970104 (FEB. 14, 1997)
CALIFORNIA
CA970105 (FEB. 14, 1997)
CALIFORNIA
CA970109 (FEB. 14, 1997)
CALIFORNIA
CA970115 (FEB. 14, 1997)
HAWAII
HI970001 (FEB. 14, 1997)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC, this 1st Day of August 1997.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 97–20682 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–1–97]

Applied Research Laboratories, Inc.

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: Notice of Application for Recognition as a Nationally Recognized Testing Laboratory, and Preliminary Finding.

SUMMARY: This notice announces the application of Applied Research Laboratories, Inc. for recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding.

DATES: The last date for interested parties to submit comments is October 7, 1997.

ADDRESS: Send comments to: NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor—Room N3653, 200 Constitution Avenue, NW, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Office of Variance Determination, NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3653, Washington, D.C. 20210.

SUPPLEMENTARY INFORMATION:

Notice of Application

Notice is hereby given that Applied Research Laboratories, Inc. (ARL) has made application pursuant to 29 CFR 1910.7, for recognition as a Nationally Recognized Testing Laboratory.

The address of the laboratory covered by this application is: Applied Research Laboratories, Inc., 5371 NW 161st Street, Miami, Florida 33014.

Background

Applied Research Laboratories, Inc., according to the applicant, was founded in 1949, and is a Florida registered engineering corporation, with the owner as sole stockholder. The applicant states further that it is independent of any government or manufacturing

organization and is capable of providing impartial analysis of products and materials.

Regarding the merits of the application, the applicant contends that it meets the requirements of 29 CFR 1910.7 for recognition to certify products in the areas of testing which it has specified. See Exhibit 2A(1).

Applied Research Laboratories, Inc. states that its application documents demonstrate that for each specified item of equipment or material to be certified, it has the capability (including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality control programs) to perform testing and examination of equipment and materials for workplace safety purposes to determine conformance with appropriate product test standards.

The applicant states also that it shall provide, to the extent needed for the particular equipment or materials listed, labeled, or accepted, the following controls or services:

(i) Implementation of control procedures for identifying the listed and labeled equipment or materials,
(ii) Inspection of the run of such item at factories for product evaluation purposes to assure conformance with the test standards, and
(iii) Conduction of field inspections to monitor and to insure the proper use of its identifying mark or labels on products.

ARL claims that it is completely independent of employers subject to the tested equipment requirements, and of any manufacturers or vendors of equipment or materials being tested for these purposes.

The applicant also claims that it maintains effective procedures for producing creditable findings or reports that are objective and without bias, and for handling complaints and disputes under a fair and reasonable system.

ARL states that it has the capability to perform field evaluations and code compliance inspections of unique and non-listed equipment or materials at the customers' facilities. These services are supported by written procedures, quality control, and trained personnel.

In summary, Applied Research Laboratories, Inc. claims that it maintains the experience, expertise, personnel, organization, equipment, and facilities suitable for accreditation as an OSHA Nationally Recognized Testing Laboratory.

Facility

ARL's Miami facility consists of 39,600 square feet of space, consisting of segregated administrative and engineering areas. The engineering area is designed to provide each department with its own dedicated laboratory space. All laboratories are temperature controlled, and supplied with necessary utilities.

Standards

Applied Research Laboratories, Inc., desires recognition for testing and certification of products when tested for compliance with the following test standards, which are appropriate within the meaning of 29 CFR 1910.7(c):

ANSI/UL 22—Amusement and Gaming Machines
ANSI/UL—858 Household Electric Ranges
ASTM E152—Standard Methods of Fire Tests of Door Assemblies
UL 1838—Low Voltage Landscape Lighting Systems
UL 1995—Heating and Cooling Equipment

Programs and Procedures

Applied Research Laboratories, Inc., desires recognition for the acceptance of witnessed testing data, based upon the conditions as detailed in the **Federal Register** document titled ''Nationally Recognized Testing Laboratories; Clarification of the Types of Programs and Procedures'', 60 FR 12980, 3/9/95.

Preliminary Finding

Applied Research Laboratories, Inc. addressed all of the criteria which had to be met for recognition as an NRTL. For example, the applicant submitted a list of its test equipment and instrumentation; a roster of its personnel including résumés of those in key positions and copies of position descriptions; a description of services provided; copies of its Listing, Labeling, and Follow-Up Service Agreement; a statement of its independence as a testing laboratory; appeals procedure; calibration laboratories; and a copy of its Quality Control Manual.

Nine major areas were examined in depth during the on-site laboratory evaluation: facility; test equipment; calibration program; test and evaluation procedures; test reports; records; quality assurance program; follow-up listing program; and personnel.

Any discrepancies noted by the survey team during the on-site evaluation were adequately responded to following the on-site evaluation and are included as an integral part of the On-Site Review Report (Survey). With the preparation of the final report, the survey team was satisfied that the testing facility appeared to meet the necessary criteria required by the standard, and so noted in this On-Site Review Report (Survey). (See Ex. 2D).

Following a review of the application file and the On-Site Review Report (Survey), the NRTL Recognition Program staff concluded that the applicant appeared to have met the requirements for recognition as a Nationally Recognized Testing Laboratory for the Miami, FL facility and for the additional program/procedure and, therefore, recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon a review of the completed application file, the on-site assessment report, and the recommendation of the staff, the Assistant Secretary has made a preliminary finding that Applied Research Laboratories, Inc. can meet the requirements as prescribed by 29 CFR 1910.7 to: (1) recognize the Miami, FL facility for the five standards previously listed; and (2) to incorporate the additional program/procedure noted above.

All interested members of the public are invited to supply detailed reasons and evidence supporting or challenging the sufficiency of the applicant's having met the requirements for recognition as a Nationally Recognized Testing Laboratory, as well as Appendix A, of 29 CFR 1910.7. Submission of pertinent written documents and exhibits shall be made no later than October 7, 1997, and must be addressed to the NRTL Recognition Program, Office of Variance Determination, Room N 3653, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210. Copies of the ARL application, the laboratory survey report, and all submitted comments, as received, (Docket No. NRTL–1–97), are available for inspection and duplication at the Docket Office, Room N 2634, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address.

The Assistant Secretary's final decision on whether the applicant (Applied Research Laboratories, Inc.) satisfies the requirements for recognition as an NRTL will be made on the basis of the entire record including the public submissions and any further proceedings that the Assistant Secretary may consider appropriate in accordance with Appendix A of Section 1910.7.

Signed at Washington, D.C. this 1st day of August 1997.

Greg Watchman,

Acting Assistant Secretary.

[FR Doc. 97–21013 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–1–89]

Intertek Testing Services NA, Inc. (ITS) [Formerly Inchcape Testing Services NA, Inc. (ITS)]

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of requests for expansion of recognition as a Nationally Recognized Testing Laboratory, and preliminary findings. Notice of name change of Inchcape Testing Services NA, Inc.

SUMMARY: This notice announces the applications of Intertek Testing Services NA Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL), for laboratory facilities, under 29 CFR 1910.7, and presents the Agency's preliminary finding. In addition, the applicant has requested a change of name resulting from its acquisition by Charterhouse Development Capital Limited (Charterhouse).

DATES: The last date for interested parties to submit comments is October 7, 1997.

ADDRESSES: Send comments to: NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3653, 200 Constitution Avenue, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Office of Variance Determination, NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N3653, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:

Notice of Application

Notice is hereby given that Intertek Testing Services NA Inc. (ITS), has made application, pursuant to 29 CFR 1910.7, for expansion of its recognition as a Nationally Recognized Testing Laboratory for the laboratory sites listed below. The applicant also informed OSHA of a change of name to Intertek Testing Services NA Inc. (ITS). (Note that the abbreviation ''ITS'' will remain, as utilized under its previous owner, where its name was Inchcape Testing Services NA, Inc.). Previously, as ETL Testing Laboratories, Inc. (ETL), it made application pursuant to 29 CFR 1910.7, for recognition as a Nationally Recognized Testing Laboratory (see 54 FR 8411, 2/28/89), and was so recognized (see 54 FR 37845, 9/13/89); made application for expansion of its recognition (see 55 FR 43229, 10/26/90), and was so recognized (see 55 FR 51971, 12/18/90; see also correction, 56 FR 2953, 1/25/91); made application for expansion of its recognition (see 57 FR 54422, 11/18/92), and was so recognized (see 58 FR 37749, 7/13/93; see also correction, 58 FR 47001, 9/3/93); applied for expansion of its recognition (see 61 FR 41659, 8/9/96), was so recognized, the document further including the name change from ETL Testing Laboratories, Inc. (ETL), to Inchcape Testing Services NA Inc. (ITS), and noting the voluntary termination of recognition of Dash, Straus & Goodhue (DS&G) (see 61 FR 59111, 11/20/96).

The addresses of the concerned laboratories are:

Inchcape Testing Services NA Inc., 530 Garcia Avenue, Pittsburg, California 94565;

Inchcape Testing Services NA Ltd., 211 Schoolhouse Street, Coquitlam, British Columbia, V3K 4X9 Canada;

Inchcape Testing Services Hong Kong Ltd., 2/F., Garment Centre, 576 Castle Peak Road, Kowloon, Hong Kong;

Inchcape Testing Services Taiwan Ltd., 14/F Huei Fung Building 27, Chung Shan North Road, Sec. 3, Taipei, Taiwan.

Expansion of Recognition

On August 24, 1994, Intertek Testing Services NA Inc., as ''Inchcape'', made individual applications for expansion of its recognition as a Nationally Recognized Testing Laboratory. The applications were for the recognition of additional sites, and included facilities located in Taipei, Taiwan (see Exhibit 25A), and Kowloon, Hong Kong (see Exhibit 25B). On-site investigations of these facilities had been carried out previously as part of a large-scale overseas investigation of sites requested for recognition by several other NRTLs. Survey Reports, dated December 15, 1994, of the investigation of the Taipei, Taiwan site [see Exhibit 25E(4)], and of the Kowloon, Hong Kong site, [see Exhibit 25E(3)], both carried out in September, 1993, were prepared. On April 3, 1996, ITS applied for an expansion of its recognition for yet other sites including two former Warnock Hersey sites, now owned by ITS, in Pittsburg, California and Coquitlam, British Columbia (see Exhibit 25D). The test standards requested for these two sites were: ASTM E152—Fire Test Method for Door Assemblies, and ASTM E163—Standard Method of Fire Tests of Window Assemblies, both of which are appropriate as stipulated in 29 CFR 1910.7(c)(4). In addition, ITS informed OSHA of the official transfer of ownership of the Warnock Hersey, Inc., ''WHI'' Patent Office registered certification mark to ITS, which will be used by ITS to identify products certified at the two facilities and under the two test standards noted above (see Exhibit 25C).

Change of Name

OSHA was notified by letter, dated December 6, 1996, of a change in ownership of Inchcape Testing Services NA, Inc. (see Exhibit 25F). At the time, no change of corporate name was requested, although OSHA was informed that such a request would be made at a later date. Such a request for name change was made by letter dated April 14, 1997 (see Exhibit 25G). The requested name change was from Inchcape Testing Services NA, Inc. to Intertek Testing Services NA Inc. The abbreviation of the company name as ''ITS'' would continue to be used.

Preliminary Finding

The NRTL Program staff made an in-depth study of the details of ITS's original recognition and previous expansions of its recognition [as ETL Testing Laboratories, Inc. (ETL), and as ''Inchcape''], the applications, and determined that ITS had the staff capability and the necessary equipment at the sites in question to conduct testing of products using, in the first instance, the previously recognized and, in the second instance, the proposed test standards. A Report of ITS's request for expansion of its recognition prepared by the Lead Assessor for the NRTL Program, dated February 26, 1997, was sent to the Program Director of the NRTL Program detailing his recommendations (see Exhibit 25E). The NRTL staff determined that seven of the eleven sites which had been requested by ITS for recognition would require an on-site investigation before a decision could be rendered. The remaining four sites were recommended for recognition based upon one or all of the following factors:

1. Previous on-site investigations.
2. Modification of the operating and control systems at the Cortland Corporate headquarters.
3. Audits carried out during the previous four years.

This recommendation also applied to the request for the test standards to be used at Coquitlam, B. C. and the Pittsburg, CA locations.

Based upon a review of the completed application files, the on-site assessment reports, and the recommendations of the NRTL Program staff, the Assistant

Secretary has made a preliminary finding that the four Intertek Testing Services NA, Inc. facilities for which expansion of its recognition was requested can meet the requirements as prescribed in 29 CFR 1910.7.

All interested members of the public are invited to supply detailed reasons and evidence supporting or challenging the sufficiency of the applicant's having met the requirements for expansion of its recognition as a Nationally Recognized Testing Laboratory, as required by 29 CFR 1910.7 and Appendix A to 29 CFR 1910.7. Submission of pertinent written documents and exhibits shall be made no later than October 7, 1997, and must be addressed to the NRTL Recognition Program, Office of Variance Determination, Room N3653, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210. Copies of the ITS applications, the laboratory survey reports, the notification of change of ownership and name, and all submitted comments, as received (Docket No. NRTL–1–89), are available for inspection and duplication at the Docket Office, Room N2634, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address.

The Assistant Secretary's final decision on whether the applicant (Intertek Testing Services NA Inc.) satisfies the requirements for expansion of its recognition as an NRTL will be made on the basis of the entire record including the public submissions and any further proceedings that the Assistant Secretary may consider appropriate in accordance with Appendix A to Section 1910.7.

Signed at Washington, D.C. this 30th day of July 1997.

Greg Watchman,

Acting Assistant Secretary.

[FR Doc. 97–21012 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–41; Exemption Application No. D–09988]

Class Exemption for Collective Investment Fund Conversion Transactions

AGENCY: Pension Welfare Benefits Administration, Department of Labor.

ACTION: Grant of class exemption.

SUMMARY: This document contains a final exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act or ERISA) and from certain taxes imposed by the Internal Revenue Code of 1986 (the Code). The exemption permits an employee benefit plan (the Client Plan) to purchase shares of a registered investment company (the Fund), the investment adviser for which is a bank (the Bank) or plan adviser (the Plan Adviser) registered under the Investment Advisers Act of 1940 (the Advisers Act), that also serves as a fiduciary of the Client Plan, in exchange for plan assets transferred in-kind to the Fund from a collective investment fund (the CIF) maintained by the Bank or Plan Adviser, in connection with a complete withdrawal of a Client Plan's assets from the CIF. The exemption affects participants and beneficiaries of the Client Plans that are involved in such transactions as well as the Bank or Plan Adviser and the Fund.

EFFECTIVE DATE: Section I of this exemption is effective for transactions occurring from October 1, 1988 until August 8, 1997. Section II of the exemption is effective for transactions occurring after August 8, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady or Mr. E.F. Williams, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC 20210 at (202) 219–8881 or (202) 219–8194, respectively, or Ms. Susan E. Rees, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210 at (202) 219–4600, ext. 105. (These are not toll-free numbers.)

Paperwork Reduction Act Analysis

Pursuant to the Paperwork Reduction Act of 1995 (PRA 95), Pub. L. 104–13, 44 U.S.C. Chapter 35 and 5 CFR Part 1320, the information collection request (the ICR) in this class exemption was published for public comment on November 13, 1996 (61 FR 58224). No comments were received from the public regarding the ICR. However, as discussed below, because the Department of Labor (the Department) has modified the class exemption in response to suggestions by commenters, the estimated information collection burden has been adjusted (see RESPONDENTS AND PROPOSED FREQUENCY OF RESPONSE and ESTIMATED ANNUAL BURDEN, below). The Office of Management and Budget (OMB) has approved this ICR with the control number OMB 1210–0104, which expires on July 31, 2000. Persons are not required to respond to this ICR unless it displays a currently valid OMB control number.

Respondents and Proposed Frequency of Response: Following the publication on November 13, 1996 of the notice of proposed exemption (61 FR 58224), based upon one of the comments received, the Department determined to modify the final exemption to include relief for certain non-Bank Plan Advisers. Consequently, the Department has recalculated estimates of the information collection burden in the final exemption. Based upon this recalculation, the Department staff estimates that approximately 75 parties will seek to take advantage of the class exemption in any given year. The respondents will be banks, non-bank advisers, and trust companies acting as fiduciaries of plans investing in collective investment funds maintained by such entities.

Estimated Annual Burden: The Department staff estimates the annual burden for preparing the materials required under the class exemption to be 1767 hours. The total annual burden cost (operating/maintenance) is estimated to be $221,247.

SUPPLEMENTARY INFORMATION: On November 13, 1996, the Department published a notice in the **Federal Register** (61 FR 58224) of the pendency of a proposed class exemption from the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code.

The Department proposed the class exemption in response to an application dated March 28, 1995 which was submitted on behalf of Federated Investors (Federated) pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B, (55 FR 32836, August 10, 1990).[1]

The notice of pendency gave interested persons an opportunity to comment or request a public hearing on the proposal. In this regard, the Department received four comments, one of which contained a request for a public hearing. Upon consideration of the record as a whole, the Department

[1] Section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996) generally transferred the authority of the Secretary of the Treasury to issue exemptions under section 4975(c)(2) of the Code to the Secretary of Labor.

In the discussion of the exemption, references to specific provisions of the Act should be read to refer as well to the corresponding provisions of section 4975 of the Code.

has determined to grant the proposed class exemption, subject to certain modifications suggested by the commenters. These modifications and the comments are discussed below.

I. Discussion of Comments

A commenter requested certain specific modifications to the proposal in the following areas:

1. *Definition of the term ''Fund.''* The commenter noted that, with respect to the description of investment companies covered under the proposal, the term ''Fund'' at the beginning of section I and section II, and the definition of a ''Fund'' in section IV(e) of the proposal, all define a ''Fund'' as a diversified open-end management investment company registered under the Investment Company Act of 1940 (the 1940 Act). According to the commenter, the 1940 Act does not by its terms require that an investment company subject to its provisions be diversified. In addition, Prohibited Transaction Exemption (PTE) 77–4 (42 FR 18732, April 8, 1977), to which the subject class exemption relates, does not require that an open-end investment company be diversified. Therefore, for consistency with PTE 77–4, the commenter requests that the term ''diversified'' be deleted in the three paragraphs where it appears in the proposal. The Department concurs with this comment and, accordingly, has deleted references in the final exemption to the ''diversified'' status of the investment companies.

2. *Fee Disclosure Conditions.* Sections I(e)(2) and II(e)(2) of the proposal require that Banks disclose, among other things, the fees to be charged to, or paid by, the Client Plan and the Funds to the Bank ''* * * or any unrelated third party,'' including the nature and extent of any differential between the rates of the fees. The commenter stated that such disclosure is required in addition to the disclosure in the Fund prospectus required by sections I(e)(1) and II(e)(1) of the proposal. According to the commenter, this language differs, in part, from the wording of the parallel condition in PTE 77–4 and in the individual exemptions granted by the Department.[2] As a result, the commenter urged the Department to delete the requirement that the Bank disclose fees charged to Client Plans by unrelated third parties in the final exemption. The commenter argued that: (a) the prospectuses for the Funds will disclose the identities of the third-party service providers to the Funds and the total level of fees paid to those providers, which should be sufficient to fully inform the Client Plan's Independent Fiduciary of the third-party fees paid by the Fund; and (b) the Bank would have no reason to know about the fees charged to the Client Plans by third parties outside the Funds or the arrangements under which such fees are paid, and as such may not be in a position to make such disclosures. Furthermore, the Bank would have no basis for disclosing the differential between the rates of fees by a third party, as required by this condition. Thus, the commenter requested that the Department clarify that the delivery of the prospectuses will satisfy the fee disclosure condition with regard to fees charged by third parties to the Funds. The Department concurs with the commenter and has determined to delete the phrase ''* * * or any unrelated third party'' from sections I(e)(2) and II(e)(2) of the exemption.

One commenter requested that the exemptive relief contained in the proposal be modified to include in-kind transfers of plan assets to mutual funds in exchange for shares of the funds where an investment adviser registered under the Advisers Act is an investment manager or investment adviser to a Client Plan and also an investment adviser to the mutual fund. The commenter represented that many investment advisers may wish to convert all or a portion of their directly managed Client Plan portfolios (the Portfolios) into mutual funds. Under the modifications contemplated by the commenter, the investment adviser would have to comply with many of the same terms and conditions contained in the proposal, such as valuations of the securities in accordance with SEC Rule 17a–7 (Rule 17a–7).[3] However, the conditions described in sections I(c) and II(c) of the proposal which generally require that the transferred assets constitute a Client Plan's *pro rata* portion of the assets held in the CIF would not be met under the commenter's suggested modification. According to the commenter, the proposed in-kind transfers to the mutual funds would be made with plan assets selected by the investment adviser and *pro rata* allocations of such assets would not be necessary. Lastly, the commenter requested that the Department hold a public hearing prior to any decision by the Department to issue the final exemption without expanding the proposal as requested.

In this regard, the Department notes that the proposal was developed in response to the prohibited transaction issues raised by transactions involving the conversion of Bank collective investment funds. The conditions applicable to such CIF conversions have been developed based on the exemption application submitted by Federated on March 28, 1995. Accordingly, the Department does not believe that it has sufficient information regarding other types of in-kind transfers of plan assets involving investment advisers to make the findings necessary to grant exemptive relief. Moreover, the Department does not believe that a sufficient showing has been made that the conditions suggested by the commenter would adequately protect the interests of a plan's participants and beneficiaries involved in such transactions.

However, the Department has decided to modify the final exemption to include relief for ''Plan Advisers'', provided that all of the terms and conditions of the final exemption are met. In this regard, the Department has added section IV(m) to the exemption to define Plan Adviser to mean any investment adviser registered under the Advisers Act of 1940, and any ''affiliate'' (as defined in section IV(b)) of such Plan Adviser. The Department also has modified the definition of the term ''collective investment fund'' under section IV(d) to include a common or collective trust fund or pooled investment fund maintained by a Plan Adviser for the collective investment of the assets attributable to two or more plans maintained by unrelated employers. The Department has defined the term ''unrelated employers'' in section IV(o) to mean persons which are not, directly or indirectly, affiliates, as defined in section IV(b)(1). Finally, references throughout the proposal to a ''Bank'' have been modified under the final exemption to also include references to a ''Plan Adviser.''

With respect to the commenter's request for a public hearing on the proposal, the Department believes that the issues raised by the commenter relating to investment advisers generally appear to be outside the scope of the proposed exemption. In this regard, the Department notes that the proposed exemption requested by Federated related to the conversion of collective

[2] See, for example, PTE 94–82 involving Marshall & Ilsley Trust Company (59 FR 62422, December 5, 1994); PTE 94–86 involving The Bank of California, N.A. (59 FR 65403, December 19, 1994); PTE 95–33 involving Bank South, N.A. (60 FR 20773, April 27, 1995); PTE 95–48 involving Mellon Bank, N.A. (60 FR 32995, June 26, 1995); PTE 96–64 involving Society National Bank (61 FR 44081, August 27, 1996); and PTE 96–74 involving Chicago Trust Company (61 FR 51464, October 2, 1996).

[3] The commenter further represented that all disclosures and the form of independent fiduciary approval will be designed to meet the requirements of PTE 77–4.

funds by Banks. The safeguards and conditions developed under that proposal were designed to address the ERISA issues raised by those transactions that were the subject of exemptive relief. Accordingly, the Department has determined that no issues relating to the proposed exemption were identified that would require the convening of a hearing and has determined not to hold a public hearing. Of course, the Department would be prepared to consider individual exemptive relief upon proper demonstration that the findings can be made under section 408(a) of the Act.

Another commenter submitted a comment in general support of the exemption. However, the commenter noted that sections I(g) and II(g) of the proposal require that the Bank send confirmations, by regular mail, to the Independent Fiduciary of each Client Plan that purchases shares in connection with the in-kind transfer, no later than 105 days after the completion of each purchase. The commenter stated that some Banks have indicated that it is not uncommon to deliver such confirmations by personal delivery, rather than by mail. Therefore, the commenter has requested that the Department modify the final exemption to permit distributions of the confirmation statements by personal delivery, as well as delivery by any other means reasonably anticipated to ensure receipt by the Client Plan's Independent Fiduciary (e.g., private express courier or facsimile). Upon consideration of this comment, the Department has modified sections I(g) and II(g) to permit a Bank or Plan Adviser to deliver the information required under these sections by either regular mail or personal delivery. The Department has also prospectively modified section II(g) to permit the delivery of such information by facsimile or electronic mail. In this regard, the Department has modified section II(f) to require that the Independent Fiduciary, in connection with the dissemination of confirmation statements by either facsimile or electronic mail, specifically agree, at the time of the approval of the in-kind transfer, to the receipt of such statements in that form. In addition, the Department has defined the term ''personal delivery'' in section IV(p) to mean the delivery of the information described in sections I(g) and II(g) to an individual or individuals designated by the Client Plan to act on behalf of the Independent Fiduciary.

A commenter noted that the proposal does not include exemptive relief for purchases of Fund shares by employee benefit plans that are sponsored by the Bank for its own employees. In this regard, the commenter suggested that issues related to providing such relief should be considered by the Department apart from the proposal in order not to delay the publication of the final exemption. The Department agrees with the commenter and intends to separately consider the issues arising in connection with transactions involving the purchase of Fund shares by plans sponsored by a Bank, or for that matter a Plan Adviser, for its own employees.

A commenter noted that the second sentence of section II(c) of the proposal contains a mistaken cross-reference to section II(b). In this regard, section II(c) of the proposal provided that the transferred assets constitute the Client Plan's *pro rata* portion of such assets that were held by the CIF immediately prior to the transfer. The second sentence in section II(c) contained an exception to this general rule and provided that the allocation of fixed-income securities held by a CIF on the basis of each Client Plan's *pro rata* share of the aggregate value of such securities will not fail to meet the requirements of section II(b) if certain additional requirements are met. The Department concurs with the commenter and has revised the cross-reference to section II(b) in the second sentence of section II(c) to refer back to the general rule under that section.

The commenter also has requested a clarification of the disclosure requirements in section II(e) of the proposal. Section II(e)(5) requires that the Client Plan's Independent Fiduciary receive advance written notice concerning the identity of securities that will be valued in accordance with Securities and Exchange Commission (SEC) Rule 17a–7(b)(4) and allocated pursuant to section II(c) of the proposal. The commenter noted that section II(e)(6) of the proposal also requires that information be provided about the identity of any fixed-income securities allocated pursuant to section II(c). The commenter believed that each of these requirements is intended to require disclosure of two different lists of securities, i.e., (a) securities valued based on dealer quotations or pricing services, and (b) fixed-income securities allocated between the CIF and the Fund on the basis of each Client Plan's *pro rata* share of the aggregate value of such securities. Nonetheless, the commenter believed that the references in both subsections to section II(c) may confuse the intended scope of the second requirement (as stated in section II(e)(6) of the proposal) which could be construed to cover all fixed-income securities involved in the in-kind transfer, even those not allocated on an aggregate value basis. In response to the comment, the Department has modified section II(e)(6) in the final exemption to require disclosure of any fixed-income securities which are allocated on the basis of each Client Plan's *pro rata* share of the aggregate value of such securities.

A commenter noted that section IV(a) of the proposal defines the term ''Bank'' to include any affiliate thereof as defined in section IV(b). However, the commenter further noted that sections IV(h) and IV(k) of the proposal also contain references to the Bank or an affiliate thereof. For purposes of clarity, the commenter requested that references in these sections to the term ''affiliate'' be deleted in order to avoid the anomalous result of such references being interpreted to include an affiliate of an affiliate of a Bank. The Department has adopted this suggestion and deleted references to an ''affiliate'' of the Bank in sections IV(h) and IV(k) of the final exemption.

II. Description of the Exemption

The class exemption consists of four sections. Section I provides conditional exemptive relief for transactions occurring from October 1, 1988 until the date of the notice granting the final exemption is published in the **Federal Register.** Section II provides prospective relief for transactions which must meet certain additional conditions which are described below. Section III provides that a transaction that meets the applicable conditions of the exemption will be deemed a purchase by the Client Plan of shares of an open-end investment company registered under the 1940 Act for purposes of PTE 77–4. Accordingly, a Bank or Plan Adviser that complies with the terms of this exemption and with the terms of PTE 77–4 is able to receive investment management and investment advisory fees from the Fund and the Client Plan with respect to the plan's assets invested in shares of the Fund to the extent permitted under PTE 77–4. Section III also provides that compliance with the exemption will constitute compliance with paragraphs (a), (d) and (e) of section II of PTE 77–4. Finally, Section IV contains definitions for certain terms used in the exemption.

Specifically, the class exemption set forth in Section I provides retroactive relief from the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act for the purchase of Fund shares by an employee benefit plan, where a Bank or Plan Adviser that serves as investment adviser to the Fund is also

a fiduciary with respect to the plan, in exchange for plan assets transferred in-kind to the Fund from a CIF maintained by the Bank or Plan Adviser. The exemption is generally similar to a number of individual exemptions that have been granted by the Department for such transactions, but the operative language of this exemption differs from that of the individual exemptions in two major respects.[4] First, the operative language has been revised to make it more comprehensible to the user. Second, the operative language emphasizes that the class exemption does not provide relief for any prohibited transactions that may arise in connection with terminating a CIF, permitting certain plans to withdraw from a CIF that is not terminating, or liquidating or transferring any plan assets held by the CIF. Thus, the class exemption provides relief only for the purchase of Fund shares by a Client Plan in exchange for assets that are transferred in-kind from a CIF. Although the Department interprets the individual exemptions as being similarly limited in their scope, the language of the class exemption is intended to clarify this limitation.

The Department believes that the scope of the class exemption is consistent with the applicant's request for relief based on the applicant's mistaken reliance on PTE 77–4. In addition, the Department notes that the class exemption defines the term ''Client Plan'' in section IV so as to exclude exemptive relief for purchases of Fund shares by plans sponsored by the Bank or a Plan Adviser for its own employees.

The conditions applicable to the retroactive exemption set forth in Section I of the exemption are described below.

Under section I(a) of the exemption, no sales commissions or other fees are paid by the Client Plan in connection with the transaction.

Section I (b) and (c) of the exemption requires that the transferred assets be securities for which market quotations are readily available (or cash) and consist of the Client Plan's *pro rata* portion of all assets held by the CIF immediately prior to the transfer.[5] Under section I(d), the Client Plan must have received shares of a Fund to which the CIF assets have been transferred that have a total net asset value that is equal to the value of the Client Plan's transferred assets on the date of the transfer. The value of any securities transferred in-kind will be based on the current market value of such assets, as determined in a single valuation for each asset, with all valuations performed in the same manner at the close of the same business day (defined in section IV(n) to mean a banking day as defined by federal or state banking regulations), in accordance with Rule 17a–7 of the 1940 Act (using sources independent of the Bank or Plan Adviser) and the procedures established by the Funds pursuant to Rule 17a–7 for the valuation of such assets. The same valuation must be used for each asset in determining the amount transferred from the CIF and the amount received by the Fund.

Section I(e) provides that an Independent Fiduciary must receive advance written notice of the transaction, as well as the following written information concerning the Funds: (a) A current prospectus for each Fund in which a Client Plan is considering investing; (b) full and detailed written disclosure of the investment advisory and other fees charged to, or paid by, the Client Plan (and by such Fund) to the Bank or Plan Adviser, including the nature and extent of any differential between the rates of the fees;[6] (c) the reasons why the Bank or Plan Adviser may consider an exchange of the Client Plan's CIF assets for investments in the Fund to be appropriate for the Client Plan; and (d) a statement describing whether there are any limitations applicable to the Bank or Plan Adviser with respect to which assets of the Client Plan may be invested in the Fund, and, if so, the nature of such limitations.

Moreover, under section I(f), the Independent Fiduciary gives prior approval in writing of each in-kind transfer of the Client Plan's CIF assets to a Fund in exchange for shares of the Fund, on the basis of the information disclosed to the Independent Fiduciary. In addition, section I(g) requires that the Independent Fiduciary receive written confirmation of the transaction no later than 105 days after the transaction, which may be sent by regular mail or personal delivery. This written confirmation must disclose the number of CIF units held by the Client Plan immediately before the transaction and the number of Fund shares held by the Client Plan immediately following the transaction, the related per unit and per share values, and the dollar amounts of the CIF units and the Fund shares involved in the transaction.

Section I(h) requires that, for each Client Plan, the combined total of all fees received by the Bank or Plan Adviser for the provision of services to the Client Plan, and in connection with the provision of services to a Fund in which a Client Plan invests, must not exceed ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act. Finally, section I(i) provides that all dealings between a Client Plan and a Fund are on a basis no less favorable to the Client Plan than such dealings are with other shareholders of the Fund.

On a prospective basis, Section II of the exemption requires that the transactions meet certain conditions in addition to those described in Section I of the exemption. These additional conditions are described below.

Section II(c) provides an exception to the general requirement that the assets transferred in-kind to a Fund consist of the Client Plan's *pro rata* portion of each of the transferred assets of the CIF. This exception applies to certain investments in fixed-income securities. The fixed-income securities which are allocated between the CIF and the Fund must have the same coupon rates, maturities and credit ratings at the time of the transaction and cannot exceed one (1) percent of the aggregate assets held by the CIF as of each transfer. In this regard, section IV(j) defines the term ''fixed-income security'' as any interest-bearing or discounted government or corporate security with a face amount of $1,000 or more that obligates the issuer to pay the holder a specified sum of money, usually at specific intervals, and to repay the principal amount of the loan at maturity.

Section II(e) of the exemption requires that the Independent Fiduciary receive advance written notice of the in-kind transfer and purchase of assets and full written disclosure of information concerning the Funds. Among the information provided to the Independent Fiduciary will include documentation relating to the identity of all securities that will be valued in accordance with Rule 17a–7(b)(4) of the

[4] See the list of exemptions cited in Footnote 2.

[5] The Department notes that the Bank or Plan Adviser retains ongoing responsibilities under ERISA's general standards of fiduciary conduct with respect to plans electing to remain as investors in the CIF and with respect to other aspects of the transfers. In this regard, the applicant represents that all nontransferable assets of a CIF are liquidated prior to an in-kind transfer with respect to a partial or a complete termination of the CIF. The applicant further notes that transferable assets of a CIF may consist of securities or a combination of cash and securities.

[6] The Department has clarified section II(e) to indicate that a Client Plan should receive disclosures which would allow it to compare the rates of CIF–level fees to the rates of Fund-level fees that are paid to the Bank or Plan Adviser.

1940 Act[7] and allocated on the basis of the Client Plan's *pro rata* portion under section II(c), and the identity of any fixed-income securities that will be allocated on the basis of each Client Plan's *pro rata* share of the aggregate value of such securities pursuant to section II(c).[8]

Under section II(f) of the exemption, the Independent Fiduciary must give the Bank or Plan Adviser prior written approval of the in-kind transfer of the Client Plan's CIF assets to a Fund in exchange for shares of the Fund. Moreover, if the confirmation statements described in section II(g) are to be sent by facsimile or electronic mail, section II(f) requires that the Independent Fiduciary specifically approve the delivery of the confirmation statements in this manner.

Section II(g) has been revised to specifically allow a Bank or Plan Adviser to send information confirming the in-kind transfer to the Independent Fiduciary of a Client Plan, by regular mail or personal delivery or, with the prior written approval of the Independent Fiduciary, by facsimile or electronic mail. However, in addition to the 105 day distribution period for confirmation statements described in sections I(g) and II(g)(2) of the exemption, section II(g)(1) provides for another written confirmation to the Independent Fiduciary, not later than 30 days after the completion of the transaction, for securities that were valued in accordance with Rule 17a–7(b)(4). The additional confirmation must contain the following information: (a) the identity of each such security; (b) the current market price as of the date of the transaction of each such security involved in the transaction; and (c) the identity of each pricing service or market-maker consulted in determining the value of such securities.

Further, section II(h) requires the Bank or Plan Adviser to provide certain ongoing disclosures to the Independent Fiduciary of a Client Plan. Such written disclosures must include: (a) a copy of an updated prospectus for each Fund in which such plan has invested, which is to be provided at least on an annual basis; and (b) upon the request of the Independent Fiduciary, a report or statement (which may take the form of the most recent financial report, the current Statement of Additional Information, or some other written statement) containing a description of all fees paid by the Fund to the Bank or Plan Adviser. The purpose of this additional disclosure is to ensure that the Independent Fiduciary will continue to have the information necessary to effectively monitor the Fund investments made by the Client Plan.

The Department wishes to note that the requirement under sections I and II of the exemption that all valuations of all plan assets transferred from a CIF to a Fund be determined in accordance with Rule 17a–7 under the 1940 Act is designed to provide flexibility for future transactions. Thus, for example, if Rule 17a–7 is subsequently amended by the SEC to accommodate new pricing systems, Banks or Plan Advisers could take advantage of the amended Rule without having to request an amendment to the class exemption. However, the Department cautions that the exemption would not be available for transactions involving assets that are not valued by reference to sources independent of the Bank or Plan Adviser.

Unlike the individual exemptions cited above, this class exemption does not grant relief for fees that the Bank or Plan Adviser may receive from the Fund as a result of the Client Plans' purchase of Fund shares. However, section III of this exemption provides that a purchase of Fund shares that complies with sections I and II will be deemed a purchase of shares of an open-end investment company for purposes of PTE 77–4, and in compliance with paragraphs (a), (d) and (e) of section II of that exemption. Compliance with all of the conditions of PTE 77–4 would permit the Bank or Plan Adviser to receive investment advisory and similar fees from the Fund with respect to shares acquired by a Client Plan in accordance with this class exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties with respect to the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record, the Department finds that the exemption is administratively feasible, in the interests of the plans and their participants and beneficiaries, and protective of the rights of participants and beneficiaries of such plans;

(3) The exemption is applicable to a transaction only if the conditions specified in the class exemption are met; and

(4) The exemption is supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Exemption

Accordingly, the following exemption is granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I. Retroactive Exemption for the Purchase of Fund Shares With Assets Transferred In-Kind From a CIF

For the period from October 1, 1988 to August 8, 1997, the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E), shall not apply to the purchase by an employee benefit plan (the Client Plan) of shares of one or more open-end management investment companies (the Fund or Funds) registered under the Investment Company Act of 1940, in exchange for assets of the Client Plan transferred in-kind to the Fund from a collective investment fund (the CIF) maintained by a bank (the Bank) or a plan adviser (the Plan Adviser), where the Bank or Plan Adviser is the

[7] Rule 17a–7(b)(4) describes the method for determining the current market price of securities that are not reported securities under Rule 11Aa3–1 (17 CFR 240.11Aa3–1), are not traded principally on an exchange and are not quoted in the NASDAQ system. 17 CFR 270.17a–7(b)(4). Because the proper valuation of such securities may require more extensive inquiry than in the valuation of securities described in Rule 17a–7 (b)(1)–(b)(3), the Department believes that the Independent Fiduciary should receive advance notice that the transfer will entail such valuations.

[8] The Department is of the view that section II(c) requires that a Bank or Plan Adviser disclose, in the case of any fixed-income securities allocated on the basis of aggregate value, the identity of all such securities.

investment adviser to the Fund and also a fiduciary of the Client Plan. The transfer and purchase must be in connection with a complete withdrawal of the Client Plan's assets from the CIF, and the following conditions must be met:

(a) No sales commissions or other fees are paid by the Client Plan in connection with the purchase of Fund shares.

(b) All transferred assets are securities for which market quotations are readily available, or cash.

(c) The transferred assets constitute the Client Plan's *pro rata* portion of all assets that were held by the CIF immediately prior to the transfer.

(d) The Client Plan receives Fund shares that have a total net asset value equal to the value of the Client Plan's transferred assets on the date of the transfer, as determined with respect to securities, in a single valuation for each asset, with all valuations performed in the same manner, at the close of the same business day, in accordance with Securities and Exchange Commission Rule 17a–7 (using sources independent of the Bank or Plan Adviser and the Fund) and the procedures established by the Funds pursuant to Rule 17a–7.

(e) An independent fiduciary with respect to the Client Plan (the Independent Fiduciary) receives advance written notice of an in-kind transfer and purchase of assets and full written disclosure of information concerning the Fund which includes the following:

(1) A current prospectus for each Fund to which the CIF assets may be transferred;

(2) A statement describing the fees to be charged to, or paid by, a Client Plan and the Funds to the Bank or Plan Adviser, including the nature and extent of any differential between the rates of the fees;

(3) A statement of the reasons why the Bank or Plan Adviser may consider the transfer and purchase to be appropriate for the Client Plan; and

(4) A statement of whether there are any limitations on the Bank or Plan Adviser with respect to which plan assets may be invested in shares of the Funds, and, if so, the nature of such limitations.

(f) On the basis of the foregoing information, the Independent Fiduciary gives prior approval, in writing, for each purchase of Fund shares in exchange for the Client Plan's assets transferred from the CIF, consistent with the responsibilities, obligations and duties imposed on fiduciaries by Part 4 of Title I of the Act.

(g) The Bank or Plan Adviser sends by regular mail or personal delivery to the Independent Fiduciary of each Client Plan that purchases Fund shares in connection with the in-kind transfer, no later than 105 days after completion of each purchase, a written confirmation of the transaction containing—

(1) The number of CIF units held by the Client Plan immediately before the in-kind transfer, the related per unit value and the total dollar amount of such CIF units; and

(2) The number of shares in the Funds that are held by the Client Plan immediately following the purchase, the related per share net asset value and the total dollar amount of such shares.

(h) As to each Client Plan, the combined total of all fees received by the Bank or Plan Adviser for the provision of services to the Client Plan, and in connection with the provision of services to a Fund in which a Client Plan holds shares purchased in connection with the in-kind transfer, is not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(i) All dealings in connection with the in-kind transfer and purchase between the Client Plan and a Fund are on a basis no less favorable to the Client Plan than dealings between the Fund and other shareholders.

Section II. Prospective Exemption for the Purchase of Fund Shares With Assets Transferred In-Kind From a CIF

Effective after August 8, 1997, the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase by an employee benefit plan (the Client Plan) of shares of one or more open-end management investment companies (the Fund or Funds) registered under the Investment Company Act of 1940, in exchange for assets of the Client Plan transferred in-kind to the Fund from a collective investment fund (the CIF) maintained by a bank (the Bank) or a plan adviser (the Plan Adviser), where the Bank or Plan Adviser is the investment adviser to the Fund and also a fiduciary of the Client Plan. The transfer and purchase must be in connection with a complete withdrawal of the Client Plan's assets from the CIF, and the following conditions must be met:

(a) No sales commissions or other fees are paid by the Client Plan in connection with the purchase of Fund shares.

(b) All transferred assets are securities for which market quotations are readily available, or cash.

(c) The transferred assets constitute the Client Plan's *pro rata* portion of all assets that were held by the CIF immediately prior to the transfer. Notwithstanding the foregoing, the allocation of fixed-income securities held by a CIF among Client Plans on the basis of each Client Plan's *pro rata* share of the aggregate value of such securities will not fail to meet the requirements of this subsection if:

(1) The aggregate value of such securities does not exceed one (1) percent of the total value of the assets held by the CIF immediately prior to the transfer; and

(2) Such securities have the same coupon rate and maturity, and at the time of the transfer, the same credit ratings from nationally recognized statistical rating agencies.

(d) The Client Plan receives Fund shares that have a total net asset value equal to the value of the Client Plan's transferred assets on the date of the transfer, as determined with respect to securities, in a single valuation for each asset, with all valuations performed in the same manner, at the close of the same business day, in accordance with Securities and Exchange Commission Rule 17a–7 (using sources independent of the Bank or Plan Adviser and the Fund) and the procedures established by the Funds pursuant to Rule 17a–7.

(e) An independent fiduciary with respect to the Client Plan (the Independent Fiduciary) receives advance written notice of the in-kind transfer and purchase of assets and full written disclosure of information concerning the Funds which includes the following:

(1) A current prospectus for each Fund to which the CIF assets may be transferred;

(2) A statement describing the fees to be charged to, or paid by, a Client Plan and the Funds to the Bank or Plan Adviser, including the nature and extent of any differential between the rates of the fees paid by the Fund and the rates of the fees paid by the Client Plan in connection with the Client Plan's investment in the CIF;

(3) A statement of the reasons why the Bank or Plan Adviser may consider the transfer and purchase to be appropriate for the Client Plan;

(4) A statement of whether there are any limitations on the Bank or Plan Adviser with respect to which plan assets may be invested in shares of the Funds, and, if so, the nature of such limitations;

(5) The identity of all securities that will be valued in accordance with Rule 17a–7(b)(4) and allocated on the basis of the Client Plan's *pro rata* portion under section II(c); and

(6) The identity of any fixed-income securities that will be allocated on the basis of each Client Plan's *pro rata* share of the aggregate value of such securities pursuant to section II(c).

(f) On the basis of the foregoing information, the Independent Fiduciary gives prior approval, in writing, for each purchase of Fund shares in exchange for the Client Plan's assets transferred from the CIF, consistent with the responsibilities, obligations and duties imposed on fiduciaries by Part 4 of Title I of the Act. In addition, the Independent Fiduciary must give prior approval, in writing, for the receipt of confirmation statements described below in paragraph (g)(1) and (g)(2) by facsimile or electronic mail if the Independent Fiduciary elects to receive such statements in that form.

(g) The Bank or Plan Adviser sends by regular mail or personal delivery or, if applicable, by facsimile or electronic mail to the Independent Fiduciary of each Client Plan that purchases Fund shares in connection with the in-kind transfer, the following information:

(1) No later than 30 days after the completion of the purchase, a written confirmation which contains—

(i) The identity of each transferred security that was valued for purposes of the purchase of Fund shares in accordance with Rule 17a–7(b)(4);

(ii) The current market price, as of the date of the in-kind transfer, of each such security involved in the purchase of Fund shares; and

(iii) The identity of each pricing service or market-maker consulted in determining the current market price of such securities.

(2) No later than 105 days after the completion of each purchase, a written confirmation which contains—

(i) The number of CIF units held by the Client Plan immediately before the in-kind transfer, the related per unit value and the total dollar amount of such CIF units; and

(ii) The number of shares in the Funds that are held by the Client Plan immediately following the purchase, the related per share net asset value and the total dollar amount of such shares.

(h) With respect to each of the Funds in which the Client Plan continues to hold shares acquired in connection with the in-kind transfer, the Bank or Plan Adviser provides the Independent Fiduciary of the Client Plan with—

(1) A copy of an updated prospectus of such Fund, at least annually; and

(2) Upon request of the Independent Fiduciary, a report or statement (which may take the form of the most recent financial report, the current Statement of Additional Information, or some other written statement) containing a description of all fees paid by the Fund to the Bank or Plan Adviser.

(i) As to each Client Plan, the combined total of all fees received by the Bank or Plan Adviser for the provision of services to the Client Plan, and in connection with the provision of services to a Fund in which a Client Plan holds shares acquired in connection with the in-kind transfer, is not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(j) All dealings in connection with the in-kind transfer and purchase between the Client Plan and a Fund are on a basis no less favorable to the Client Plan than dealings between the Fund and other shareholders.

Section III. Availability of Prohibited Transaction Exemption (PTE) 77–4

Any purchase of Fund shares that complies with the conditions of either Section I or Section II of this class exemption shall be treated as a ''purchase or sale'' of shares of an open-end investment company for purposes of PTE 77–4 and shall be deemed to have satisfied paragraphs (a), (d) and (e) of section II of that exemption. 42 FR 18732 (April 8, 1977).

Section IV. Definitions

For purposes of this exemption:

(a) The term ''Bank'' means a bank or trust company, and any affiliate thereof [as defined below in paragraph (b)(1)], which is supervised by a state or federal agency.

(b) An ''affiliate'' of a person includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person.

(2) Any officer, director, employee or relative of such person, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''collective investment fund'' or ''CIF'' means a common or collective trust fund or pooled investment fund maintained by a ''Bank'' as defined in paragraph (a) of this Section IV or by a ''Plan Adviser'' as defined in paragraph (m) of this Section IV for the collective investment of the assets attributable to two or more plans maintained by unrelated employers.

(e) The term ''Fund'' or ''Funds'' means any open-end management investment company or companies registered under the 1940 Act for which the Bank or Plan Adviser serves as an investment adviser, and may also serve as a custodian, shareholder servicing agent, transfer agent or provide some other secondary service (as defined below in paragraph (i) of this section).

(f) The term ''net asset value'' means the amount calculated by dividing the value of all securities, determined by a method as set forth in a Fund's prospectus and Statement of Additional Information, and other assets belonging to each of the portfolios in such Fund, less the liabilities chargeable to each portfolio, by the number of outstanding shares.

(g) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(h) The term ''Independent Fiduciary'' means a fiduciary of a Client Plan who is independent of and unrelated to the Bank or Plan Adviser. For purposes of this exemption, the Independent Fiduciary will not be deemed to be independent of and unrelated to the Bank or Plan Adviser if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with the Bank or Plan Adviser;

(2) Such fiduciary, or any officer, director, partner, employee, or relative of such fiduciary, is an officer, director, partner, employee of the Bank or Plan Adviser (or is a relative of such persons);

(3) Such fiduciary, directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner, employee of the Bank or Plan Adviser (or relative of such persons), is a director of such Independent Fiduciary, and if he or she abstains from participation in (i) the choice of the Client Plan's investment adviser, and (ii) the approval of any purchase or sale between the Client Plan and the Funds, as well as any transaction described in Sections I and II above, then paragraph (h)(2) of this Section IV shall not apply.

(i) The term ''secondary service'' means a service provided by a Bank or Plan Adviser to a Fund other than investment management, investment advisory or similar services.

(j) The term ''fixed-income security'' means any interest-bearing or discounted government or corporate security with a face amount of $1,000 or more that obligates the issues to pay the holder a specified sum of money, at specific intervals, and to repay the principal amount of the loan at maturity.

(k) The term ''Client Plan'' means a pension plan described in 29 CFR 2510.3–2, a welfare benefit plan described in 29 CFR 2510.3–1, and a plan described in section 4975(e)(1) of the Code, but does not include an employee benefit plan established or maintained by the Bank or a Plan Adviser for its own employees.

(l) The term ''security'' shall have the same meaning as defined in section 2(36) of the 1940 Act, as amended, 15 U.S.C. 80a–2(36) (1996).

(m) The term ''Plan Adviser'' means an investment adviser registered under the Investment Advisers Act of 1940, and any ''affiliate'' thereof [as defined above in paragraph (b)(1)].

(n) The term ''business day'' means a banking day as defined by federal or state banking regulations.

(o) The term ''unrelated employers'' means persons which are not, directly or indirectly, affiliates, as defined above in paragraph (b)(1).

(p) The term ''personal delivery'' means delivery of the information described in sections I(g) and II(g) above to an individual or individuals designated by the Client Plan to act on behalf of the Independent Fiduciary.

Signed at Washington, D.C., this 1st day of August, 1997.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 97–21003 Filed 8–7–97; 8:45 am]

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10439, et al.]

Proposed Exemptions; Alloy Die Casting Co. Employees Profit Sharing Plan and Trust (the Plan), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Alloy Die Casting Co. Employees' Profit Sharing Plan and Trust (the Plan), Located in Anaheim, California

[Application No. D–10439]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan to the Alloy Die Casting Co./W.E. Holmes, Inc. (Alloy), the Plan sponsor and a party in interest with respect to the Plan, of units (the Units) in the Krupp Insured Plus-II Limited Partnership (the Partnership), provided: (a) the sale is a one-time transaction for cash; (b) no commissions or other expenses are paid by the Plan in connection with the sale; (c) the Plan will receive $1.15 above the highest bid price for the Units at the most recent sealed bid auction for the Units which has occurred prior to the time of the sale; and (d) Alloy will purchase the Units from the Plan within 10 calendar days following the granting of the exemption proposed herein.

Summary of Facts and Representations

1. On June 23, 1997, the Department proposed an exemption for the subject transaction (62 FR 33924). However, the exemption proposed therein provided for a sales price for the Units of the greater of: (1) $13.05 per Unit, or (2) $1.15 above the highest bid price for the Units at the most recent sealed bid auction for the Units which has

occurred prior to the time of the sale. The floor price of $13.05 per Unit derived from the highest bid price at the most recent sealed bid auction prior to the filing of the exemption application request.

2. The applicant represents that subsequent to the publication of the proposed exemption, Krupp Insured Plus Corp. (Krupp), a general partner of the Partnership, announced that all holders of Partnership Units would receive a special distribution (the SD) of $.71 per Unit. The applicant represents that this SD constitutes a material change which necessitates an amendment to the proposed exemption cited in rep. 1, above. The applicant states that the SD will result in a decrease in the fair market value of each Unit at the next sealed bid auction. Consequently, if the exemption were to be granted as originally proposed, Alloy would be paying significantly more than the fair market value of the Units. While Alloy felt that the proposed transaction, as published in the above cited proposed exemption, was close to fair market value at the time of the application and the publication, Alloy no longer believes that the proposed purchase price therein is representative of fair market value in light of the SD. Therefore, Alloy has requested that the proposed exemption be amended to the price of $1.15 above the highest bid price for the Units at the most recent sealed bid auction for the Units which has occurred prior to the time of the sale, but subsequent to the SD. The applicant further represents that Alloy will purchase the Units from the Plan within 10 calendar days of the granting of the exemption proposed herein.

3. For a more complete statement of the circumstances involved in the subject transaction, refer to the notice of proposed exemption cited in rep. 1, above.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Bloom Consulting Corporation Profit Sharing Plan (the Plan), Located in Tiburon, California

[Application No. D–10440]

Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchase by the Plan of shares of common stock of Valley Forge Corporation (the Stock) from the Martin J. Bloom Family Trust, (the Trust) a disqualified person with respect to the Plan provided that the following conditions are satisfied: (1) the purchase of the Stock will be a one-time transaction for cash; (2) the Plan will purchase the Stock at a price no greater than the fair market value of the Stock as reported on the American Stock Exchange (AMEX) on the date of purchase; (3) the Plan will not pay any expenses in connection with the proposed transaction; and (4) the purchase of the Stock shall represent no more than 25% of the fair market value of the Plan's assets.

Summary of Facts and Representations

1. The Plan is a profit sharing plan established and maintained by Bloom Consulting Corporation with one participant, Martin Bloom. As of September 1996, the fair market value of the Plan's assets was $5,307,723. In addition, Mr. Bloom is also the sole owner of Bloom Consulting Group which specializes in real estate investment and management consulting services. The Plan's trustees are Mr. Bloom and Theodore Desloge, Jr. Martin J. Bloom is also the owner of 100% of the beneficial interest in the Trust.

2. Mr. Bloom proposes that the Plan purchase the Stock from the Trust. The Stock is traded on the American Stock Exchange (the AMEX). The purchase will be a one time transaction for cash. The total purchase price of the Stock will be determined by multiplying the number of shares to be purchased by the Plan by the closing price of the Stock as quoted on the AMEX on the date of the transaction. The value of the total shares of the Stock to be purchased by the Plan will be equal to the lesser of (a) $1,000,000 or (b) 25% of the fair market value of the Plan's assets at the time the transaction closes. The Plan will not pay any commissions or other expenses in connection with the purchase of the Stock.

3. Mr. Bloom believes it is in the interest of the Plan to purchase the Stock. The Stock is a desirable investment for the Plan because of its history of steady growth. Further, Mr. Bloom believes that the market undervalues the stock, and it is a very safe investment for the Plan. Mr. Bloom expects such growth to continue. Further, Mr. Bloom believes that the market undervalues the stock, and it is a very safe investment for the Plan. In addition, the proposed transaction will permit the Plan to acquire the Stock without incurring any sales commissions or fees which ordinarily are associated with such a purchase on the open market.

4. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 4975(c)(2) of the Code because: (a) the purchase of the Stock is a one time transaction for cash; (b) the Plan will pay no more than the fair market value of the Stock as traded on the AMEX; (c) no sales commissions or other expenses will be incurred by the Plan; and (d) the value of the total shares of Stock to be purchased by the Plan shall be lesser of $1,000,000 or 25% of the Plan's total assets.

Notice to Interested Persons: Since Mr. Bloom is the only participant of the Plan, thus the only participant affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and hearing requests on the proposed transaction are due 30 days after the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Allison Padams of the Department, telephone (202) 219–8971. (This is not a toll free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and

protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 5th day of August, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 97–21004 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–42, et al.; Exemption Application No. D–10314, et al.]

Grant of Individual Exemptions; TA Associates, Inc. (TA Associates), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

TA Associates, Inc. (TA Associates) Located in Boston, MA

[Prohibited Transaction Exemption 97–42; Exemption Application No. D–10314]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective December 29, 1993, to the making, by an employee benefit plan (the Plan), of capital contributions to any venture capital fund (the TA Fund) that is organized, sponsored and/or managed by TA Associates and/or any of its affiliates (collectively, TA) pursuant to a contractual obligation by a Plan having an interest in the TA Fund.

This exemption is subject to the following conditions:

(a) At the time the Plan undertakes the obligation to make such capital contributions (the Determination Date), the TA Fund is not a party in interest with respect to the Plan.

(b) The decision to make a capital contribution to a TA Fund is made on behalf of the Plan by a Plan fiduciary which is independent of and unrelated to TA and the portfolio company whose interest is acquired by the TA Fund.

(c) TA does not otherwise provide investment advice to the Plan within the meaning of Regulation section 29 CFR 2510.3–21(c) with respect to such Plan's assets that are invested in the TA Fund.

(d) At the Determination Date, the Plan has aggregate assets that are in excess of $50 million; provided however, that in the case of—

(1) Two or more Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Plans), whose assets are invested in a TA Fund through a group trust, an insurance company pooled separate account or any other form of entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), the foregoing $50 million requirement shall in any event be satisfied if such trust, separate account or other entity has aggregate assets which are in excess of $50 million, provided further that the fiduciary responsible for making the investment decision on behalf of such group trust, insurance company pooled separate account or other entity has—

(i) Full investment responsibility [1] with respect to the plan assets invested therein; and

(ii) Total assets under its management and control, exclusive of the assets invested in the TA Fund, which are in excess of $100 million, for TA Funds established after the date this grant notice is published in the **Federal Register**.

(2) Two or more Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Plans), whose assets are invested in a TA Fund through a master trust or any other entity the assets of which are ''plan assets'' under the Plan Asset Regulation, the $50 million requirement shall in any event be satisfied if such trust or other entity has aggregate assets which are in excess of $50 million, provided, further, that, in the case of a

[1] For purposes of this exemption, the term ''full investment responsibility'' means that the fiduciary responsible for making the investment decision has and exercises discretionary management authority over all of the assets of the group trust or other plan assets entity.

TA Fund established after the date this grant notice is published in the **Federal Register**, in addition to the $50 million requirement, if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, then such fiduciary has total assets under its management and control, exclusive of the assets invested in the TA Fund, which are in excess of $100 million.

(e) Subsequent to the Determination Date, the TA Fund is a party in interest with respect to the Plan solely by reason of a relationship to a portfolio company which is a service provider to a Plan, as described in section 3(14) (H) or (I) of the Act, including a fiduciary with respect to such Plan.

(f) At the Determination Date, the capital commitment of the Plan (together with the capital commitments of any other Plans maintained by the same employer, controlled group of corporations or employee organization) with respect to the TA Fund, does not exceed 15 percent of the total capital commitments with respect to such TA Fund.

(g) At the Determination Date, the percentage of the Plan's assets committed to be invested in the TA Fund does not exceed 5 percent of the Plan's total assets.

(h) At the Determination Date, a Plan's aggregate capital commitment to all TA Funds does not exceed 25 percent of the Plan's total assets.

(i) The Plan receives the following initial and ongoing disclosures with respect to the TA Fund:

(1) A copy of the private placement memorandum applicable to the TA Fund or another comparable document containing substantially the same information;

(2) A copy of the limited partnership or other agreement establishing the TA Fund;

(3) A copy of the subscription agreement applicable to the TA Fund, if any;

(4) Copies of the proposed exemption and grant notice related to the exemptive relief described herein; and

(5) Periodic, but no less frequently than annually, reports relating to the overall financial position and operational results of the TA Fund including copies of the TA Fund's annual financial statements.

(j) With respect to capital contributions made to a TA Fund by a Plan after the date of issuance of the final exemption, TA maintains or causes to be maintained for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (k) to determine whether the conditions of this exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred, if due to circumstances beyond the control of TA, the records are lost or destroyed prior to the end of the six year period; and

(2) No party in interest, other than TA, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (k).

(k)(1) Except as provided in paragraph (k)(2) and notwithstanding any provisions of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (j) are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(B) Any fiduciary of a Plan which has an interest in the TA Fund and has the authority to acquire or dispose of the interest of the Plan in the TA Fund, or any duly authorized employee or representative of such fiduciary; and

(C) Any participant or beneficiary of any Plan which has an interest in the TA Fund or duly authorized representative of such participant or beneficiary.

(2) None of the persons described in paragraph (k)(1)(B) and (k)(1)(C) shall be authorized to examine trade secrets of TA or commercial or financial information which is privileged or confidential.

EFFECTIVE DATE: This exemption is effective as of December 29, 1993.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on March 5, 1997 at 62 FR 10075.

Written Comments

The Department received one written comment with respect to the Notice. The comment, which was submitted by the applicant, requested modifications to the conditional language (the Conditions) and the Summary of Facts and Representations (the Summary) of the Notice in the following areas:

1. *Condition (d).* Condition (d) of the Notice establishes a $50 million threshold for Plans that are or will be covered by the exemption. Specifically, there is a sentence in Condition (d) which provides that the $50 million threshold will apply to the aggregate assets of a group trust or a master trust which invests in a TA Fund. TA requests that this concept also be applied to investments in a TA Fund by insurance company pooled separate accounts, large collective investment funds which are organized as partnerships, or other tax pass-through entities, provided the assets of these entities are deemed to be plan assets under the Plan Asset Regulation. Under these circumstances, TA believes that as long as the investing entity has assets in excess of $50 million and as long as the decision to invest in the TA Fund is made by an independent fiduciary unrelated to TA, then it is appropriate to apply the $50 million threshold to the aggregate assets held by the investing entity.

Although the Department does not object to this provision, it wishes to emphasize its view that a fiduciary exercising investment discretion over a pooled investment vehicle that is invested in a TA Fund should possess some minimum level of investor sophistication. Therefore, the Department is proposing certain additional requirements for pooled arrangements involving the assets of either Unrelated Plans or Related Plans. These requirements are as follows:

A. Unrelated Plans

For two or more Plans which are not maintained by the same employer, controlled group of corporations or employee organization, whose assets are invested in a TA Fund through a group trust, insurance company pooled separate account or other plan asset look-through entity, the $50 million threshold will apply to the aggregate assets of such entity so long as the fiduciary responsible for making the investment decision on behalf of the group trust, insurance company pooled separate account or other entity has full investment responsibility with respect to plan assets invested therein. However, in the event the entity holding the assets of Unrelated Plans is invested in a TA Fund established after the date this final exemption is granted, the fiduciary must, in addition to meeting the $50 million investment threshold, have total assets under its management and control, exclusive of the assets invested in the TA Fund, which are in excess of $100 million.

B. Related Plans

With respect to two or more Plans, which are maintained by the same employer, controlled group of

corporations or employee organization, whose assets are invested in a TA Fund through a master trust or any other form of plan asset look-through entity, the Department notes that the $50 million threshold may be satisfied by aggregating the assets of the investing Plans within the pooled vehicle. In this regard, the Department notes that an employer may retain an independent investment manager to manage all or a portion of Plan assets invested in a master trust. Under these circumstances, the Department believes that the independent investment manager must satisfy the outside business test for any TA Fund that is established after the date this grant notice is published in the **Federal Register**. In addition, the pooled vehicle would still have to meet the $50 million investment threshold.

Accordingly, Condition (d) has been amended to read as follows:

(d) At the Determination Date, the Plan has aggregate assets that are in excess of $50 million; provided however, that in the case of—

(1) Two or more Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Plans), whose assets are invested in a TA Fund through a group trust, an insurance company pooled separate account or any other form of entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), the foregoing $50 million requirement shall in any event be satisfied if such trust, separate account or other entity has aggregate assets which are in excess of $50 million, provided further that the fiduciary responsible for making the investment decision on behalf of such group trust, insurance company pooled separate account or other entity has—

(i) Full investment responsibility with respect to the plan assets invested therein; and

(ii) Total assets under its management and control, exclusive of the assets invested in the TA Fund, which are in excess of $100 million, for TA Funds established after the date this grant notice is published in the **Federal Register**.

(2) Two or more Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Plans), whose assets are invested in a TA Fund through a master trust or any other entity the assets of which are ''plan assets'' under the Plan Asset Regulation, the $50 million requirement shall in any event be satisfied if such trust or other entity has aggregate assets which are in excess of $50 million, provided, further, that, in the case of a TA Fund established after the date this grant notice is published in the **Federal Register**, in addition to the $50 million requirement, if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, then such fiduciary has total assets under its management and control, exclusive of the assets invested in the TA Fund, which are in excess of $100 million.

2. *Condition (k)(1)(B).* The applicant notes that the word ''who'' in Condition (k)(1)(B) should be changed to the word ''which.'' The Department concurs and has made the requested change.

3. *Condition (k)(1)(C).* The applicant requests that Condition (k)(1)(C) be amended to clarify that a participant or a beneficiary of a Plan having an interest ''in a TA Fund'' (or the authorized representatives of these individuals) may review records that TA maintains with respect to the exemption. Therefore, the Department has agreed to modify this condition to read as follows:

Any participant or beneficiary of any Plan which has an interest in the TA Fund or duly authorized representative of such participant or beneficiary.

4. *Representation 3.* Representation 3 of the Summary states that TA's most recent venture capital fund is Advent VII. Although Advent VII was the most recent TA Fund at the time the exemption application was filed, TA states that it subsequently closed a new TA Fund, TA/Advent VIII, L.P. (Advent VIII), which as of December 31, 1996, had aggregate capital commitments of approximately $800 million from 96 individual and institutional investors. Of the institutional investors, 17 investors are Plans that are covered by the Act. As of December 31, 1996, these Plans had made a total capital commitment to Advent VIII of approximately $188 million. In addition, TA wishes to clarify that it currently has organized, sponsored and/or managed 22 venture capital funds involving total capital commitments of approximately $2.25 billion. The Department has noted these clarifications.

5. *Representation 7.* To correct an inadvertent error on its part, TA wishes to clarify that the fourth line of Representation 7 of the Summary should refer to ''a greater than 10 percent interest in a portfolio'' rather than a ''100 percent interest.'' The Department notes this revision.

6. *Representation 8.* TA wishes to clarify that in the sixth line of Representation 8 of the Summary, the word ''on'' should be changed to the word ''after.'' Again, the Department notes this revision.

Thus, after giving full consideration to the entire record, including the written comment, the Department has made the aforementioned changes to the Notice and has decided to grant the exemption subject to the clarifications described above. The comment letter has been included as part of the public record of the exemption application. The complete application file, as well as all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

First Savings Bank, F.S.B. Profit Sharing and Employee Stock Ownership Plan (the Plan) Located in Clovis, New Mexico

[Prohibited Transaction Exemption 97–43 Exemption Application No. D–10409]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective December 26, 1996 to (1) the acquisition by the Plan of certain stock rights (the Rights) pursuant to a stock rights offering (the Offering) by Access Anytime Bancorp, Inc. (the Parent), which is the parent corporation of First Savings Bank, F.S.B., the sponsor of the Plan; (2) the holding of the Rights by the Plan during the subscription period of the Offering; and (3) the exercise of certain of the Rights by the Plan; provided that the following conditions are met:

(A) The Plan's acquisition and holding of the Rights occurred in connection with the Offering made available to all shareholders of common stock of the Parent;

(B) All holders of the common stock of the Parent were treated in the same manner with respect to the Offering, including the Plan;

(C) All decisions regarding the holding and potential exercise of the Rights by the Plan were made in accordance with Plan provisions for individually-directed investment of participant accounts by the individual Plan participants whose accounts in the Plan received Rights in the Offering; and

(D) With respect to any participants' accounts in the Plan for which no valid instructions were timely filed regarding the Rights during the Offering, such Rights expired unexercised in the same manner as unexercised Rights issued to all other holders of the common stock of the Parent, since the Rights were not transferable and could not be sold.

EFFECTIVE DATE: This exemption is effective as of December 26, 1996.

WRITTEN COMMENTS: The Department no requests for a hearing and one written comment with respect to the proposed exemption. The comment was submitted by the applicant, the First Savings Bank, in correction of information submitted by the applicant which appeared in the Summary of Facts and Representations (the Summary) in the Notice of Proposed Exemption. The fourth paragraph of the Summary includes the Employer's representation that 5,000 Rights were exercised by Invested Participants, and that the remaining 4,798 Rights expired on the Expiration Date. The applicant notes that this representation was in error, reflecting a misunderstanding about the information that was requested. The applicant represents that the actual number of Rights exercised by Invested Participants was 367.

After consideration of the entire record, as corrected by the applicant, the Department has determined to grant the exemption.

For a more complete statement of the summary of facts and representations supporting the Department's decision to grant this exemption refer to the Notice of Proposed Exemption published on June 4, 1997 at 62 FR 30620.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions do not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 5th day of August, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 97–21005 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Soft Dollar Arrangements and Commission Recapture: Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held September 17 of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group formed to study Soft Dollar Arrangements and Commission Recapture.

The session will take place in Room N–5437 A&B, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, D.C. 20210. The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is to conclude the taking of testimony from members of the financial community discussing their views on soft dollar and directed brokerage practices.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before September 7, 1997, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group on Soft Dollar Arrangements and Commission Recapture should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 7, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 7.

Signed at Washington, D.C. this 4th day of August 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 97–21014 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

99th Full Council Meeting; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held September 17, 1997 of the Advisory Council on Employee Welfare and Pension Benefit Plans.

The session will take place in Room N–5437 A&B, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, D.C. 20210. The purpose of the open meeting, which will run from 1:00 p.m. to approximately 2:30 p.m., is for the Council's three Working Group chairs to update the full Advisory Council on their committees' progress in studying their specific topics for the year. The progress reports will be made by chairs of the Working Groups on Employer Assets in Employer-Sponsored Plans, on Defined Contribution vs. Defined

Benefit Plans With an Emphasis on Small Business Concerns and on Soft Dollar/Commission Recapture. In addition, the Council will be updated on activities of the Pension and Welfare Benefits Administration.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before September 7, 1997, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Advisory Council on Employee Welfare and Pension Benefits should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 7, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 7.

Signed at Washington, D.C. this 4th day of August, 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 97–21015 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Employer Assets in ERISA Employer-Sponsored Plans: Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on September 16, 1997 of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group studying Employer Assets in ERISA Employer-Sponsored Plans.

The purpose of the open meeting, which will run from 1:00 p.m. until approximately 5:00 p.m. in Room N–5437 A&B, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210, is for Working Group members to conclude taking testimony on the topic of employer assets in ERISA employer-sponsored plans. The group is especially interested in seeking testimony from organizations or persons in favor of limiting employer securities as significant plan assets of defined contribution plans.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before September 7, 1997, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group on Employer Assets in ERISA Employer-Sponsored Plans should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 7, 1997, at the address indicated in this notice. Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 7.

Signed at Washington, DC, this 4th day of August 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 97–21016 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Studying the Merits of Defined Contribution vs. Defined Benefit Plans; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group established to Study the Merits of Defined Contribution vs. Defined Benefit Plans With an Emphasis on Small Business Concerns will hold a public meeting on September 16, 1997 in Room N–5437 A&B, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, D.C. 20210.

The purpose of the open meeting, which will run from 9:30 a.m. until approximately noon, is for Working Group members to conclude taking testimony on its issue, particularly as to the formation of defined benefit plans for small businesses. The chair also plans to devote the remainder of the session to a discussion of the work group's conclusions to prepare a draft of its report and recommendations to the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before September 7, 1997, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group on Studying the Merits of Defined Contribution vs. Defined Contribution Plans With an Emphasis on Small Business Concerns should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 7, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 7.

Signed at Washington, D.C. this 4th day of August 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 97–21017 Filed 8–7–97; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 54, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants''.

2. *Current OMB approval number:* 3150–0155.

3. *How often the collection is required:* One-time submission with application for renewal of an operating license for a nuclear power plant and occasional collections for holders of renewed licenses.

4. *Who is required or asked to report:* Commercial nuclear power plant licensees who wish to renew their operating licenses.

5. *The number of annual respondents:* 1–2 respondents (based on an estimate of 4 renewal applications during the requested 3-year clearance period).

6. *The number of hours needed annually to complete the requirement or request:* Approximately 89,333 hours (85,333 hours one-time reporting burden and 4,000 hours recordkeeping burden).

7. *Abstract:* 10 CFR Part 54 of the NRC regulations, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'' specifies the procedures, criteria, and standards governing nuclear power plant license renewal, including information submittal and recordkeeping requirements, so that the NRC may make determinations necessary to promote the health and safety of the public.

Submit, by October 7, 1997, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 1st day of August 1997.

For the Nuclear Regulatory Commission.

Arnold E. Levin,

Acting Designated Senior Official for Information Resources Management.

[FR Doc. 97–20972 Filed 8–7–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 531, Taxpayer Identification Number.

2. *Current OMB approval number:* None.

3. *How often the collection is required:* One time from each applicant or individual to enable the Department of the Treasury to process electronic financial payment or collect debts owed to the government.

4. *Who is required or asked to report:* All individuals doing business with the Nuclear Regulatory Commission, including contractors and recipients of credit, licenses, permits, and benefits.

5. *The number of annual respondents:* 1,600 the first year and 500 annually thereafter or 867 annually over a three year period.

6. *The number of hours needed annually to complete the requirement or request:* 72 hours (5 minutes per response).

7. *Abstract:* The Debt Collection Improvement Act of 1996 requires that agencies collect taxpayer identification numbers (TINs) from individuals who do business with the Government, including contractors and recipients of credit, licenses, permits, and benefits. The TIN will be used to process all electronic payments (refunds) made to licensees by electronic funds transfer by the Department of the Treasury. The Department of the Treasury will use the TIN to determine whether the refund can be used to administratively offset any delinquent debts reported to the Treasury by other government agencies. In addition, the TIN will be used to collect and report to the Department of the Treasury any delinquent indebtedness arising out of the licensee's or applicant's relationship with the NRC.

Submit, by October 7, 1997, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collected be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. Members of the public

who are in the Washington, DC area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC 20555–0001, or by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 1st day of August, 1997.

For the Nuclear Regulatory Commission.

Arnold E. Levin,

Acting Designated Senior Official for Information Resources Management.

[FR Doc. 97–20973 Filed 8–7–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 398, ''Personal Qualification Statement—Licensee''.

3. *The form number if applicable:* NRC Form 398.

4. *How often the collection is required:* On occasion and every six years (at renewal).

5. *Who will be required or asked to report:* Individuals requiring a license to operate the controls at a nuclear reactor.

6. *An estimate of the number of responses:* 1660 (one each per respondent).

7. *The estimated number of annual respondents:* 1660.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1730; approximately 1.04 hours per response.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* NRC Form 398 requests detailed information that should be submitted by a licensing candidate when applying for a new or renewal license to operate the controls at a nuclear reactor facility. This information, once collected, would be used for licensing actions and for generating reports on the Operator Licensing Program.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions should be directed to the OMB reviewer by September 8, 1997: Edward Michlovich, Office of Information and Regulatory Affairs (3150–0090), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 1st day of August, 1997.

For the Nuclear Regulatory Commission.

Arnold E. Levin,

Acting Designated Senior Official for Information Resources Management.

[FR Doc. 97–20971 Filed 8–7–97; 8:45 am]

BILLING CODE 7590–01–P

PRESIDENTIAL ADVISORY COMMITTEE ON GULF WAR VETERANS' ILLNESSES

Meeting

AGENCY: Presidential Advisory Committee on Gulf War Veterans' illnesses.

ACTION: Notice of open meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act, this notice is hereby given to announce an open meeting of the Presidential Advisory Committee on Gulf War Veterans' Illnesses.

DATES: September 4, 1997, 9:00 a.m.–4:30 p.m.; September 5, 8:30 a.m.–4:00 p.m.

PLACE: Holiday Inn Hotel & Suites, 625 First Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: The President established the Presidential Advisory Committee on Gulf War Veterans' Illnesses by Executive Order 12961, May 26, 1995, and extended its tenure by Executive Order 13034, January 30, 1997. The purpose of this Committee is to review and provide recommendations on the government's investigation of possible chemical and biological weapons exposure incidents during the Gulf War and on implementation of the Committee's prior recommendations. The Committee reports to the President through the Secretary of Defense, the Secretary of Health and Human Services, and the Secretary of Veterans Affairs. The Committee members have expertise relevant to the functions of the Committee and are appointed by the President from non-Federal sectors.

Tentative Agenda

Thursday, September 4, 1997

9:00 a.m.
  Call to order
  Public comment
9:30 a.m.
  Briefings related to implementation of Final Report recommendations
11:30 a.m.
  Break
11:45 a.m.
  Briefings related to chemical warfare agent exposure issues
12:30 p.m.
  Lunch

1:45 p.m.
Briefings related to chemical warfare agent exposure issues
4:30 p.m.
Meeting recessed

Friday, September 5, 1997

8:30 a.m.
Call to order
8:35 a.m.
Briefings related to chemical warfare agent exposure issues
10:30 a.m.
Break
10:45 a.m.
Discussion of special report
12:30 p.m.
Lunch
1:30 p.m.
Discussion of special report
3:45 p.m.
Committee and staff discussion: Next steps
4:00 p.m.
Meeting adjourned

A final agenda will be available at the meeting.

Public Participation

The meeting is open to the public. Members of the public who wish to make oral statements should contact the Committee at the address or telephone number listed below at least five business days prior to the meeting. Reasonable provisions will be made to include on the agenda presentations from individuals who have not yet had an opportunity to address the Committee. Priority will be given to Gulf War veterans whose accounts of firsthand experience with chemical and biological warfare agent detections previously have not been conveyed to the Committee. The panel chair is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. People who wish to file written statements with the Committee may do so at any time.

FOR FURTHER INFORMATION CONTACT: Nancy Rocha, Presidential Advisory Committee on Gulf War Veterans' Illnesses, 1411 K Street, N.W., suite 1000, Washington, DC 20005, Telephone: (202) 761–0066, Fax: (202) 761–0310.

Dated: August 4, 1997.

C.A. Bock,

Federal Register Liaison Officer, Presidential Advisory Committee on Gulf War Veterans' Illnesses.

[FR Doc. 97–20917 Filed 8–7–97; 8:45 am]

BILLING CODE 3610–76–M

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:
Rule 17Ad–11, SEC File No. 270–261, OMB Control No. 3235–0274
Rule 17Ad–13, SEC File No. 270–263, OMB Control No. 3235–0275

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 collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17Ad–11 requires transfer agents to report to issuers and the appropriate regulatory agency in the event that aged record differences exceed certain dollar value thresholds. An aged record difference occurs when an issuer's records do not agree with those of securityowners as indicated, for instance, on certificates presented to the transfer agent for purchase, redemption or transfer. In addition, the rule requires transfer agents to report to the appropriate regulatory agency in the event of a failure to post certificate detail to the master securityholder file within 5 business days of the time required by Rule 17Ad–10. Also, transfer agents must maintain a copy of each report prepared under Rule 17Ad–11 for a period of three years following the date of the report. These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule.

Because the information required by Rule 17Ad–11 is already available to transfer agents, any collection burden for small transfer agents is minimal. The staff estimates 150 registered transfer agents take approximately one hour annually to comply with Rule 17Ad–11. Therefore, the total burden is 150 hours annually for transfer agents, based upon past submissions. The average cost per hour is approximately $30. Therefore, the total cost of compliance for transfer agents is $4,500.

Rule 17Ad–13 requires approximately 200 registered transfer agents to obtain an annual report on the adequacy of internal accounting controls. In addition, transfer agents must maintain copies of any reports prepared pursuant to Rule 17Ad–13 plus any documents prepared to notify the Commission and appropriate regulatory agencies in the event that the transfer agent is required to take any corrective action. These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule. Small transfer agents are exempt from Rule 17Ad–13.

The staff estimates 200 registered transfer agents take approximately 175 hours annually to comply with Rule 17Ad–13. Therefore, the total annual burden is 35,000 hours for transfer agents, based upon past submissions. The average cost per hour is approximately $60. Therefore, the total cost of compliance for transfer agents is $1,300,000.

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 shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. 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 Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: August 1, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–20912 Filed 8–7–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:
Form 18, SEC File No. 270–105, OMB

Control No. 3235–0121

Form 18–K, SEC File No. 270–108, OMB Control No. 3235–0120

Form F–80, SEC File No. 270–357, OMB Control No. 3235–0404

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 requests for extension of the previously approved collections of information discussed below.

Form 18 is used for the registration of securities under the Securities Exchange Act of 1934 of any foreign government or political subdivision thereof. It is filed on occasion. An estimated 5 respondents file Form 18 annually for a total burden of 40 hours.

Form 18–K is an annual report for foreign governments and political subdivisions thereof. It provides updated information concerning registered securities. An estimated 11 respondents file Form 18–K annually for a total burden of 88 hours.

Form F–80 is a form used to register under the Securities Act of 1933 securities of certain issuers to be issued in exchange offers or a business combination. It is filed on occasion. An estimated 5 respondents file Form F–80 annually for a total burden of 10 hours.

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.

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: August 1, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–20913 Filed 8–7–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Benchmark Electronics, Inc., Common Stock, $.10 Par Value) File No. 1–10560

August 4, 1997.

Benchmark Electronics, 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 American Stock Exchange, Inc. (''Amex'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Company's Security is listed on the New York Stock Exchange (''NYSE'') effective May 13, 1997. The Company's Board of Directors resolved on April 4, 1997 to withdraw the Company's Security from listing on Amex to avoid the direct and indirect cost and the division of the market resulting from dual listing.

The Company has complied with Rule 18 of the American Stock Exchange (''Amex'') by filing with such Exchange a certified copy of preambles and resolutions adopted by the Company's Board of Directors (''Directors'') authorizing the withdrawal of its common stock from listing on the Amex and by setting forth in detail to such Exchange the reasons for such proposed withdrawal, and the facts in support thereof.

By letter dated April 30, 1997, the Amex stated that the Exchange would not interpose an objection to the Company's application to withdraw its Security from listing.

Any interested person may, on or before August 25, 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 exchange 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. 97–20910 Filed 8–7–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38897; File No. SR–NYSE–97–21]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Trading Differentials for Equity Securities

August 1, 1997.

On June 16, 1997, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to replace references to specific minimum variations with general language regarding minimum variations, to replace its minimum increment of one-eighth of a dollar with one-sixteenth of a dollar, and to make conforming changes to several other rules.[3]

The proposed rule change was published for comment in the **Federal Register** on June 25, 1997.[4] No comments were received. This order approves the proposal.

Exchange Rule 62 currently provides fixed minimum trading variations for stocks traded on the Exchange. The Exchange proposes to amend Rule 62 to remove the references to specific minimum variations and to replace it with general language. The Exchange believes this amendment to Rule 62 will provide flexibility so that the Exchange could permit its members to trade at increments smaller than NYSE-established trade variations in order to match other markets' bids or offers for the purpose of preventing Intermarket Trading System (''ITS'') trade-throughs. The Exchange proposes to set the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In order for the Exchange to meet quickly changing market conditions, the Commission granted the changes described in this proposal temporary accelerated approval on June 18, 1997. *See* Securities Exchange Act Release No. 38744 (June 18, 1997), 62 FR 34334 (June 25, 1997).

[4] Securities Exchange Act Release No. 38745 (June 18, 1997), 62 FR 34336 (June 25, 1997).

minimum variation for most stocks at one-sixteenth of a dollar.[5]

In addition to Rule 62, several other Exchange rules incorporate specific references to minimum trading variations. The Exchange proposes to make conforming changes to these rules (Rule 95.30, Rule 118, Rule 127, and Rule 440B) by removing references to specific minimum trading variations of one-eighth of a dollar.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes the proposal comports with the requirements of Section 6 and Section 11A of the Act.[6]

Recently, there has been a movement within the industry to reduce the minimum trading and quotation increments imposed by the various self-regulatory organizations (''SROs''). Both the American Stock Exchange (''Amex'') and The Nasdaq Stock Market (''Nasdaq'') have recently reduced their minimum increments.[7] In addition, several third market makers have begun quoting securities in increments smaller than the primary markets. The proposed rule change will allow the NYSE the flexibility it needs to address this development and remain competitive with these markets. Nevertheless, the Commission notes that any further change in the minimum increments constitutes (1) a change in a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the NYSE, or (2) a change in an existing order-entry or trading system of an SRO, or (3) both. Therefore, the Exchange is still obligated to file such proposed changes with the Commission.[8]

The Commission also believes the proposed rule change will likely enhance the quality of the market for the affected NYSE-listed securities. Allowing the NYSE to permanently quote all securities in finer increments will facilitate quote competition.[9] This should help produce more accurate pricing of such securities and can result in tighter quotations.[10] In addition, if the quoted markets are improved by reducing the minimum increment, the change could result in added benefits to the market such as reduced transaction costs.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NYSE–97–21) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–20828 Filed 8–6–97; 8:45 am]

BILLING CODE 8010–01–M

[5] The Exchange previously only allowed quotes in eighths for equity securities that are above $1.00, sixteenths for equity securities that are below $1.00 but above $0.50, and thirty-seconds in stocks below $0.50. NYSE Rule 62.

[6] 15 U.S.C. 78f(b) and 78k–1. In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3 of the Act. *Id.* § 78c(f).

[7] Securities Exchange Act Release No. 38571 (May 5, 1997), 62 FR 25682 (May 9, 1997) (approving an Amex proposal to reduce the minimum trading increment to 1/16 for certain Amex-listed equity securities); Securities Exchange Act Release No. 38678 (May 27, 1997), 62 FR 30363 (June 6, 1997) (approving a Nasdaq rule change to reduce the minimum quotation increment to 1/16 for certain Nasdaq-listed securities).

[8] These changes, however, may become effective upon filing if they meet certain statutory requirements. *See* 15 U.S.C. 78s(b)(3)(A)(i) and 17 CFR 240.19b–4(e).

[9] The rule change is consistent with the recommendation of the Division of Market Regulation (''Division'') in its Market 2000 Study, in which the Division noted that the 1/8 minimum variation can cause artificially wide spreads and hinder quote competition by preventing offers to buy or sell at prices inside the prevailing quote. *See* SEC, Division of Market Regulation, *Market 2000: An Examination of Current Equity Market Developments* 18–19 (Jan. 1994).

[10] A study that analyzed the reduction in the minimum tick size from 1/8 to 1/16 for securities listed on the Amex priced between $1.00 and $5.00 found that, in general, the spreads for those securities decreased significantly while trading activity and market depth were relatively unaffected. *See* Hee-Joon Ahn, Charles Q. Chao, and Hyuk Choe, *Tick Size, Spread, and Volume*, 5 J. Fin. Intermediation 2 (1996).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38894; File No. SR–Phlx–97–30]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to Doubling the Value for the Phlx Oil Service Index

August 1, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 27, 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 Phlx. On July 29, 1997, Phlx amended the proposed rule change (''Amendment No. 1'').[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

Phlx proposes to change the index value for the Phlx Oil Service Index (''OSX'') by reducing the base market divisor to half of its current value.[3] Options trading with the new index value (''new index options'') will trade with the current symbol OSX. The Exchange will convert the existing index options (''existing index options'' or ''OSB Options'') to the symbol OSB. The existing index options using the old index value will continue to trade until expiration or until no open interest remains, at which time the series will be delisted. The Exchange will not open any new series in the existing index options after the new index options begin trading.

II. Self-Regulatory Organization's Statement of the Purpose of, Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx included statements concerning the purpose of an basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Phlx has prepared summaries, set forth in section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange began trading the OSX on February 24, 1997.[4] The Index is a price-weighted industry index composed of 15 stocks involved in the oil service industry. In an effort to enhance the trading activity, OSX was initially indexed to a Value of $75.00 on December 31, 1996.[5] Since the commencement of trading, the OSX has traded an average of 1000 contracts daily garnering steady volume and open interest. However, the exchange has received numerous comments from OSX

[1] 15 U.S.C. 78s(b)(1).

[2] Letter from Nandita Yagnick, New Product Development, Phlx, to Margaret Blake, Division of Market Regulation, Commission (July 29, 1997).

[3] The prices, weightings and the divisor change for the Index are attached as Exhibit B to File No. SR–Phlx–97–30.

[4] *See* Securities Exchange Act Release No. 38207 (January 27, 1997), 62 FR 5268 (order approving the listing and trading of options and LEAPS on the Phlx Oil Service Index).

[5] Amendment No. 1 indicates that the index value was set at $75.00 as an experiment to attract order flow from the retail investment community.

investors regarding the value of the existing index options. Phlx notes that OSX investors believe the value of the index ($101.46 as of July 16, 1997) is a detriment to attracting order flow, because, (1) hedgers are required to purchase (or sell) a larger number of options against a lower priced index thereby increasing transaction costs, and (2) given that the Index was priced to resemble a share of common stock, order flow is being lost to equity options on these individual issues due to their higher reflection of volatility.

The purpose of this proposal is to allow the Exchange to offer for trading options on the Phlx Oil Service Index which has an index value twice the value of the current index. The proposed new index options would have the same contract specifications as the existing index options with the exception that the index value would be doubled.[6] The new index options would trade under the current symbol OSX. The symbol for the existing index options would be changed to OSB. The new index would be subject to the same maintenance standards that were approved for the existing index in accordance with the generic maintenance standards set forth in Phlx Rule 1009A.

The Exchange will allow the OSB options to continue to trade until the listed series expire or no longer have open interest but trading will be limited to closing only transactions. No new options series of OSB options will be opened after the new index options begin trading. Options on OSX and options on OSB will not be fungible, however, positions will be aggregated for position limit and exercise limit purposes. The Exchange will provide notice to its membership and the public prior to the effectiveness of this filing by way of memoranda.[7]

Phlx believes that the proposed rule change is consistent with Section 6 of the Act[8] in general, and in particular, with Section 6(b)(5),[9] in that it is designed to promote just and equitable principles of trade, facilitate transactions in securities while protecting investors and the public interest. Specifically, the Exchange believes that providing a higher valued index will allow option traders and investors to take advantage of the higher volatility. In addition the Exchange believes that current OSX investors will not be disadvantaged by this proposal, because the Exchange will provide adequate notice and an orderly procedure, in order to phase out the existing index options which are currently trading.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments 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 publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days or such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx 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 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 Phlx. All submissions should refer to File No. SR–Phlx–97–30 and should be submitted by August 29, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–20911 Filed 8–7–97; 8:45 am]

BILLING CODE 8010–01–M

[6] Amendment No. 1 indicates that while doubling the price of the Index will not impact the volatility of the Index, it will serve to increase the absolute price movements of the Index.

[7] Phlx will issue a circular to its membership one week prior to the effective date of the change, which will advise members of the increase in value of the OSX. Telephone conversation with Nandita Yagnick, Phlx, and Margaret Blake, Division of Market Regulation, Commission (July 31, 1997).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before September 8, 1997. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Jacqueline White, Small Business Administration, 409 3rd Street, S.W., 5th Floor, Washington, D.C. 20416, Telephone: (202) 205–6629.

Omb Reviewer: Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

Title: Voluntary Customer Surveys in Accordance with E.O. 12862.

Form No: N/A.

Frequency: On Occasion.

Description of Respondents: SBA Participants.

Annual Responses: 85,614.

Annual Burden: 13,102.

Dated: August 4, 1997.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 97–20924 Filed 8–7–97; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

Region IX Honolulu District Advisory Council; Public Meeting

The U. S. Small Business Administration Region IX Advisory Council, located in the geographical area of Honolulu, Hawaii, will hold a public meeting on Thursday, August 14, 1997, at 10:00 a.m., at the Bank of America FSB, 1099 Alakea Street Alii Place, 24th Floor, Honolulu, HI, to discuss such matters as may be presented by members, staff of the U. S. Small Business Administration, or others present.

For further information, write or call Andrew K. Poepoe, District Director, U. S. Small Business Administration, 300 Ala Moana Boulevard, Room 3214, Honolulu, Hawaii, 96850, telephone number (808) 541–2965

Dated: July 30, 1997.

Eugene Carlson,

Associate Administrator, Office of Communication and Public Liaison.

[FR Doc. 97–20956 Filed 8–7–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region I Providence District Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Providence, Rhode Island will hold a public meeting on Tuesday, August 26, 1997, at 4:00 p.m. at the Newport Harbor Hotel, Newport, Rhode Island.

The purpose of this meeting is to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or other parties.

For further information, write or call the office of the District Director, Providence District Office, U.S. Small Business Administration, 380 Westminster Street, Rhode Island 02903, (401) 528–4561.

Dated: July 30, 1997.

Eugene Carlson,

Associate Administrator, Office of Communications and Public Liaison.

[FR Doc. 97–20959 Filed 8–7–97; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Social Security Ruling, SSR 97–2p; Title II and Title XVI: Prehearing Case Review by Disability Determination Services

AGENCY: Social Security Administration.

ACTION: Notice of Social Security ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(1), the Acting Commissioner of Social Security gives notice of Social Security Ruling (SSR) 97–2p. This Ruling states the Social Security Administration's (SSA) policy on returning claims pending at the hearing level from the Office of Hearings and Appeals to the Disability Determination Services for a prehearing case review when new medical evidence is submitted. This Ruling was developed as part of SSA's effort to further ensure consistency in the way disability claims are adjudicated at all levels of the administrative review process.

EFFECTIVE DATE: August 8, 1997.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 402.35(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Programs 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income.)

Dated: July 31, 1997.

John J. Callahan,

Acting Commissioner of Social Security.

Policy Interpretation Ruling

Title II and Title XVI: Prehearing Case Review by Disability Determination Services

Purpose: To state the Social Security Administration's (SSA) policy on returning claims pending a hearing before an Administrative Law Judge (ALJ) from SSA's Office of Hearings and Appeals (OHA) to the Disability Determination Services (DDS) for a prehearing case review when new medical evidence is submitted.

Citations (Authority): Regulations No. 4, sections 404.941, 404.944, and 404.1527(f); and Regulations No. 16, sections 416.1441, 416.1444, and 416.927(f).

Background: 20 CFR 404.941 and 416.1441 provide that after a hearing before an ALJ is requested but before it is held, SSA may, for the purposes of a prehearing case review, forward a case to the component of SSA (including a State agency) that issued the determination being reviewed. That component will decide whether the determination may be revised. These regulations provide that SSA may conduct a prehearing case review if:

1. Additional evidence is submitted;
2. There is an indication that additional evidence is available;
3. There is a change in the law or regulation; or
4. There is an error in the file or some other indication that the prior determination may be revised.

Under these rules, SSA has the authority to conduct a prehearing case review in a wide range of circumstances. However, SSA has generally used its authority to conduct a prehearing case review in limited circumstances, keeping most cases in the hearing process even when a prehearing case review would be permissible under these rules. Now, under an initiative approved by the Commissioner of Social Security in July 1996 as part of SSA's overall goal of process unification, SSA has decided to use its existing regulatory authority to reexamine selected disability claims after a hearing is requested but before it is held. This Ruling explains the policy SSA will apply in these cases.

The goal of process unification is to achieve correct, similar results in similar cases at all stages of the administrative review process. SSA's studies indicate that additional

evidence is submitted to SSA's OHA by claimants or their representatives in at least 40 percent of claims pending at the hearing level. (SSA requests or develops for additional evidence in approximately another 20 percent of cases.) Given this volume of cases involving additional evidence at the hearing level, evaluation of these cases by DDS medical and/or psychological consultants could either result in a revised favorable determination without a hearing, or at least present a clearer picture of the medical record for purposes of a hearing before an ALJ in a significant number of cases. For these purposes, the ALJ would accept the DDS medical and/or psychological consultant's analysis as evidence material to the issues, pursuant to 20 CFR 404.944 and 416.1444.

Including the DDS medical and/or psychological consultant's analysis of additional evidence in the record is consistent with considering DDS medical and psychological consultant opinion in adjudication at the OHA level (SSR 96–6p, 7/2/96). The analysis is expected to help ensure uniform decision making at all levels of administrative review within SSA by providing expert consideration of, and opinion on, the medical issues presented by the additional evidence, including, but not limited to, the existence and severity of the claimant's impairment(s), the existence and severity of the claimant's symptoms, whether the impairment meets or equals the requirements for any impairment listed in 20 CFR Part 404, Subpart P, Appendix 1, and the claimant's residual functional capacity. The analysis is also expected to help OHA focus any additional development it may consider necessary by indicating what issues raised in the additional evidence, if any, could be clarified by such development.

Policy Interpretation: Under 20 CFR 404.941 and 416.1441, OHA may return selected cases to the DDS for a prehearing case review when new medical evidence is received at the hearing level.

OHA may return a case to the DDS if all of the following criteria are met:

- The claimant requested a hearing regarding his or her entitlement to disability insurance benefits under title II of the Social Security Act (the Act), eligibility for supplemental security income based on disability under title XVI of the Act, or both;
- A hearing has not been held in the case;
- SSA received additional evidence in the case after the date of the reconsideration determination;
- The additional evidence is not duplicative and was not a result of SSA development; and
- SSA has not previously returned the case to the DDS for a prehearing case review.

The DDS will decide whether its determination may be revised based on the additional evidence when considered with the entire record. A revised determination may be wholly or partially favorable to the claimant.

If the DDS revises the determination, SSA will mail written notice of the revised determination to all parties to the hearing at their last known address. The notice will state the basis for the revised determination, and will advise all parties of their right to request a hearing on the revised determination within 60 days after the date of receiving the notice.

If the DDS revises its determination to a wholly favorable determination, the notice will also state that:

- The ALJ will dismiss the request for hearing unless the claimant or another party requests that the hearing proceed; and
- The request to proceed with the hearing must be made in writing within 30 days after the date the notice of the revised determination was mailed.

If the DDS revises its determination to a partially favorable determination, the notice will also state:

- What was not favorable in the revised determination; and
- That the hearing requested by the claimant will be held unless the claimant and all other parties inform SSA that they agree to dismiss the hearing request.

If the DDS does not revise its determination based on the additional evidence, the DDS will return the case to the ALJ with a medical and/or psychological consultant's analysis of the entire medical record, including the additional evidence, in a format appropriate for inclusion into the record. This analysis will be considered opinion evidence from a nonexamining source or sources, under the provisions of the regulations at 20 CFR 404.1527(f) and 416.927(f), and the guidelines in SSR 96–6p. The ALJ must consider the medical and/or psychological consultant's analysis by applying the rules in paragraphs (a) through (e) of those sections of the regulations, and must explain in the decision the weight given to the analysis.

Returning a case for a prehearing case review will not delay the scheduling of a hearing unless the claimant agrees to continue the review and delay the hearing. If the prehearing case review is not completed before the date of the hearing, the case will be sent to the ALJ unless a favorable revised determination is in process, or the claimant and the other parties to the hearing agree in writing to delay the hearing until the review is completed.

EFFECTIVE DATE: This Ruling is effective on August 8, 1997.

Cross-Reference: SSR 96–6p, ''Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence.''

[FR Doc. 97–20900 Filed 8–7–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week of August 1, 1997

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–97–2775

Date Filed: July 31, 1997

Parties: Members of the International Air Transport Association

Subject:

PTC Comp 0140 dated July 9, 1997

Mail Vote 880 (Reso 010v-Fares from Zimbabwe)

1st Amendment to Mail Vote

2nd Amendment to Mail Vote

Intended effective date: August 15, 1997.

Docket Number: OST–97–2777

Date Filed: July 31, 1997

Parties: Members of the International Air Transport Association

Subject:

PTC23 Telex Mail Vote 878

Mail Vote 878 (Reso 010t-Hong Kong-London Fares)

Amendment to Mail Vote

Intended effective date: August 15, 1997.

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 97–20963 Filed 8–7–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending August 1, 1997

The following Applications for Certifications of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–97–2768.

Date Filed: July 29, 1997.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 26, 1997.

Description: Application of Far Eastern Air Transport Corporation, pursuant to 49 U.S.C. Section 41302 and Subpart Q of the Regulations, applies for a Foreign Air Carrier Permit that would permit Far Eastern to engage in scheduled and charter foreign air transportation of persons, property and mail between any point or points in Taiwan, on the one hand, and Guam, on the other.

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 97–20962 Filed 8–7–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 96–048]

National Boating Safety Activities: Funding for National Nonprofit Public Service Organizations

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability; reopening and extension of application period.

SUMMARY: In a notice published October 1, 1996, the Coast Guard announced the availability of funds for grants to enter into financial assistance agreements with national nonprofit public service organizations to promote boating safety on a national level. The notice sought applications for grant proposals for projects that might be eligible for this assistance. This notice reopens and extends the period for submission of additional grant application proposals.

DATES: Proposals must be received before 4:30 p.m. eastern time August 20, 1997.

ADDRESSES: Application packages may be obtained by contacting Ms. Betty Alley, Office of Boating Safety, U.S. Coast Guard (G–OPB–1g/room 3100), 2100 Second Street, SW, Washington, DC 10593–0001; (202) 267–0954 and proposals submitted to Commandant (G–OPB–1g), U.S. Coast Guard Headquarters, 2100 Second Street SW., Room 3100, Washington, DC 20593–0001

FOR FURTHER INFORMATION CONTACT: Ms. Betty Alley, Office of Boating Safety, U.S. Coast Guard (G–OPB–1g/room 3100), 2100 Second Street SW., Washington, DC 20593–0001; (202) 267–0954. You may obtain a copy of this Notice by calling the Coast Guard Infoline at 1–800–368–5647, or on the Internet Office of Boating Safety Web Site at URL address http://www.uscgboating.org/.

SUPPLEMENTARY INFORMATION: Title 26, United States Code, section 9504, establishes the Boat Safety Account of the Aquatic Resources Trust Fund. The Coast Guard may award up to 5 percent of the available funds to national, nonprofit, public service organizations to promote national boating safety. For fiscal year 1997, $2,250,000 is available for grant awards. The Coast Guard has not yet obligated all of these funds. Nothing in this announcement should be construed as committing the Coast Guard to dividing available funds among qualified applicants or awarding any specified amount.

It is anticipated that several awards will be made by the Director of Operations Policy, U.S. Coast Guard. Applicants must be non-governmental, nonprofit, public service organizations and must establish that their activities are, in fact, national in scope. An application package may be obtained by writing or calling the point of contact listed in **ADDRESSES**. The application package contains all necessary forms, an explanation of how the grant program is administered, and a checklist for submitting a grant application. Specific information on organization eligibility, proposal requirements, award procedures, and financial administration procedures may be obtained by contacting the person listed in **FOR FURTHER INFORMATION CONTACT**. The application submission period is limited to August 20, 1997, to allow for processing of applications received before the close of the fiscal year.

Proposals addressing the general areas of continuing and particular interest identified in the initial notice published on October 1, 1996 (61 FR 51312) or other boating safety concerns are welcome. A more detailed discussion of specific projects of interest to the Coast Guard may be obtained by contacting the Coast Guard Infoline at (800) 368–5647 and requesting a copy of a specific proposal. The Boating Safety Financial Assistance Program is listed in section 20.005 of the Federal Domestic Assistance Catalog.

Dated: August 1, 1997.

James D. Hull,

Rear Admiral, U.S. Coast Guard, Director of Operations Policy.

[FR Doc. 97–20965 Filed 8–7–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Research and Development Programs Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will describe and discuss specific research and development projects. Further, the notice requests suggestions for topics to be presented by the agency.

DATES AND TIMES: The National Highway Traffic Safety Administration will hold a public meeting devoted primarily to presentations of specific research and development projects on September 17, 1997, beginning at 1:30 p.m. and ending at approximately 5:00 p.m. The deadline for interested parties to suggest agenda topics is 4:15 p.m. on August 21, 1997. Questions may be submitted in advance regarding the agency's research and development projects. They must be submitted in writing by September 3, 1997, to the address given below. If sufficient time is available, questions received after the September 3 date will be answered at the meeting in the discussion period. The individual, group, or company asking a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by September 3 will be available at the meeting and will be mailed to requesters after the meeting.

ADDRESSES: The meeting will be held at the Tysons Westpark Hotel, 8401 Westpark Drive, McLean, Virginia. Suggestions for specific R&D topics as

described below and questions for the September 17, 1997, meeting relating to the agency's research and development programs should be submitted to the Office of the Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, Room 6206, 400 Seventh St., S.W., Washington, DC 20590. The fax number is (202) 366–5930.

SUPPLEMENTARY INFORMATION: NHTSA intends to provide detailed presentations about its research and development programs in a series of public meetings. The series started in April 1993. The purpose is to make available more complete and timely information regarding the agency's research and development programs. This eighteenth meeting in the series will be held on September 17, 1997.

NHTSA requests suggestions from interested parties on the specific agenda topics to be presented. NHTSA will base its decisions about the agenda, in part, on the suggestions it receives by close of business at 4:15 p.m. on August 21, 1997. Before the meeting, it will publish a notice with an agenda listing the research and development topics to be discussed. The agenda can also be obtained by calling or faxing the information numbers listed elsewhere in this notice. NHTSA asks that the suggestions be limited to six, in priority order, so that the presentations at the September 17 R&D meeting can be most useful to the audience. Specific R&D topics are listed below. Many of these topics have been discussed at previous meetings. Suggestions for agenda topics are not restricted to this listing, and interested parties are invited to suggest other R&D topics of specific interest to their organizations.

Specific R&D topics are:
- On-line tracking system for NHTSA's research projects, and
- Crash Injury Research and Engineering Network (CIREN).

Specific Crashworthiness R&D topics are:
- Automatic lifesaving system—improved triage, transport, and treatment decisionmaking for automatic collision notification technologies,
- Status of advanced air bag research,
- Demonstration of CD ROM for child restraint/vehicle compatibility,
- Preparation of new dummies for assessment of advanced air bag technology,
- Status of research on restraint systems for rollover protection,
- Improved frontal crash protection (program status, problem identification, offset testing),
- Advanced glazing research,
- Vehicle aggressivity and fleet compatibility,
- Upgrade side crash protection,
- Upgrade seat and occupant restraint systems,
- Child safety research (ISOFIX),
- Child restraint/air bag interaction (CRABI) dummy testing,
- Truck crashworthiness/occupant protection,
- National Transportation Biomechanics Research Center (NTBRC),
- Head and neck injury research,
- Lower extremity injury research,
- Thorax injury research,
- Human injury simulation and analysis,
- Refinements to the Hybrid III dummy, and
- Advanced frontal test dummy.

Specific Crash Avoidance R&D topics are:
- Intelligent vehicle initiative,
- Status and plans for anti-lock brake system (ABS) research,
- Truck tire traction,
- Human factors guidelines for crash avoidance warning devices,
- Drowsy driver monitoring,
- Driver workload assessment,
- Preliminary rearend collision avoidance system guidelines,
- Preliminary road departure collision avoidance system guidelines,
- Preliminary intersection collision avoidance system guidelines, and
- Preliminary lane change/merge collision avoidance system guidelines.

National Center for Statistics and Analysis (NCSA) topic is:
- Special crash investigation studies of air bag cases.

Separately, questions regarding research projects that have been submitted in writing not later than close of business on September 3, 1997, will be answered. A transcript of the meeting, copies of materials handed out at the meeting, and copies of the suggestions offered by commenters will be available for public inspection at NHTSA's Technical Information Services, Room 5108, 400 Seventh St., S.W., Washington, DC 20590. Copies of the transcript will then be available at 10 cents a page, upon request to NHTSA's Technical Information Services. The Technical Information Services section is open to the public from 9:30 a.m. to 4:00 p.m.

NHTSA will provide technical aids to participants as necessary, during the Research and Development Programs Meeting. Thus, any person desiring the assistance of ''auxiliary aids'' (e.g., sign-language interpreter, telecommunication devices for deaf persons (TTDs), readers, taped texts, braille materials, or large print materials and/or a magnifying device), please contact Rita Gibbons on (202) 366–4862 or by telefax on (202) 366–5930 by close of business September 5, 1997.

FOR FURTHER INFORMATION CONTACT: Rita Gibbons, Staff Assistant, Office of Research and Development, 400 Seventh Street, S.W., Washington, DC 20590. Telephone: (202) 366–4862. Fax number: (202) 366–5930.

Issued: August 1, 1997.

Raymond P. Owings,

Associate Administrator for Research and Development.

[FR Doc. 97–20964 Filed 8–7–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 30, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request

In order to begin the survey described below in mid-August 1997, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by August 8, 1997. To obtain a copy of this study, please contact the Internal Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.
Project Number: M:SP:V 97–018-G.
Type of Review: Revision.
Title: 1997 IRS Customer Satisfaction Survey.

Description: The purpose of this survey is to collect information to determine taxpayer opinions about the quality of service provided by the IRS; to determine the relative importance of

the various aspects of quality service; and to measure changes in public satisfaction with IRS performance. This study is necessary to satisfy the requirements of Executive Order 12862, which requires federal agencies to survey their customers about their satisfaction with existing services and to identify services that these customers desire. It will provide crucial information needed by IRS to develop and implement effective customer satisfaction measures that meet the Agency's mandate to improve quality service. The survey will also provide data which IRS can use to respond to the reporting requirements of the Government Performance and Results Act (GPRA).

Respondents: Individuals or households.

Estimated Number of Respondents: 2,500.

Estimated Burden Hours Per Response: 16 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 667 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–20903 Filed 8–7–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 30, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request

In order to administer the survey described below at the August 23–26, 1997 National Association of Enrolled Agents (NAEA) Conference, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by August 13, 1997. To obtain a copy of this study, please contact the Internal Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.

Project Number: M:SP:V 97–017–G.

Type of Review: Revision.

Title: Electronic Filing Program Opinion Survey.

Description: This survey will be conducted during the August 23–26, 1997 National Association of Enrolled Agents (NAEA) Conference to determine what tax practitioners like and dislike about the Electronic Filing Program.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 400.

Estimated Burden Hours Per Response: 15 minutes.

Frequency of Response: Other (one-time only).

Estimated Total Reporting Burden: 80 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–20904 Filed 8–7–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 30, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0314.

Form Number: IRS Forms 6466 and 6467.

Type of Review: Revision.

Title: Transmittal of Forms W–4 Reported Magnetically/Electronically (Form 6466); and Transmittal of Forms W–4 Reported Magnetically/ Electronically (Continuation) (Form 6467).

Description: Under Regulation Section 31.3402(f)(2)–1(g), employers are required to submit certain withholding certificates (Form W–4) to the IRS. Transmittal Form 6466 and the continuation sheet, Form 6467, are submitted by an employer, or authorized agent of the employer, who will be reporting submissions of Form W–4 on magnetic/electronic media.

Respondents: Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Respondent: 20 minutes.

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 133 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Iternal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–20905 Filed 8–7–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 30, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0130.

Form Number: IRS Form 1120S, Schedule D and Schedule K–1.

Type of Review: Revision.

Title: U.S. Income Tax Return for an S Corporation (Form 1120S); Capital Gains and Losses and Built-In Gains (Schedule D); and Shareholder's Share of Income, Credits, Deductions, etc, (Schedule K–1).

Description: Form 1120S, Schedule K (Form 1120S), and Schedule K–1 (Form 1120S) are used by an S corporation to figure its tax liability, and income and other tax-related income to pass through to its shareholders. Schedule K–1 is used to report to shareholders their share of the corporation's income, deductions, credits, etc. IRS uses the information to determine the correct tax for the S corporation and its shareholders.

Respondents: Business or other for-profit, Farms.

Estimated Number of Respondents/Recordkeepers: 1,880,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS
1120S	62 hr., 25 min	20 hr., 1 min	35 hr., 53 min	4 hr., 1 min.
Schedule	9 hr., 20 min	4 hr., 1 min	9 hr., 1 min	1hr., 20 min.
Schedule K–1	14 hr., 35 min	10 hr., 13 min	14 hr., 37 min	1hr., 4 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 447,386,680 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–20906 Filed 8–7–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 1, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt (BPD)

OMB Number: 1535–0004.

Form Number: PD F 1522.

Type of Review: Extension.

Title: Special Form of Request for Payment of United States Savings and Retirement Securities Where Use of a Detached Request is Authorized.

Description: PD F 1522 is used to request payment of U.S. Savings and Retirement Securities.

Respondents: Individuals or households.

Estimated Number of Respondents: 56,000.

Estimated Burden Hours Per Response: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 14,000 hours.

OMB Number: 1535–0005.

Form Number: PD F 3253.

Type of Review: Extension.

Title: Exchange Application for U.S. Savings Bonds of Series HH.

Description: PD F 3253 is used by owners of Series EE/E bonds or notes to request exchange for Series HH bonds.

Respondents: Individuals or households.

Estimated Number of Respondents: 60,000.

Estimated Burden Hours Per Response: 40 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 39,960 hours.

OMB Number: 1535–0006.

Form Number: PD F 2458.

Type of Review: Extension.

Title: Certificate of Entitlement United States Savings and Retirement Securities and Checks After Administration of Decedent's Estate.

Description: PD F 2458 is used to establish who is entitled to Savings Bonds/Notes after the estate of a decedent has been settled.

Respondents: Individuals or households.

Estimated Number of Respondents: 7,000.

Estimated Burden Hours Per Response: 8 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 938 hours.

OMB Number: 1535–0008.

Form Number: PD F 1938.

Type of Review: Extension.

Title: Request for Reissue of United States Savings Bonds/Notes During the Lives of Both Coowners.

Description: PD F 1938 is used to request reissue of Savings Bonds/Notes during the lives of both coowners.

Respondents: Individuals or households.

Estimated Number of Respondents: 37,000.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 6,179 hours.

OMB Number: 1535–0014.

Form Number: PD F 1025.

Type of Review: Extension.

Title: Application for Relief on Account of Loss, Theft, or Destruction of United States Registered Securities.

Description: PD F 1025 is used to support a request for relief because of the loss, theft, or destruction of United States Registered Securities.

Respondents: Individuals or households.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Response: 55 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 460 hours.

OMB Number: 1535–0015.

Form Number: PD F 1022.

Type of Review: Extension.

Title: Report/Application for Relief on Account of Loss, Theft or Destruction of United States Bearer Securities (Organizations).

Description: PD F 1022 is used to obtain relief for lost, stolen or destroyed bearer securities.

Respondents: Business or other for-profit, Not-for-profit institutions,

Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Response: 55 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 92 hours.

OMB Number: 1535–0016.

Form Number: PD F 1022–1.

Type of Review: Extension.

Title: Report/Application for Relief on Account of Loss, Theft, or Destruction of United States Bearer Securities (Individuals).

Description: PD F 1022–1 is used to request relief because of the loss, theft, or destruction of bearer securities.

Respondents: Individuals or households.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Response: 55 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 92 hours.

OMB Number: 1535–0098.

Form Number: PD F 3062–4.

Type of Review: Extension.

Title: Claim for Relief on Account of the Nonreceipt of U.S. Savings Bonds.

Description: PD F 3062–4 is an application by owner to request substitute bonds in lieu of bonds not received.

Respondents: Individuals or households.

Estimated Number of Respondents: 30,000.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 5,010 hours.

Clearance Officer: Vicki S. Thorpe (304) 480–6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106–1328.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–20907 Filed 8–7–97; 8:45 am]

BILLING CODE 4810–40–P

Corrections

Federal Register

Vol. 62, No. 153

Friday, August 8, 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 AGRICULTURE

Office of the Secretary

7 CFR Parts 3, 278, and 400

Department of Agriculture Civil Monetary Penalties Adjustment

Correction

In rule document 97–19967 beginning on page 40924 in the issue of Thursday, July 31, 1997 make the following corrections:

PART 3—DEBT MANAGEMENT

Subpart E—Adjusted Civil Monetary Penalties

§ 3.91 [Corrected]

On page 40927, in § 3.91(b)(2), in the first and second column, paragraphs ''(xix)'' through ''(xxvii)'' should read ''(ix)'' through ''(xvii)''.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

[Docket No. ER97-3664-000]

Union Electric Company; Notice of Filing

Correction

In notice document 97–20121 appearing on page 41037 in the issue of Thursday, July 31, 1997, make the following corrections:

1. On page 41037, in the first column, in the first document, the Docket No. should read as set forth above.

2. On the same page, in the same column, in the same document, a second paragraph should be inserted and should read:

''Any person desiring to be heard or to protect 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 August 6, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant 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.''

3. On the same page, in the same column, in the same document, the authorizing signature should read:

Lois D. Cashell,

Secretary.

BILLING CODE 1505-01-D

federal register

Friday
August 8, 1997

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 418

Medicare Program; Hospice Wage Index; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 418

[BPD–820–F]

RIN 0938–AG93

Medicare Program; Hospice Wage Index

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule establishes a methodology to update the wage index used to adjust Medicare payment rates for hospice care. It also includes the new wage index, to be effective October 1, 1997. The wage index is used to reflect local differences in wage levels. A new wage index is needed because the index currently applied is based on 1981 wage and employment data and has not been updated since 1983. The methodology is based on the recommendations of a negotiated rulemaking advisory committee comprised of persons who represent interests affected by the hospice rules.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Carole Blackford, (410) 786-5909.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statute and Regulations

Hospice care is an approach to treatment that recognizes that the impending death of an individual warrants a change in focus from curative care to palliative care (relief of pain and other uncomfortable symptoms). The goal of hospice care is to help terminally ill individuals continue life with minimal disruption to normal activities while remaining primarily in the home environment. A hospice uses an interdisciplinary approach to deliver medical, social, psychological, emotional, and spiritual services through the use of a broad spectrum of professional and other caregivers, with the goal of making the individual as physically and emotionally comfortable as possible. Counseling and respite services are available to the family of the hospice patient. Hospice programs consider both the patient and the family as a unit of care.

Section 1861(dd) of the Social Security Act (the Act) provides for coverage of hospice care for terminally ill Medicare beneficiaries who elect to receive care from a participating hospice. The statutory authority for payment to hospices participating in the Medicare program is contained in section 1814(i) of the Act.

Our existing regulations under 42 CFR part 418 (issued on December 16, 1983, effective for hospice services furnished on or after November 1, 1983) establish eligibility requirements and payment standards and procedures, define covered services, and delineate the conditions a hospice must meet to be approved for participation in the Medicare program. Subpart G of Part 418 provides for payment to hospices based on one of four prospectively determined rates for each day in which a qualified Medicare beneficiary is under the care of a hospice. The four rate categories are routine home care, continuous home care, inpatient respite care, and general inpatient care. Payment rates are established for each category.

The final rule of December 16, 1983 (48 FR 56034) provided for the following in determining payment for hospice care:

- Adjustment to the payment rates to reflect differences in area wage levels. Since hospice care is labor-intensive, adjustment was necessary to permit payment of higher rates in areas with relatively high wage levels, and proportionately lower rates in areas with wage levels below the national average.
- Labor market areas based on the definitions of Metropolitan Statistical Areas (MSAs) issued by the Office of Management and Budget (OMB).
- The wage index used to adjust the hospice payment rates to be the wage index published in the **Federal Register** on September 1, 1983 (48 FR 39871) for purposes of determining Medicare inpatient hospital prospective payment rates. This hospital wage index, which is still in use for hospices, was based on calendar year 1981 hospital wage and employment data obtained from the Bureau of Labor Statistics' (BLS) ES 202 Employment, Wages and Contributions file for hospital workers.
- In applying the hospital wage index to the hospice rates, use of an index value of 0.8 if the hospital wage index value were lower than 0.8. The use of a wage index ''floor'' reflected our belief that an index value below 0.8 would make payment levels very low. We believed this would unduly jeopardize the availability of the benefit in rural areas by discouraging participation in the Medicare hospice program by hospices that are located in these areas, and by inhibiting the ability of these rural hospices to attract and retain sufficient skilled staff.

The hospice wage index has not been updated since it was issued in 1983. Over the ensuing years, we have instituted many changes in the hospital wage index in order to ensure its continuing accuracy for hospitals. Since these changes have not been applied to hospices, there are widening differences between the existing hospice wage index and actual wage levels. The existing hospice wage index is based on 1981 BLS hospital data; however, BLS data are no longer used in determining the hospital wage index. Based on our concern that the BLS data did not accurately reflect hospital wages, we conducted a survey of hospital wage and wage related costs and, in fiscal year 1986, implemented a hospital wage index based solely on HCFA survey data. We repeated the survey in 1988 and implemented a revised hospital wage index during fiscal year 1991.

Additionally, in fiscal year 1991, we began adjusting the hospital wage index to take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and 1886(d)(10) of the Act. Beginning in fiscal year 1994, in accordance with section 1886(d)(3)(E) of the Act, we have updated the hospital wage index annually, based on a survey of wages and wage-related costs of short-term, acute care hospitals.

The most recent hospital wage index was published in the **Federal Register** on August 30, 1996 (61 FR 46166). It is based on the data collected from the Medicare cost reports submitted by hospitals for cost reporting periods beginning in fiscal year 1993.

B. Current Payment Procedures for Hospice Care

1. Current Annual Increases in Payment Rates

Section 1814(i)(1)(C)(ii) of the Act provides for an annual increase in the hospice payment rates based on the rate of increase in the hospital market basket index used to adjust payments for inpatient hospital services under the prospective payment system for hospitals. However, section 13504 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66) amended section 1814(ii) of the Act to decrease the amount of the market basket percentage increase that is applied to hospice rates for fiscal years 1994 through 1997. For hospice payments in fiscal years 1996 and 1997, the market basket increase is reduced by 1.5 percent and 0.5 percent, respectively. For fiscal years after 1997, hospices receive the full hospital market basket increase. The following is a brief description of each level of care and the

current daily payment rates for the period October 1, 1996, through September 30, 1997. The new wage index values set forth in this final rule are effective on October 1, 1997. At that time, the fiscal intermediaries will recalculate the current daily payment rates for the remainder of the rate year using the new hospice wage index.

• *Routine Home Care*—As specified in § 418.302(d)(3) of the regulations, the payment rate for routine home care is paid to the hospice for each day during which a Medicare beneficiary is under the care of the hospice, and not receiving the care described under continuous home care, inpatient respite care, or general inpatient care, regardless of the volume and intensity of the services provided on any given day. The current routine home care rate is $94.17.

• *Continuous Home Care*—The hospice is paid the continuous home care rate when, in order to maintain the terminally ill patient at home in a period of crisis, nursing care is required on a continuous basis. Either home health aide or homemaker services or both may also be provided. Medicare regulations at § 418.302(e)(4) specify that the hospice payment on a continuous home care day varies depending on the number of hours of continuous care. The continuous home care rate is divided by 24 to yield an hourly rate. The number of hours of continuous home care furnished during a continuous home care day is multiplied by the hourly rate to calculate the hospice payment amount for that day. The hospice must furnish a minimum of 8 hours of continuous home care on a particular day to qualify for the continuous home care daily rate. The continuous home care rate is intended only for periods of crisis when predominantly skilled continuous care is necessary to achieve palliation or management of the patient's acute medical symptoms and only as necessary to maintain the patient at home. The current continuous home care hourly rate is $22.90 and the daily payment rate is $549.65.

• *Inpatient Respite Care*—The hospice is paid the inpatient respite care rate for each day the patient is in a Medicare or Medicaid approved inpatient facility receiving respite care. The inpatient respite rate applies specifically to situations where the patient's family members or other persons caring for the patient need a short period of relief. Payment is limited to no more than 5 consecutive days. Subsequent days of respite care are paid at the routine home care rate. The current daily payment rate for inpatient respite care is $97.41.

• *General Inpatient Care*—The hospice is paid the general inpatient care rate for each day the patient is in a Medicare or Medicaid approved inpatient setting to receive services that are reasonable and necessary for the palliation or management of acute and severe clinical problems related to the terminal condition that cannot be managed in other settings. The current daily payment rate for general inpatient care is $418.93.

2. Adjustment for Wage Variations

In adjusting the payment rates, we separate the national payment rates into components that reflect the estimated proportion of the rate that is attributable to wage and nonwage costs. We then multiply the wage component of each rate by the wage index value applicable to the area in which the hospice is located (adjusted wage component). The rate paid to a hospice is the sum of the nonwage component and the adjusted wage component.

The following table indicates the current hospice payment rates and the amount (in dollars) of each rate subject to adjustment by the wage index:

Payment category	National rate	Component subject to index	Nonwage component
Routine home	$94.17	$64.70	$29.47
Continuous home	549.65	377.66	171.99
Inpatient respite	97.41	52.73	44.68
General inpatient	418.93	268.16	150.77

II. Proposed Rule

A. General

On September 4, 1996, we published a proposed rule in the **Federal Register** (61 FR 46579) in which we proposed to establish a methodology to update the wage index used to adjust Medicare payment rates for hospices. We also included an updated wage index for hospices.

The proposed rule was developed by a negotiated rulemaking advisory committee, under the process established by the Negotiated Rulemaking Act of 1990 (Pub. L. 101–648). This committee was established to provide advice and make recommendations to the Secretary with respect to the text or content of a proposed rule on the wage index used to adjust payment rates for hospices under the Medicare program, to reflect local differences in area wage levels. Committee members included representatives of national hospice associations; rural, urban, large, and small hospices; multi-site hospices; consumer groups; and a government representative. In addition, during the process, when the Committee identified large groups of hospices likely to suffer a significant negative impact as a result of the revised wage index, attempts were made to contact representatives of those groups for their input, as well as to provide them an opportunity to participate in the meetings and discussions.

The Committee met five times from November 1994 to April 1995. Its deliberations focused on the following issues: the data source for the wage index; the budget neutrality adjustment; continued application of a wage index floor; the transition period; future updates; and the effective date of a revised index. The Committee reached consensus on a methodology that resulted in a hospice wage index. The Committee Statement, with which all Committee members concurred, is attached as an Appendix to this final rule.

B. Provisions of the Proposed Hospice Wage Index

Existing hospice regulations at § 418.306(c) provide that the payment rates established by HCFA are adjusted by the intermediary to reflect local differences in wages. We proposed to amend § 418.306(c) to add that:

• The hospice wage index is updated annually based on the most current available hospital wage data; and

• These data will include any changes to the definitions of Metropolitan Statistical Areas.

As noted above, the revised hospice wage index is based on the recommendations of a Negotiated Rulemaking Advisory Committee. In the Agreement in which all Committee members concurred, HCFA agreed that it would, to the maximum extent possible and consistent with the applicable legal obligations, draft a proposed rule consistent with the Committee Statement and publish it as a Notice of Proposed Rulemaking. We stated our intent to interpret and apply the proposed rule, if adopted in final form, in a manner fully consistent with the Committee Statement.

We also stated that if the final rule were adopted without change from the proposed rule, the only difference between the final rule and the Committee Statement would be the calculation of the wage index value for the Virgin Islands, as noted in section II.F below. The wage index value for the

Virgin Islands was not addressed by the Committee, since at the time of its meetings there were no certified hospices located in the Virgin Islands.

C. Computation of the Hospice Wage Index

We proposed that the hospice wage index be derived from the following 1993 hospital cost report data:

- Total short-term, acute care hospital salaries and hours.
- Home office costs and hours.
- Fringe benefits associated with hospital and home office salaries.
- Direct patient care related contract labor cost and hours.
- The exclusion of salaries and hours for nonhospital type services such as skilled nursing facility services, home health services, or other subprovider components that are not subject to the prospective payment system.

The raw hospital wage data would undergo a series of reviews and edits to verify the wage data from the Medicare cost report. A detailed description of this process is contained in both the September 1, 1995 (60 FR 45778) and the August 30, 1996 (60 FR 46166) hospital prospective payment final rule.

As noted above, we proposed to base the fiscal year 1997 hospice wage index on hospital wage data reported on the fiscal year 1993 cost report prior to reclassification; that is, the hospital wage index will not be adjusted to take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and 1886(d)(10) of the Act. A detailed description of the method used to compute the hospital wage index is contained in both the September 1, 1995 (60 FR 45778), and the August 30, 1996 (60 FR 46166), hospital prospective payment final rule.

D. Budget Neutrality Adjustment and Application of Wage Index Floor for the Proposed Hospice Index

We proposed that all hospice wage index values below 0.8 would receive the greater of the following:

- A 15-percent increase, subject to a maximum wage index value of 0.8; or
- An adjustment, by multiplying the hospice wage index value for a given area by the budget neutrality adjustment factor. In this way, wage areas with values below 0.8 would not receive both the wage index floor adjustment and the budget neutrality adjustment. All hospice wage index values of 0.8 or greater would receive a budget neutrality adjustment, which would be calculated by multiplying the hospice wage index value for a given area by the budget neutrality factor.

To determine a budget neutrality adjustment factor, we established the payments that would be made under the 1983 wage index. We did this by calculating the labor-related payments for each of the four types of hospice services using patient bills for the most recent completed fiscal year (that is, fiscal year 1995 bills would be used to calculate the fiscal year 1997 index). That dollar amount would be the target for the budget neutrality calculation. Then payments would be calculated separately for the labor-related portion of the rates using the wage index proposed in this rule. The budget neutrality factor would be calculated as the multiplier by which labor-related payments using the proposed wage index must be adjusted to equal labor-related payments using the 1983 wage index. The calculation would be made taking into account the respective adjustments applicable to wage index values below, at, or above the 0.8 threshold described above. The payments would be for the total of labor-related payments for each of the four types of hospice services. The budget neutrality factor would then be applied to the wage index. To confirm the accuracy of the calculation, total payments would then be calculated by using the new budget neutrality adjusted wage index and would be compared to payments using the 1983 wage index.

The budget neutrality factor would be calculated and applied annually, both during and after the transition period. For the first transition year, the budget neutrality factor will be 1.020768.

E. Transition and Annual Updates

We proposed a 3-year transition period with annual updates as noted in the Committee Statement.

F. Wage Index Value for the Virgin Islands

At the time of negotiations, there were no certified hospices located in the Virgin Islands. However, since that time, a hospice program has been certified to provide services under Medicare. Since the Virgin Islands is not an area designated under the prospective payment system for hospitals, there is no hospital wage index value for the Virgin Islands. Therefore, though this was not an issue discussed by the Committee, we proposed that the methodology to calculate a wage index value for the Virgin Islands would be to gather information from the hospital cost report and compare hourly wages of the hospital located in the Virgin Islands to the national average. This would generate a wage index value of 0.6594.

III. Analysis of and Response to Public Comments

In response to the September 4, 1996 proposed rule, we received four items of correspondence, three from hospices, and one from a hospice association.

Comment: One commenter expressed concern that the wage index rates continue to be based on the location of the hospice rather than the location where the service is furnished.

Response: Hospices provide services in various locations. These may include the patient's home, an inpatient facility, and the hospice facility itself. Currently, the wage index for hospice services is based on the location of the hospice rather than the location of service delivery. Although this was not an issue addressed by this rule, a proposal linking payments for hospice services to the geographic location of the site where the service was furnished was included in the Administration's Medicare and Medicaid Fraud, Abuse, and Waste Prevention Amendments of 1997.

Comment: One commenter requested information on how best to bring about a change in classification from a rural area to an urban area because he believed that an urban designation better reflects his costs.

Response: Each hospice's labor market area is established by the MSA definitions issued by OMB on December 28, 1992, based on the 1990 census, and updated periodically by the Office of Management and Budget (OMB). Any request for change in designation of MSA would have to be made to OMB for consideration.

Comment: One commenter suggested that the wage index values for Puerto Rico did not reflect the costs of providing services in that area. The commenter believed that implementation of the wage index will result in inaccessibility of hospice care in certain areas. The commenter described several characteristics that, she believed, are unique to providing hospice care in Puerto Rico. These include poor access to many communities, lack of educational programs or other curricula aimed at training professionals in hospice care, language barriers, outdated communication technology, high cost-of-living, and high operational costs due to necessary imports. The commenter also believed that the hospital wage index does not accurately reflect costs in Puerto Rico.

Response: As stated in the proposed rule, the committee solicited participation from Puerto Rico and

reviewed financial information provided by Puerto Rico hospices. The committee considered many of the issues raised by representatives of Puerto Rico and determined that, in order to maintain the viability of hospice programs in rural and other low wage index areas, it was appropriate to continue to assist those areas with wage index values below 0.8 by providing an adjustment to the wage component of the rate. The committee agreed that for those wage areas below 0.8, the revised wage index for the area would be the greater of the pre-reclassified hospital wage index value times a budget neutrality adjustment factor, or the pre-reclassified hospital wage index value multiplied by 1.15, but subject to a maximum wage index value of 0.8.

We believe that characteristics described by the commenter as being unique to hospices in Puerto Rico are in fact shared by hospices in many rural and urban areas. Access to communities and outdated communications technology are often problematic in rural areas of the continental United States. Additionally, many hospices in the continental United States experience a lack of external educational programs aimed at training hospice professionals and have to provide that training internally. The problem of language barriers and the need for bilingual staff can also be found in many areas in the United States.

Moreover, some of the commenter's concerns were not relevant to the development of a revised hospice wage index. The committee focused its attention on the development of a revised hospice wage index and therefore did not address some of the issues raised by the commenter. For example, the commenter described how the operational costs of hospices are high in Puerto Rico due to the costs associated with importing supplies. The hospice wage index will affect only the wage portion of the hospice daily payment rate. Operational costs would not be reflected in this portion of the daily payment rate. Also, it is expected that both hospices and hospitals in Puerto Rico will have similar staffing problems, so the impact of the resulting higher salaries should be reflected in the hospital wage index.

The issue of the hospital wage index not accurately reflecting the costs in Puerto Rico was discussed in the August 30, 1996 **Federal Register** (61 FR 46166). The notice recognized that hospitals in Puerto Rico have experienced large swings in their wage index values, and that these shifts can cause shifts in payments. Several options, including the creation of a single MSA for Puerto Rico, which would limit these types of swings, were discussed. However, it was decided that none of the options would create a payment system that was fair and equitable to all hospitals, regardless of location. While drafting the August 30, 1996 final rule discussed above, HCFA met with representatives of the Puerto Rico Hospital Association to explore other solutions to the problems faced by hospitals in the Commonwealth. In reviewing the latest Medicare cost report data available at that time, we found that hospitals in Puerto Rico continue to demonstrate average Medicare operating margins comparable to all other prospective payment hospitals.

This comment was forwarded to the negotiated rulemaking committee members for review and consideration. Based on their responses, we believe this comment would not have led the group to a different consensus had it been available during the negotiations.

Comment: One commenter expressed concern that reduction of the wage index value in his area would cause hospices to experience financial hardship.

Response: We recognize that although the proposed hospice wage index is budget neutral, some hospices will experience reductions in wage index values. Wage index values below 0.8 percent will be adjusted according to the adjustment factor. The revised wage index values would be the greater of the pre-reclassification hospital wage index values times the budget neutrality adjustment factor or the pre-reclassification hospital wage index value multiplied by 1.15, but subject to a maximum wage index value of 0.8 percent. The committee did examine the overall effects of the various methodologies for computing the wage index that were proposed during the negotiated rulemaking process and chose the option with the least overall impact on hospices.

IV. Provisions of the Final Rule

This final rule essentially incorporates the provisions of the proposed rule, in which we proposed to establish a methodology to update the wage index used to adjust Medicare payment rates for hospices. The few changes we made from the proposed rule are identified below.

We are also publishing, in Tables A and B below, the updated urban and rural wage indexes for hospices included in the proposed rule. The values in Tables A and B published with this final rule are current and will not be updated until October 1, 1998. The wage index values for Tables A and B will be used for the first transition year, and have already been subject to all adjustments.

A. Transition Period

Due to the delay in the publication of this final rule, the revised wage index will become effective for care and services furnished on or after October 1, 1997. Keeping with the spirit of the consensus agreement, the revised wage index will continue to be subject to the full 3-year transition period. The first year of the transition period will begin October 1, 1997, and will end September 30, 1998.

B. Annual Updates

Annual updates will begin with the start of the second transition year. We plan to coordinate the annual updates after the third transition year with the hospital wage index updates. This may result in the third transition year lasting somewhat longer than a year. Annual updates will be published as a notice in the **Federal Register**, rather than as a proposed rule as agreed to in the Consensus agreement. We believe that this change is not contradictory to the intentions of the rulemaking committee; rather, it will allow us to make timely updates through a less burdensome administrative process. The annual updates will update the hospice wage index values according to the methodology agreed to by the rulemaking committee and implemented by this final rule. In the event that we decide to change the methodology by which the wage index is computed, this will be reflected in a proposed rule published in the **Federal Register**.

C. Tables

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS

Urban area (constituent counties or county equivalents)	Wage index [1]
Abilene, TX	
Taylor, TX	0.9145
Aguadilla, PR	
Aguada, PR	0.6958
Aguadilla, PR	0.6958
Moca, PR	0.6958
Akron, OH	
Portage, OH	1.0657
Summit, OH	1.0657
Albany, GA	
Dougherty, GA	0.8987
Lee, GA	0.8987
Albany-Schenectady-Troy, NY	
Albany, NY	0.9008
Montgomery, NY	0.9008
Rensselaer, NY	0.9008
Saratoga, NY	0.9008

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index [1]
Schenectady, NY	0.9008
Schoharie, NY	0.8866
Albuquerque, NM	
Bernalillo, NM	1.0378
Sandoval, NM	0.9503
Valencia, NM	0.9503
Alexandria, LA	
Rapides, LA	0.9387
Allentown-Bethlehem-Easton, PA	
Carbon, PA	1.0557
Lehigh, PA	1.0557
Northampton, PA	1.0557
Altoona, PA	
Blair, PA	1.0210
Amarillo, TX	
Potter, TX	0.9569
Randall, TX	0.9569
Anchorage, AK	
Anchorage, AK	1.4474
Ann Arbor, MI	
Lenawee, MI	1.0416
Livingston, MI	1.2129
Washtenaw, MI	1.2195
Anniston, AL	
Calhoun, AL	0.8599
Appleton-Oshkosh-Neenah, WI	
Calumet, WI	0.9629
Outagamie, WI	0.9629
Winnebago, WI	0.9629
Arecibo, PR	
Arecibo, PR	0.7019
Camuy, PR	0.7019
Hatillo, PR	0.7019
Asheville, NC	
Buncombe, NC	0.9646
Madison, NC	0.8962
Athens, GA	
Clarke, GA	0.9201
Madison, GA	0.9201
Oconee, GA	0.9201
Atlanta, GA	
Barrow, GA	0.9822
Bartow, GA	0.9200
Carroll, GA	0.9200
Cherokee, GA	0.9841
Clayton, GA	0.9822
Cobb, GA	0.9822
Coweta, GA	0.9822
De Kalb, GA	0.9822
Douglas, GA	0.9822
Fayette, GA	0.9822
Forsyth, GA	0.9822
Fulton, GA	0.9822
Gwinnett, GA	0.9822
Henry, GA	0.9822
Newton, GA	0.9822
Paulding, GA	0.9822
Pickens, GA	0.9200
Rockdale, GA	0.9822
Spalding, GA	0.9822
Walton, GA	0.9822
Atlantic City-Cape May, NJ	
Atlantic City, NJ	1.1016
Cape May, NJ	1.1016
Augusta-Aiken, GA-SC	
Columbia, GA	0.9549
McDuffie, GA	0.9549
Richmond, GA	0.9549
Aiken, SC	0.9549
Edgefield, SC	0.8510

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index [1]
Austin-San Marcos, TX	
Bastrop, TX	0.8677
Caldwell, TX	0.8677
Hays, TX	1.0355
Travis, TX	1.0355
Williamson, TX	1.0355
Bakersfield, CA	
Kern, CA	1.1817
Baltimore, MD	
Anne Arundel, MD	1.0724
Baltimore, MD	1.0724
Baltimore City, MD	1.0724
Carroll, MD	1.0724
Harford, MD	1.0724
Howard, MD	1.0724
Queen Annes, MD	1.0724
Bangor, ME	
Penobscot, ME	0.9504
Barnstable-Yarmouth, MA	
Barnstable, MA	1.1253
Baton Rouge, LA	
Ascension, LA	0.9793
East Baton Rouge, LA	0.9793
Livingston, LA	0.9793
West Baton Rouge, LA	0.9793
Beaumont-Port Arthur, TX	
Hardin, TX	0.9637
Jefferson, TX	0.9637
Orange, TX	0.9637
Bellingham, WA	
Whatcom, WA	1.1026
Benton Harbor, MI	
Berrien, MI	0.8838
Bergen-Passaic, NJ	
Bergen, NJ	1.1012
Passaic, NJ	1.1012
Billings, MT	
Yellowstone, MT	0.9657
Biloxi-Gulfport-Pascagoula, MS	
Hancock, MS	0.8838
Harrison, MS	0.8838
Jackson, MS	0.9810
Binghamton, NY	
Broome, NY	0.9484
Tioga, NY	0.9484
Birmingham, AL	
Blount, AL	0.9912
Jefferson, AL	0.9912
St. Clair, AL	0.9912
Shelby, AL	0.9912
Bismarck, ND	
Burleigh, ND	0.9569
Morton, ND	0.9569
Bloomington, IN	
Monroe, IN	0.9166
Bloomington-Normal, IL	
McLean, IL	0.9959
Boise City, ID	
Ada, ID	1.0512
Canyon, ID	0.9319
Boston-Brockton-Nashua, MA-NH	
Bristol, MA	1.0526
Essex, MA	1.1402
Middlesex, MA	1.1402
Norfolk, MA	1.1402
Plymouth, MA	1.1402
Suffolk, MA	1.1402
Worcester, MA	1.0599
Hillsborough, NH	1.0311
Merrimack, NH	1.0311

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index [1]
Rockingham, NH	0.9705
Strafford, NH	0.9705
Boulder-Longmont, CO	
Boulder, CO	1.0033
Brazoria, TX	
Brazoria, TX	0.8853
Bremerton, WA	
Kitsap, WA	0.9826
Brownsville-Harlingen-San Benito, TX	
Cameron, TX	0.9179
Bryan-College Station, TX	
Brazos, TX	0.9189
Buffalo-Niagara Falls, NY	
Erie, NY	0.9759
Niagara, NY	0.9047
Burlington, VT	
Chittenden, VT	0.9995
Franklin, VT	0.9397
Grand Isle, VT	0.9995
Caguas, PR	
Caguas, PR	0.7086
Cayey, PR	0.7086
Cidra, PR	0.7086
Gurabo, PR	0.7086
San Lorenzo, PR	0.7086
Canton-Massillon, OH	
Carroll, OH	0.9610
Stark, OH	0.9610
Casper, WY	
Natrona, WY	0.9980
Cedar Rapids, IA	
Linn, IA	0.9260
Champaign-Urbana, IL	
Champaign, IL	1.0167
Charleston-North Charleston, SC	
Berkeley, SC	1.0033
Charleston, SC	1.0033
Dorchester, SC	1.0033
Charleston, WV	
Kanawha, WV	1.0749
Putnam, WV	1.0749
Charlotte-Gastonia-Rock Hill, NC-SC	
Cabarrus, NC	0.9926
Gaston, NC	0.9926
Lincoln, NC	0.9926
Mecklenburg, NC	0.9926
Rowan, NC	0.9926
Union, NC	0.9926
York, SC	0.9926
Charlottesville, VA	
Albemarle, VA	1.1911
Charlottesville City, VA	1.1911
Fluvanna, VA	1.1911
Greene, VA	1.1911
Chattanooga, TN–GA	
Catoosa, GA	0.9591
Dade, GA	0.9591
Walker, GA	0.9591
Hamilton, TN	0.9591
Marion, TN	0.9591
Cheyenne, WY	
Laramie, WY	0.9043
Chicago, IL	
Cook, IL	1.1961
De Kalb, IL	0.9570
Du Page, IL	1.1961
Grundy, IL	1.1074
Kane, IL	1.0438

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index [1]
Kendall, IL	1.0438
Lake, IL	1.1205
McHenry, IL	1.1961
Will, IL	1.1074
Chico-Paradise, CA	
Butte, CA	1.0729
Cincinnati, OH–KY–IN	
Dearborn, IN	1.0441
Ohio, IN	0.9120
Boone, KY	1.0441
Campbell, KY	1.0441
Gallatin, KY	0.8805
Grant, KY	0.8805
Kenton, KY	1.0441
Pendleton, KY	0.8805
Brown, OH	0.9480
Clermont, OH	1.0441
Hamilton, OH	1.0441
Warren, OH	1.0441
Clarksville-Hopkinsville, TN–KY	
Christian, KY	0.8228
Montgomery, TN	0.8228
Cleveland-Lorain-Elyria, OH	
Ashtabula, OH	0.9587
Cuyahoga, OH	1.1549
Geauga, OH	1.1549
Lake, OH	1.1549
Lorain, OH	1.0542
Medina, OH	1.1549
Colorado Springs, CO	
El Paso, CO	1.0711
Columbia, MO	
Boone, MO	1.0757
Columbia, SC	
Lexington, SC	0.9652
Richland, SC	0.9652
Columbus, GA–AL	
Russell, AL	0.8799
Chattanoochee, GA	0.8799
Harris, GA	0.8335
Muscogee, GA	0.8799
Columbus, OH	
Delaware, OH	1.0387
Fairfield, OH	1.0387
Franklin, OH	1.0387
Licking, OH	1.0387
Madison, OH	1.0387
Pickaway, OH	1.0387
Corpus Christi, TX	
Nueces, TX	0.9587
San Patricio, TX	0.9587
Cumberland, MD-WV	
Allegany, MD	0.9388
Mineral, WV	0.9388
Dallas, TX	
Collin, TX	1.0642
Dallas, TX	1.0642
Denton, TX	1.0642
Ellis, TX	1.0642
Henderson, TX	0.8838
Hunt, TX	0.8838
Kaufman, TX	1.0642
Rockwall, TX	1.0642
Danville, VA	
Danville City, VA	0.8812
Pittsylvania, VA	0.8812
Davenport-Rock Island-Moline, IA-IL	
Scott, IA	0.9537
Henry, IL	0.9537
Rock Island, IL	0.9537
Dayton-Springfield, OH	
Clark, OH	1.0818
Greene, OH	1.0818
Miami, OH	1.0818
Montgomery, OH	1.0818
Daytona Beach, FL	
Flagler, FL	0.8953
Volusia, FL	0.9615
Decatur, AL	
Lawrence, AL	0.8297
Morgan, AL	0.8297
Decatur, IL	
Macon, IL	0.9360
Denver, CO	
Adams, CO	1.1721
Arapahoe, CO	1.1721
Denver, CO	1.1721
Douglas, CO	1.1721
Jefferson, CO	1.1721
Des Moines, IA	
Dallas, IA	1.0287
Polk, IA	1.0287
Warren, IA	1.0287
Detroit, MI	
Lapeer, MI	1.1810
Macomb, MI	1.1810
Monroe, MI	1.1810
Oakland, MI	1.1810
St. Clair, MI	1.1810
Wayne, MI	1.1810
Dothan, AL	
Dale, AL	0.8565
Houston, AL	0.8565
Dover, DE	
Kent, DE	0.9196
Dubuque, IA	
Dubuque, IA	0.9757
Duluth-Superior, MN-WI	
St. Louis, MN	0.9433
Douglas, WI	0.9433
Dutchess County, NY	
Dutchess, NY	1.1033
Eau Claire, WI	
Chippewa, WI	0.9556
Eau Claire, WI	0.9556
El Paso, TX	
El Paso, TX	0.9339
Elkhart-Goshen, IN	
Elkhart, IN	0.9056
Elmira, NY	
Chemung, NY	0.9844
Enid, OK	
Garfield, OK	0.8812
Erie, PA	
Erie, PA	0.9872
Eugene-Springfield, OR	
Lane, OR	1.0560
Evansville-Henderson, IN-KY	
Posey, IN	0.9925
Vanderburgh, IN	0.9925
Warrick, IN	0.9925
Henderson, KY	0.9925
Fargo-Moorhead, ND-MN	
Clay, MN	0.9917
Cass, ND	0.9917
Fayetteville, NC	
Cumberland, NC	0.9410
Fayetteville-Springdale-Rogers, AR	
Benton, AR	0.8000
Washington, AR	0.8205
Flagstaff, AZ-UT	
Coconino, AZ	0.9159
Kane, UT	0.8690
Flint, MI	
Genesee, MI	1.1669
Florence, AL	
Colbert, AL	0.8205
Lauderdale, AL	0.8205
Florence, SC	
Florence, SC	0.8417
Fort Collins-Loveland, CO	
Larimer, CO	0.9908
Ft. Lauderdale, FL	
Broward, FL	1.1146
Fort Myers-Cape Coral, FL	
Lee, FL	0.9362
Fort Pierce-Port St. Lucie, FL	
Martin, FL	1.0226
St. Lucie, FL	1.0226
Fort Smith, AR-OK	
Crawford, AR	0.9280
Sebastian, AR	0.9280
Sequoyah, OK	0.9280
Fort Walton Beach, FL	
Okaloosa, FL	0.8572
Fort Wayne, IN	
Adams, IN	0.8858
Allen, IN	0.9422
De Kalb, IN	0.9422
Huntington, IN	0.8858
Wells, IN	0.8858
Whitley, IN	0.9422
Fort Worth-Arlington, TX	
Hood, TX	0.8982
Johnson, TX	0.9770
Parker, TX	0.9770
Tarrant, TX	0.9770
Frenso, CA	
Fresno, CA	1.1938
Madera, CA	1.0684
Gadsden, AL	
Etowah, AL	0.9306
Gainesville, FL	
Alachua, FL	0.9817
Galveston-Texas City, TX	
Galveston, TX	1.1787
Gary, IN	
Lake, IN	1.0917
Porter, IN	1.0917
Glens Falls, NY	
Warren, NY	0.8911
Washington, NY	0.8911
Goldsboro, NC	
Wayne, NC	0.8642
Grand Forks, ND-MN	
Polk, MN	0.8911
Grand Forks, ND	0.9709
Grand Junction, CO	
Mesa, CO	0.8500
Grand Rapids-Muskegon-Holland, MI	
Allegan, MI	0.9891
Kent, MI	1.0247
Muskegon, MI	0.9789
Ottawa, MI	1.0247
Great Falls, MT	
Cascade, MT	0.9968
Greeley, CO	
Weld, CO	1.0666

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index [1]
Green Bay, WI	
Brown, WI	0.9863
Greensboro-Winston-Salem-High Point, NC	
Alamance, NC	0.8946
Davidson, NC	0.9693
Davie, NC	0.9693
Forsyth, NC	0.9693
Guilford, NC	0.9693
Randolph, NC	0.9693
Stokes, NC	0.9693
Yadkin, NC	0.9693
Greenville, NC	
Pitt, NC	0.8875
Greenville-Spartanburg-Anderson, SC	
Anderson, SC	0.8989
Cherokee, SC	0.8541
Greenville, SC	0.9485
Pickens, SC	0.9485
Spartanburg, SC	0.9485
Hagerstown, MD	
Washington, MD	0.9989
Hamilton-Middletown, OH	
Butler, OH	1.0330
Harrisburg-Lebanon-Carlisle, PA	
Cumberland, PA	1.0504
Dauphin, PA	1.0504
Lebanon, PA	1.0504
Perry, PA	1.0504
Hartford, CT	
Hartford, CT	1.1484
Litchfield, CT	1.1484
Middlesex, CT	1.1484
Tolland, CT	1.1484
Hattiesburg, MS	
Forrest, MS	0.8013
Lamar, MS	0.8013
Hickory-Morganton-Lenoir, NC	
Alexander, NC	0.9402
Burke, NC	0.9402
Caldwell, NC	0.8721
Catawba, NC	0.9402
Honolulu, HI	
Honolulu, HI	1.1706
Houma, LA	
Lafourche, LA	0.9332
Terrebonne, LA	0.9332
Houston, TX	
Chambers, TX	0.8930
Fort Bend, TX	1.0969
Harris, TX	1.0969
Liberty, TX	1.0969
Montgomery, TX	1.0969
Waller, TX	1.0969
Huntington-Ashland, WV-KY-OH	
Boyd, KY	0.9797
Carter, KY	0.9797
Greenup, KY	0.9797
Lawrence, OH	0.9797
Cabell, WV	0.9797
Wayne, WV	0.9797
Huntsville, AL	
Limestone, AL	0.8236
Madison, AL	0.8910
Indianapolis, IN	
Boone, IN	1.0552
Hamilton, IN	1.0552
Hancock, IN	1.0552
Hendricks, IN	1.0552
Johnson, IN	1.0552
Madison, IN	0.9964
Marion, IN	1.0552
Morgan, IN	1.0552
Shelby, IN	1.0552
Iowa City, IA	
Johnson, IA	1.0959
Jackson, MI	
Jackson, MI	1.0074
Jackson, MS	
Hinds, MS	0.8882
Madison, MS	0.8882
Rankin, MS	0.8882
Jackson, TN	
Madison, TN	0.8264
Jacksonville, FL	
Clay, FL	0.9838
Duval, FL	0.9838
Nassau, FL	0.9838
St. Johns, FL	0.9838
Jacksonville, NC	
Onslow, NC	0.8565
Jamestown, NY	
Chautaqua, NY	0.8477
Janesville-Beloit, WI	
Rock, WI	0.9003
Jersey City, NJ	
Hudson, NJ	1.1299
Johnson City-Kingsport-Bristol, TN-VA	
Carter, TN	0.9311
Hawkins, TN	0.9311
Sullivan, TN	0.9311
Unicoi, TN	0.9311
Washington, TN	0.9311
Bristol City, VA	0.9311
Scott, VA	0.9311
Washington, VA	0.9311
Johnstown, PA	
Cambria, PA	0.9856
Somerset, PA	0.9856
Joplin, MO	
Jasper, MO	0.9053
Newton, MO	0.9053
Kalamazoo-Battlecreek, MI	
Calhoun, MI	1.0800
Kalamazoo, MI	1.1936
Van Buren, MI	1.0035
Kankakee, IL	
Kankakee, IL	0.9323
Kansas City, KS-MO	
Johnson, KS	0.9883
Leavenworth, KS	0.9883
Miami, KS	0.9883
Wyandotte, KS	0.9883
Cass, MO	0.9969
Clay, MO	0.9969
Clinton, MO	0.8871
Jackson, MO	0.9969
Lafayette, MO	0.9969
Platte, MO	0.9969
Ray, MO	0.9969
Kenosha, WI	
Kenosha, WI	1.0538
Killeen-Temple, TX	
Bell, TX	0.9934
Coryell, TX	0.9934
Knoxville, TN	
Anderson, TN	0.9144
Blount, TN	0.9144
Knox, TN	0.9144
Loudon, TN	0.8337
Sevier, TN	0.9144
Union, TN	0.9144
Kokomo, IN	
Howard, IN	0.9463
Tipton, IN	0.9463
La Crosse, WI-MN	
Houston, MN	0.8777
La Crosse, WI	0.9331
Lafayette, LA	
Acadia, LA	0.8464
Lafayette, LA	0.9693
St. Landry, LA	0.8464
St. Martin, LA	0.9693
Lafayette, IN	
Clinton, IN	0.8852
Tippecanoe, IN	0.9189
Lake Charles, LA	
Calcasieu, LA	0.9499
Lakeland-Winter Haven, FL	
Polk, FL	0.9298
Lancaster, PA	
Lancaster, PA	1.0319
Lansing-East Lansing, MI	
Clinton, MI	1.0561
Eaton, MI	1.0561
Ingham, MI	1.0561
Laredo, TX	
Webb, TX	0.8374
Las Cruces, NM	
Dona Ana, NM	0.8645
Las Vegas, NV-AZ	
Mohave, AZ	0.9788
Clark, NV	1.1994
Nye, NV	1.0625
Lawrence, KS	
Douglas, KS	0.9592
Lawton, OK	
Comanche, OK	0.9159
Lewiston-Auburn, ME	
Androscoggin, ME	0.9447
Lexington, KY	
Bourbon, KY	0.9337
Clark, KY	0.9337
Fayette, KY	0.9337
Jessamine, KY	0.9337
Madison, KY	0.8371
Scott, KY	0.9337
Woodford, KY	0.9337
Lima, OH	
Allen, OH	0.9767
Auglaize, OH	0.9767
Lincoln, NE	
Lancaster, NE	0.9017
Little Rock-North Little Rock, AR	
Faulkner, AR	0.9855
Lonoke, AR	0.9855
Pulaski, AR	0.9855
Saline, AR	0.9855
Longview-Marshall, TX	
Gregg, TX	0.8767
Harrison, TX	0.8767
Upshur, TX	0.8469
Los Angeles-Long Beach, CA	
Los Angeles, CA	1.3072
Louisville, KY-IN	
Clark, IN	1.0601
Floyd, IN	1.0601
Harrison, IN	1.0601

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index [1]
Scott, IN	0.9078
Bullitt, KY	1.0601
Jefferson, KY	1.0601
Oldham, KY	1.0601
Lubbock, TX	
Lubbock, TX	0.9760
Lynchburg, VA	
Amherst, VA	0.9028
Bedford City, VA	0.8537
Bedford, VA	0.8537
Campbell, VA	0.9028
Lynchburg City, VA	0.9028
Macon, GA	
Bibb, GA	0.9705
Houston, GA	0.9705
Jones, GA	0.9705
Peach, GA	0.9705
Twiggs, GA	0.8788
Madison, WI	
Dane, WI	1.0391
Mansfield, OH	
Crawford, OH	0.9124
Richland, OH	0.9145
Mayaguez, PR	
Anasco, PR	0.6949
Cabo Rojo, PR	0.6949
Hormigueros, PR	0.6949
Mayaguez, PR	0.6949
Sabana Grande, PR	0.6949
San German, PR	0.6949
McAllen-Edinburg-Mission, TX	
Hidalgo, TX	0.8588
Medford-Ashland, OR	
Jackson, OR	1.0131
Melbourne-Titusville-Palm Bay, FL	
Brevard, Fl	0.9437
Memphis, TN-AR-MS	
Crittenden, AR	1.0104
De Soto, MS	1.0104
Fayette, TN	0.8223
Shelby, TN	1.0104
Tipton, TN	1.0104
Merced, CA	
Merced, CA	1.0506
Miami, FL	
Dade, FL	1.1202
Middlesex-Somerset-Hunterdon, NJ	
Hunterdon, NJ	1.0939
Middlesex, NJ	1.0939
Somerset, NJ	1.0939
Milwaukee-Waukesha, WI	
Milwaukee, WI	1.0442
Ozaukee, WI	1.0442
Washington, WI	1.0442
Waukesha, WI	1.0442
Minneapolis-St Paul, MN-WI	
Anoka, MN	1.0656
Carver, MN	1.0656
Chisago, MN	1.0656
Dakota, MN	1.0656
Hennepin, MN	1.0656
Isanti, MN	1.0656
Ramsey, MN	1.0656
Scott, MN	1.0656
Sherburne, MN	0.9660
Washington, MN	1.0656
Wright, MN	1.0656
Pierce, WI	0.9317
St. Croix, WI	1.0656
Mobile, AL	
Baldwin, AL	0.9065
Mobile, AL	0.9065
Modesto, CA	
Stanislaus, CA	1.0953
Monmouth-Ocean, NJ	
Monmouth, NJ	1.0398
Ocean, NJ	1.0398
Monroe, LA	
Ouachita, LA	0.9293
Montgomery, AL	
Autauga, AL	0.9299
Elmore, AL	0.9299
Montgomery, AL	0.9299
Muncie, IN	
Delaware, IN	0.9963
Myrtle Beach, SC	
Horry, SC	0.8058
Naples, FL	
Collier, FL	0.9405
Nashville, TN	
Cheatham, TN	1.1451
Davidson, TN	1.1451
Dickson, TN	1.1451
Robertson, TN	1.1451
Rutherford TN	1.1451
Sumner, TN	1.1451
Williamson, TN	1.1451
Wilson, TN	1.1451
Nassau-Suffolk, NY	
Nassau, NY	1.2839
Suffolk, NY	1.2839
New Haven-Bridgeport-Stamford-Danbury-Waterbury,	
Fairfield, CT	1.2197
New Haven, CT	1.1582
New London-Norwich, CT	
New London, CT	1.1431
New Orleans, LA	
Jefferson, LA	1.0079
Orleans, LA	1.0079
Plaquemines, LA	0.8849
St. Bernard, LA	1.0079
St. Charles, LA	1.0079
St. James, LA	0.8849
St. John The Baptist, LA	1.0079
St. Tammany, LA	1.0079
New York, NY	
Bronx, NY	1.4110
Kings, NY	1.4110
New York, NY	1.4110
Putnam, NY	1.4110
Queens, NY	1.4110
Richmond, NY	1.4110
Rockland, NY	1.4110
Westchester, NY	1.4110
Newark, NJ	
Essex, NJ	1.1684
Morris, NJ	1.1684
Sussex, NJ	1.1684
Union, NJ	1.1684
Warren, NJ	1.1160
Newburgh, NY-PA	
Orange, NY	1.0522
Pike, PA	1.0705
Norfolk-Virginia Beach-Newport News, VA-NC	
Currituck, NC	0.8627
Chesapeake City, VA	0.9498
Gloucester, VA	0.9498
Hampton City, VA	0.9498
Isle of Wight, VA	0.8638
James City, VA	0.9498
Mathews, VA	0.8638
Newport News City, VA	0.9498
Norfolk City, VA	0.9498
Poquoson City, VA	0.9498
Portsmouth City, VA	0.9498
Suffolk City, VA	0.9498
Virginia Beach City VA	0.9498
Williamsburg City, VA	0.9498
York, VA	0.9498
Oakland, CA	
Alameda, CA	1.3685
Contra Costa, CA	1.3685
Ocala, FL	
Marion, FL	0.9971
Odessa-Midland, TX	
Ector, TX	0.9539
Midland, TX	1.0224
Oklahoma City, OK	
Canadian, OK	1.0043
Cleveland, OK	1.0043
Logan, OK	1.0043
McClain, OK	1.0043
Oklahoma, OK	1.0043
Pottawatomie, OK	1.0043
Olympia, WA	
Thurston, WA	1.0832
Omaha, NE-IA	
Pottawattamie, IA	0.9312
Cass, NE	0.8670
Douglas, NE	0.9312
Sarpy, NE	0.9312
Washington, NE	0.9312
Orange County, CA	
Orange, CA	1.2540
Orlando, FL	
Lake, FL	0.9157
Orange, FL	1.0127
Osceola, FL	1.0127
Seminole, FL	1.0127
Owensboro, KY	
Daviess, KY	0.8565
Panama City, FL	
Bay, FL	0.8920
Parkersburg-Marietta, WV-OH	
Washington, OH	0.9453
Wood, WV	0.9453
Pensacola, FL	
Escambia, FL	0.8990
Santa Rosa, FL	0.8990
Peoria-Pekin, IL	
Peoria, IL	1.0623
Tazewell, IL	1.0623
Woodford, IL	1.0623
Philadelphia, PA-NJ	
Burlington, NJ	1.1826
Camden, NJ	1.1826
Gloucester, NJ	1.1826
Salem, NJ	1.1236
Bucks, PA	1.1826
Chester, PA	1.1826
Delaware, PA	1.1826
Montgomery, PA	1.1826
Philadelphia, PA	1.1826
Phoenix-Mesa, AZ	
Maricopa, AZ	1.0907
Pinal, AZ	0.9428
Pine Bluff, AR	
Jefferson, AR	0.8654

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index [1]
Pittsburgh, PA	
Allegheny, PA	1.1050
Beaver, PA	1.0693
Butler, PA	1.0330
Fayette, PA	1.1050
Washington, PA	1.1050
Westmoreland, PA	1.1050
Pittsfield, MA	
Berkshire, MA	1.0270
Ponce, PR	
Guayanilla, PR	0.7129
Juana Diaz, PR	0.7129
Penuelas, PR	0.7129
Ponce, PR	0.7129
Villalba, PR	0.7129
Yauco, PR	0.7129
Portland, ME	
Cumberland, ME	0.9843
Sagadahoc, ME	0.9843
York, ME	0.9843
Portland-Vancouver, OR-WA	
Clackamas, OR	1.1440
Columbia, OR	1.0330
Multnomah, OR	1.1440
Washington, OR	1.1440
Yamhill, OR	1.1440
Clark, WA	1.1192
Providence-Warwick, RI	
Bristol, RI	1.0425
Kent, RI	1.0425
Newport, RI	1.0425
Providence, RI	1.0425
Washington, RI	1.0425
Provo-Orem, UT	
Utah, UT	0.9887
Pueblo, CO	
Pueblo, CO	1.0713
Punta Gorda, FL	
Charlotte, FL	0.8997
Racine, WI	
Racine, WI	0.9821
Raleigh-Durham-Chapel Hill, NC	
Chatham, NC	0.9096
Durham, NC	1.0210
Franklin, NC	1.0210
Johnston, NC	0.9096
Orange, NC	1.0210
Wake, NC	1.0210
Rapid City, SD	
Pennington, SD	0.8321
Reading, PA	
Berks, PA	1.0213
Redding, CA	
Shasta, CA	1.1124
Reno, NV	
Washoe, NV	1.2587
Richland-Kennewick-Pasco, WA	
Benton, WA	0.9889
Franklin, WA	0.9889
Richmond-Petersburg, VA	
Charles City County, VA	0.9162
Chesterfield, VA	0.9162
Colonial Heights City, VA	0.9162
Dinwiddie, VA	0.9162
Goochland, VA	0.9162
Hanover, VA	0.9162
Henrico, VA	0.9162
Hopewell City, VA	0.9162
New Kent, VA	0.9162
Petersburg City, VA	0.9162
Powhatan, VA	0.9162
Prince George, VA	0.9162
Richmond City, VA	0.9162
Riverside-San Bernardino, CA	
Riverside, CA	1.1870
San Bernardino, CA	1.1870
Roanoke, VA	
Botetourt, VA	0.9779
Roanoke, VA	0.9779
Roanoke City, VA	0.9779
Salem City, VA	0.9779
Rochester, MN	
Olmsted, MN	1.0527
Rochester, NY	
Genesee, NY	0.9214
Livingston, NY	1.0346
Monroe, NY	1.0346
Ontario, NY	1.0346
Orleans, NY	1.0346
Wayne, NY	1.0346
Rockford, IL	
Boone, IL	1.0159
Ogle, IL	0.8969
Winnebago, IL	1.0159
Rocky Mount, NC	
Edgecombe, NC	0.8833
Nash, NC	0.8833
Sacramento, CA	
El Dorado, CA	1.1975
Placer, CA	1.1975
Sacramento, CA	1.1975
Saginaw-Bay City-Midland, MI	
Bay, MI	1.0722
Midland, MI	1.0722
Saginaw, MI	1.0722
St. Cloud, MN	
Benton, MN	0.9210
Stearns, MN	0.9210
St. Joseph, MO	
Andrews, MO	0.8556
Buchanan, MO	0.9630
St. Louis, MO-IL	
Clinton, IL	0.9682
Jersey, IL	0.9594
Madison, IL	0.9594
Monroe, IL	1.0362
St. Clair, IL	0.9682
Franklin, MO	1.0362
Jefferson, MO	1.0362
Lincoln, MO	0.8716
St. Charles, MO	1.0362
St. Louis, MO	1.0362
St. Louis City, MO	1.0362
Warren, MO	0.8716
Salem, OR	
Marion, OR	1.0510
Polk, OR	1.0510
Salinas, CA	
Monterey, CA	1.3382
Salt Lake City-Ogden, UT	
Davis, UT	0.9873
Salt Lake, UT	0.9873
Weber, UT	0.9873
San Angelo, TX	
Tom Green, TX	0.8859
San Antonio, TX	
Bexar, TX	1.0012
Comal, TX	1.0012
Guadalupe, TX	1.0012
Wilson, TX	0.8383
San Diego, CA	
San Diego, CA	1.2225
San Francisco, CA	
Marin, CA	1.4362
San Francisco, CA	1.4362
San Mateo, CA	1.4362
San Jose, CA	
Santa Clara, CA	1.3756
San Juan-Bayamon, PR	
Aguas Buenas, PR	0.7061
Barceloneta, PR	0.7061
Bayamon, PR	0.7061
Canovanas, PR	0.7061
Carolina, PR	0.7061
Catano, PR	0.7061
Ceiba, PR	0.7061
Comerio, PR	0.7061
Corozal, PR	0.7061
Dorado, PR	0.7061
Fajardo, PR	0.7061
Florida, PR	0.7061
Guaynabo, PR	0.7061
Humacao, PR	0.7061
Juncos, PR	0.7061
Los Piedras, PR	0.7061
Loiza, PR	0.7061
Luguillo, PR	0.7061
Manati, PR	0.7061
Morovis, PR	0.7061
Naguabo, PR	0.7061
Naranjito, PR	0.7061
Rio Grande, PR	0.7061
San Juan, PR	0.7061
Toa Alta, PR	0.7061
Toa Baja, PR	0.7061
Trujillo Alto, PR	0.7061
Vega Alta, PR	0.7061
Vega Baja, PR	0.7061
Yabucoa, PR	0.7061
San Luis Obispo-Atascadero-Paso Robles, CA	
San Luis Obispo, CA	1.0812
Santa Barbara-Santa Maria-Lompoc, CA	
Santa Barbara, CA	1.1390
Santa Cruz-Watsonville, CA	
Santa Cruz, CA	1.2349
Santa Fe, NM	
Los Alamos, NM	1.0007
Santa Fe, NM	1.0007
Santa Rosa, CA	
Sonoma, CA	1.2314
Sarasota-Bradenton, FL	
Manatee, FL	0.9591
Sarasota, FL	1.0054
Savannah, GA	
Bryan, GA	0.9069
Chatham, GA	0.9762
Effingham, GA	0.9762
Scranton—Wilkes-Barre—Hazleton, PA.	
Columbia, PA	0.9621
Lackawanna, PA	0.9621
Luzerne, PA	0.9621
Wyoming, PA	0.9621
Seattle-Bellevue-Everett, WA	
Island, WA	1.0337
King, WA	1.1278
Snohomish, WA	1.1278
Sharon, PA	

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index [1]
Mercer, PA	0.9597
Sheboygan, WI	
Sheboygan, WI	0.8571
Sherman-Denison, TX	
Grayson, TX	0.9066
Shreveport-Bossier City, LA	
Bossier, LA	1.0436
Caddo, LA	1.0436
Webster, LA	0.8871
Sioux City, IA-NE	
Woodbury, IA	0.9853
Dakota, NE	0.9853
Sioux Falls, SD	
Lincoln, SD	0.8377
Minnehaha, SD	0.9362
South Bend, IN	
St. Joseph, IN	0.9497
Spokane, WA	
Spokane, WA	1.1198
Springfield, IL	
Menard, IL	1.0720
Sangamon, IL	1.0720
Springfield, MO	
Christian, MO	0.9025
Greene, MO	0.9025
Webster, MO	0.8198
Springfield, MA	
Hampden, MA	1.0322
Hampshire, MA	1.0322
State College, PA	
Centre, PA	1.0440
Steubenville-Weirton, OH-WV	
Jefferson, OH	0.9456
Brooke, WV	0.9456
Hancock, WV	0.9456
Stockton-Lodi, CA	
San Joaquin, CA	1.1781
Sumter, SC	
Sumter, SC	0.8058
Syracuse, NY	
Cayuga, NY	0.9128
Madison, NY	1.3103
Onondaga, NY	1.3103
Oswego, NY	1.3103
Tacoma, WA	
Pierce, WA	1.0803
Tallahassee, FL	
Gadsden, FL	0.9137
Leon, FL	0.9137
Tampa-St. Petersburg-Clearwater, FL	
Hernando, FL	0.9941
Hillsborough, FL	0.9941
Pasco, FL	0.9941
Pinellas, FL	0.9941
Terre Haute, IN	
Clay, IN	0.8962
Vermillion, IN	0.8787
Vigo, IN	0.8962
Texarkana, AR-Texarkana, TX	
Miller, AR	1.0450
Bowie, TX	1.0450
Toledo, OH	
Fulton, OH	1.1236
Lucas, OH	1.1236
Wood, OH	1.1236
Topeka, KS	
Shawnee, KS	1.1007
Trenton, NJ	
Mercer, NJ	1.0657

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index [1]
Tucson, AZ	
Pima, AZ	1.0000
Tulsa, OK	
Creek, OK	0.9826
Osage, OK	0.9826
Rogers, OK	0.9826
Tulsa, OK	0.9826
Wagoner, OK	0.9826
Tuscaloosa, AL	
Tuscaloosa, AL	0.9457
Tyler, TX	
Smith, TX	1.0226
Utica-Rome, NY	
Herkimer, NY	0.9226
Oneida, NY	0.9226
Vallejo-Fairfield-Napa, CA	
Napa, CA	1.3792
Solano, CA	1.3792
Ventura, CA	
Ventura, CA	1.2055
Victoria, TX	
Victoria, TX	0.8731
Vineland-Millville-Bridgeton, NJ	
Cumberland, NJ	0.9864
Visalia-Tulare-Porterville, CA	
Tulare, CA	1.1180
Waco, TX	
McLennan, TX	0.8220
Washington, DC-MD-VA-WV	
District of Columbia, DC	1.1602
Calvert, MD	1.1602
Charles, MD	1.1602
Frederick, MD	1.1602
Montgomery, MD	1.1602
Prince Georges, MD	1.1602
Alexandria City, VA	1.1602
Arlington, VA	1.1602
Clarke, VA	0.9480
Culpepper, VA	0.9480
Fairfax, VA	1.1602
Fairfax City, VA	1.1602
Falls Church City, VA	1.1602
Fauquier, VA	0.9480
Fredericksburg City, VA	0.9480
King George, VA	0.9480
Loudoun, VA	1.1602
Manassas City, VA	1.1602
Manassas Park City, VA	1.1602
Prince William, VA	1.1602
Spotsylvania, VA	0.9480
Stafford, VA	1.1602
Warren, VA	0.9480
Berkeley, WV	0.9931
Jefferson, WV	0.9931
Waterloo-Cedar Falls, IA	
Black Hawk, IA	0.9155
Wausau, WI	
Marathon, WI	0.9851
West Palm Beach-Boca Raton, FL	
Palm Beach, FL	1.0144
Wheeling, OH-WV	
Belmont, OH	0.9221
Marshall, WV	0.9221
Ohio, WV	0.9221
Wichita, KS	
Butler, KS	1.0818
Harvey, KS	0.8724
Sedgwick, KS	1.0818
Wichita Falls, TX	
Archer, TX	0.8264

TABLE A.—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index [1]
Wichita, TX	0.8669
Williamsport, PA	
Lycoming, PA	0.9864
Willington-Newark, DE–MD	
New Castle, DE	1.1263
Cecil, MD	1.1263
Willington, NC	
Brunswick, NC	0.8864
New Hanover, NC	0.9213
Yakima, WA	
Yakima, WA	1.0243
Yolo, CA	
Yolo, CA	1.1667
York, PA	
York, PA	1.0112
Youngstown-Warren, OH	
Columbiana, OH	0.9538
Mahoning, OH	1.0828
Trumbull, OH	1.0828
Yuba City, CA	
Sutter, CA	1.0913
Yuba, CA	1.0913
Yuma, AZ	
Yuma, AZ	0.9321

[1] Wage index values are based on fiscal year 1993 hospital cost report data prior to reclassification. This wage index is further adjusted. Wage index values greater than 0.8 are subject to a budget neutrality adjustment of 1.020768. Wage index values below 0.8 are adjusted to be the greater of a 15 percent increase, subject to a maximum wage index value of 0.8, or an adjustment by multiplying the hospice wage index value for a given area by the budget neutrality adjustment. All of these adjustments are built into the wage index values reflected in Table A.

TABLE B.—WAGE INDEX FOR RURAL AREAS

Nonurban area	Wage index [2]
Alabama:	
Barbour, AL	0.8000
Bibb, AL	0.8000
Bullock, AL	0.8000
Butler, AL	0.8000
Chambers, AL	0.8000
Cherokee, AL	0.8000
Chilton, AL	0.8000
Choctaw, AL	0.8000
Clarke, AL	0.8000
Clay, AL	0.8000
Cleburne, AL	0.8000
Coffee, AL	0.8000
Conecuh, AL	0.8000
Coosa, AL	0.8000
Covington, AL	0.8000
Crenshaw, AL	0.8000
Cullman, AL	0.8000
Dallas, AL	0.8000
De Kalb, AL	0.8000
Escambia, AL	0.8000
Fayette, AL	0.8000
Franklin, AL	0.8000
Geneva, AL	0.8000
Greene, AL	0.8000
Hale, AL	0.8000

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Henry, AL	0.8000
Jackson, AL	0.8000
Lamar, AL	0.8000
Lee, AL	0.8000
Lowndes, AL	0.8000
Macon, AL	0.8000
Marengo, AL	0.8000
Marion, AL	0.8000
Marshall, AL	0.8000
Monroe, AL	0.8000
Perry, AL	0.8000
Pickens, AL	0.8000
Pike, AL	0.8000
Randolph, AL	0.8000
Sumter, AL	0.8000
Talladega, AL	0.8000
Tallapoosa, AL	0.8000
Walker, AL	0.9365
Washington, AL	0.8000
Wilcox, AL	0.8000
Winston, AL	0.8000
Alaska:	
Aleutians East, AK	1.3603
Aleutians West, AK	1.3603
Bethel, AK	1.3603
Bristol Bay Borough, AK	1.3603
Dillingham, AK	1.3603
Fairbanks North Star, AK	1.3603
Haines, AK	1.3603
Juneau, AK	1.3603
Kenai Peninsula	1.3603
Ketchikan Gateway, AK	1.3603
Kodiak Island, AK	1.3603
Lake and Peninsula, AK	1.3603
Matanuska-Susitna, AK	1.3603
Nome, AK	1.3603
North Slope, AK	1.3603
Northwest Arctic, AK	1.3603
Pr. of Wales-out.Ketchikanak, AK	1.3603
Sitka, AK	1.3603
Skagway-Yakutat-Angoon, AK	1.3603
Southeast Fairbanks, AK	1.3603
Valdez-Cordova, AK	1.3603
Wade Hampton, AK	1.3603
Wrangell-Petersburg, AK	1.3603
Yukon-Koyukuk, AK	1.3603
Arizona:	
Apache, AZ	0.8787
Cochise, AZ	0.8787
Gila, AZ	0.8787
Graham, AZ	0.8787
Greenlee, AZ	0.8787
Lapaz, AZ	0.8787
Navajo, AZ	0.8787
Santa Cruz, AZ	0.8787
Yavapai, AZ	0.8787
Arkansas:	
Arkansas, AR	0.7999
Ashley, AR	0.7999
Baxter, AR	0.7999
Boone, AR	0.7999
Bradley, AR	0.7999
Calhoun, AR	0.7999
Carroll, AR	0.7999
Chicot, AR	0.7999
Clark, AR	0.7999
Clay, AR	0.7999
Cleburne, AR	0.7999
Cleveland, AR	0.7999
Columbia, AR	0.7999

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Conway, AR	0.7999
Craighead, AR	0.7999
Cross, AR	0.7999
Dallas, AR	0.7999
Desha, AR	0.7999
Drew, AR	0.7999
Franklin, AR	0.7999
Fulton, AR	0.7999
Garland, AR	0.7999
Grant, AR	0.7999
Greene, AR	0.7999
Hempstead, AR	0.7999
Hot Springs, AR	0.7999
Howard, AR	0.7999
Independence, AR	0.7999
Izard, AR	0.7999
Jackson, AR	0.7999
Johnson, AR	0.7999
Lafayette, AR	0.7999
Lawrence, AR	0.7999
Lee, AR	0.7999
Lincoln, AR	0.7999
Little River, AR	0.7999
Logan, AR	0.7999
Madison, AR	0.7999
Marion, AR	0.7999
Mississippi, AR	0.7999
Monroe, AR	0.7999
Montgomery, AR	0.7999
Nevada, AR	0.7999
Newton, AR	0.7999
Ouachita, AR	0.7999
Perry, AR	0.7999
Phillips, AR	0.7999
Pike, AR	0.7999
Poinsett, AR	0.7999
Polk, AR	0.7999
Pope, AR	0.7999
Prairie, AR	0.7999
Randolph, AR	0.7999
St. Francis, AR	0.7999
Scott, AR	0.7999
Searcy, AR	0.7999
Sevier, AR	0.7999
Sharp, AR	0.7999
Stone, AR	0.7999
Union, AR	0.7999
Van Buren, AR	0.7999
White, AR	0.7999
Woodruff, AR	0.7999
Yell, AR	0.7999
California:	
Alpine, CA	1.0282
Amador, CA	1.0282
Calaveras, CA	1.0282
Colusa, CA	1.0282
Del Norte, CA	1.0282
Glenn, CA	1.0282
Humboldt, CA	1.0282
Imperial, CA	1.0282
Inyo, CA	1.0282
Kings, CA	1.0282
Lake, CA	1.0282
Lassen, CA	1.0282
Mariposa, CA	1.0282
Mendocino, CA	1.0282
Modoc, CA	1.0282
Mono, CA	1.0282
Nevada, CA	1.0282
Plumas, CA	1.0282

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
San Enito, CA	1.0282
Sierra, CA	1.0282
Siskiyou, CA	1.0282
Tehama, CA	1.0282
Trinity, CA	1.0282
Tuolumne, CA	1.0282
Colorado:	
Alamosa, CO	0.8417
Archuleta, CO	0.8417
Baca, CO	0.8417
Bent, CO	0.8417
Chaffee, CO	0.8417
Cheyenne, CO	0.8417
Clear Creek, CO	0.8417
Conejos, CO	0.8417
Costilla, CO	0.8417
Crowley, CO	0.8417
Custer, CO	0.8417
Delta, CO	0.8417
Dolores, CO	0.8417
Eagle, CO	0.8417
Elbert, CO	0.8417
Fremont, CO	0.8417
Garfield, CO	0.8417
Gilpin, CO	0.8417
Grand, CO	0.8417
Gunnison, CO	0.8417
Hinsdale, CO	0.8417
Huerfano, CO	0.8417
Jackson, CO	0.8417
Kiowa, CO	0.8417
Kit Carson, CO	0.8417
Lake, CO	0.8417
La Plata, CO	0.8417
Las Animas, CO	0.8417
Lincoln, CO	0.8417
Logan, CO	0.8417
Mineral, CO	0.8417
Moffat, CO	0.8417
Montezuma, CO	0.8417
Montrose, CO	0.8417
Morgan, CO	0.8417
Otero, CO	0.8417
Ouray, CO	0.8417
Park, CO	0.8417
Phillips, CO	0.8417
Pitkin, CO	0.8417
Prowers, CO	0.8417
Rio Blanco, CO	0.8417
Rio Grande, CO	0.8417
Routt, CO	0.8417
Saguache, CO	0.8417
San Juan, CO	0.8417
San Miguel, CO	0.8417
Sedgwick, CO	0.8417
Summit, CO	0.8417
Teller, CO	0.8417
Washington, CO	0.8417
Yuma, CO	0.8417
Connecticut:	
Windham, CT	1.1128
Delaware:	
Sussex, DE	0.9349
Florida:	
Baker, FL	0.8884
Bradford, FL	0.9556
Calhoun, FL	0.8884
Citrus, FL	0.8884
Columbia, FL	0.8884
De Soto, FL	0.8884

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Dixie, FL	0.8884
Franklin, FL	0.8884
Gilchrist, FL	0.8884
Glades, FL	0.8884
Gulf, FL	0.8884
Hamilton, FL	0.8884
Hardee, FL	0.8884
Hendry, FL	0.8884
Highlands, FL	0.8884
Holmes, FL	0.8884
Indian River, FL	0.8884
Jackson, FL	0.8884
Jefferson, FL	0.8884
Lafayette, FL	0.8884
Levy, FL	0.8884
Liberty, FL	0.8884
Madison, FL	0.8884
Monroe, FL	0.8884
Okeechobee, FL	0.8884
Putnam, FL	0.8884
Sumter, FL	0.8884
Suwannee, FL	0.8884
Taylor, FL	0.8884
Union, FL	0.8884
Wakulla, FL	0.8884
Walton, FL	0.8884
Washington, FL	0.8884
Georgia:	
Appling, GA	0.8335
Atkinson, GA	0.8335
Bacon, GA	0.8335
Baker, GA	0.8335
Baldwin, GA	0.8335
Banks, GA	0.8335
Ben Hill, GA	0.8335
Berrien, GA	0.8335
Bleckley, GA	0.8335
Brantley, GA	0.8335
Brooks, GA	0.8335
Bulloch, GA	0.8335
Burke, GA	0.8335
Butts, GA	0.8945
Calhoun, GA	0.8335
Camden, GA	0.8335
Candler, GA	0.8335
Charlton, GA	0.8335
Chattooga, GA	0.8335
Clay, GA	0.8335
Clinch, GA	0.8335
Coffee, GA	0.8335
Colquitt, GA	0.8335
Cook, GA	0.8335
Crawford, GA	0.8335
Crisp, GA	0.8335
Dawson, GA	0.8335
Decatur, GA	0.8335
Dodge, GA	0.8335
Dooly, GA	0.8335
Early, GA	0.8335
Echols, GA	0.8335
Elbert, GA	0.8335
Emanuel, GA	0.8335
Evans, GA	0.8335
Fannin, GA	0.8335
Floyd, GA	0.8335
Franklin, GA	0.8335
Gilmer, GA	0.8335
Glascock, GA	0.8335
Glynn, GA	0.8335
Gordon, GA	0.8335

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Grady, GA	0.8335
Greene, GA	0.8335
Habersham, GA	0.8335
Hall, GA	0.8335
Hancock, GA	0.8335
Haralson, GA	0.8335
Hart, GA	0.8335
Heard, GA	0.8335
Irwin, GA	0.8335
Jackson, GA	0.8545
Jasper, GA	0.8335
Jeff Davis, GA	0.8335
Jefferson, GA	0.8335
Jenkins, GA	0.8335
Johnson, GA	0.8335
Lamar, GA	0.8335
Lanier, GA	0.8335
Laurens, GA	0.8335
Liberty, GA	0.8335
Lincoln, GA	0.8335
Long, GA	0.8335
Lowndes, GA	0.8335
Lumpkin, GA	0.8335
Mc Intosh, GA	0.8335
Macon, GA	0.8335
Marion, GA	0.8335
Meriwether, GA	0.8335
Miller, GA	0.8335
Mitchell, GA	0.8335
Monroe, GA	0.8335
Montgomery, GA	0.8335
Morgan, GA	0.8335
Murray, GA	0.8335
Oglethorpe, GA	0.8335
Pierce, GA	0.8335
Pike, GA	0.8335
Polk, GA	0.8335
Pulaski, GA	0.8335
Putnam, GA	0.8335
Quitman, GA	0.8335
Rabun, GA	0.8335
Randolph, GA	0.8335
Schley, GA	0.8335
Screven, GA	0.8335
Seminole, GA	0.8335
Stephens, GA	0.8335
Stewart, GA	0.8335
Sumter, GA	0.8335
Talbot, GA	0.8335
Taliaferro, GA	0.8335
Tattnall, GA	0.8335
Taylor, GA	0.8335
Telfair, GA	0.8335
Terrell, GA	0.8335
Thomas, GA	0.8335
Tift, GA	0.8335
Toombs, GA	0.8335
Towns, GA	0.8335
Treutlen, GA	0.8335
Troup, GA	0.8335
Turner, GA	0.8335
Union, GA	0.8335
Upson, GA	0.8335
Ware, GA	0.8335
Warren, GA	0.8335
Washington, GA	0.8335
Wayne, GA	0.8335
Webster, GA	0.8335
Wheeler, GA	0.8335
White, GA	0.8335

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Whitfield, GA	0.8335
Wilcox, GA	0.8335
Wilkes, GA	0.8335
Wilkinson, GA	0.8335
Worth, GA	0.8335
Hawaii:	
Hawaii, HI	1.1496
Kalawao, HI	1.1496
Kauai, HI	1.1496
Maui, HI	1.1496
Idaho:	
Adams, ID	0.8942
Bannock, ID	0.8942
Bear Lake, ID	0.8942
Benewah, ID	0.8942
Bingham, ID	0.8942
Blaine, ID	0.8942
Boise, ID	0.8942
Bonner, ID	0.8942
Bonneville, ID	0.8942
Boundary, ID	0.8942
Butte, ID	0.8942
Camas, ID	0.8942
Caribou, ID	0.8942
Cassia, ID	0.8942
Clark, ID	0.8942
Clearwater, ID	0.8942
Custer, ID	0.8942
Elmore, ID	0.8942
Franklin, ID	0.8942
Fremont, ID	0.8942
Gem, ID	0.8942
Gooding, ID	0.8942
Idaho, ID	0.8942
Jefferson, ID	0.8942
Jerome, ID	0.8942
Kootenai, ID	0.8942
Latah, ID	0.8942
Lemhi, ID	0.8942
Lewis, ID	0.8942
Lincoln, ID	0.8942
Madison, ID	0.8942
Minidoka, ID	0.8942
Nez Perce, ID	0.8942
Oneida, ID	0.8942
Owyhee, ID	0.8942
Payette, ID	0.8942
Power, ID	0.8942
Shoshone, ID	0.8942
Teton, ID	0.8942
Twin Falls, ID	0.8942
Valley, ID	0.8942
Washington, ID	0.8942
Illinois:	
Adams, IL	0.8455
Alexander, IL	0.8455
Bond, IL	0.8455
Brown, IL	0.8455
Bureau, IL	0.8455
Calhoun, IL	0.8455
Carroll, IL	0.8455
Cass, IL	0.8455
Christian, IL	0.8455
Clark, IL	0.8455
Clay, IL	0.8455
Coles, IL	0.8455
Crawford, IL	0.8455
Cumberland, IL	0.8455
De Witt, IL	0.8455
Douglas, IL	0.8455

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Edgar, IL	0.8455
Edwards, IL	0.8455
Effingham, IL	0.8455
Fayette, IL	0.8455
Ford, IL	0.8455
Franklin, IL	0.8455
Fulton, IL	0.8455
Gallatin, IL	0.8455
Greene, IL	0.8455
Hamilton,IL	0.8455
Hancock, IL	0.8455
Hardin, IL	0.8455
Henderson, IL	0.8455
Iroquois, IL	0.8455
Jackson, IL	0.8455
Jasper, IL	0.8455
Jefferson, IL	0.8455
Jo Daviess, IL	0.8455
Johnson, IL	0.8455
Knox, IL	0.8455
La Salle, IL	0.8455
Lawrence, IL	0.8455
Lee, IL	0.8455
Livingston, IL	0.8455
Logan, IL	0.8455
McDonough, IL	0.8455
Macoupin, IL	0.8455
Marion, IL	0.8455
Marshall, IL	0.8455
Mason, IL	0.8455
Massac, IL	0.8455
Mercer, IL	0.8455
Montgomery, IL	0.8455
Morgan, IL	0.8455
Moultrie, IL	0.8455
Perry, IL	0.8455
Piatt, IL	0.8455
Pike, IL	0.8455
Pope, IL	0.8455
Pulaski, IL	0.8455
Putnam, IL	0.8455
Randolph, IL	0.8455
Richland, IL	0.8455
Saline, IL	0.8455
Schuyler, IL	0.8455
Scott, IL	0.8455
Shelby, IL	0.8455
Stark, IL	0.8455
Stephenson, IL	0.8455
Union, IL	0.8455
Vermilion, IL	0.8455
Wabash, IL	0.8455
Warren, IL	0.8455
Washington, IL	0.8455
Wayne, IL	0.8455
White, IL	0.8455
Whiteside, IL	0.8455
Williamson, IL	0.8455
Indiana:	
Bartholomew, IN	0.8628
Benton, IN	0.8628
Blackford, IN	0.8628
Brown, IN	0.8628
Carroll, IN	0.8628
Cass, IN	0.8628
Crawford, IN	0.8628
Daviess, IN	0.8628
Decatur, IN	0.8628
Dubois, IN	0.8628
Fayette, IN	0.8628

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Fountain, IN	0.8628
Franklin, IN	0.8628
Fulton, IN	0.8628
Gibson, IN	0.8628
Grant, IN	0.8628
Greene, IN	0.8628
Henry, IN	0.8628
Jackson, IN	0.8628
Jasper, IN	0.8628
Jay, IN	0.8628
Jefferson, IN	0.8628
Jennings, IN	0.8628
Knox, IN	0.8628
Kosciusko, IN	0.8628
Lagrange, IN	0.8628
La Porte, IN	0.8628
Lawrence, IN	0.8628
Marshall, IN	0.8628
Martin, IN	0.8628
Miami, IN	0.8628
Montgomery, IN	0.8628
Newton, IN	0.8628
Noble, IN	0.8628
Orange, IN	0.8628
Owen, IN	0.8628
Parke, IN	0.8628
Perry, IN	0.8628
Pike, IN	0.8628
Pulaski, IN	0.8628
Putnam, IN	0.8628
Randolph, IN	0.8628
Ripley, IN	0.8628
Rush, IN	0.8628
Spencer, IN	0.8628
Starke, IN	0.8628
Steuben, IN	0.8628
Sullivan, IN	0.8628
Switzerland, IN	0.8628
Union, IN	0.8628
Wabash, IN	0.8628
Warren, IN	0.8628
Washington, IN	0.8628
Wayne, IN	0.8628
White, IN	0.8628
Iowa:	
Adair, IA	0.8116
Adams, IA	0.8116
Allamakee, IA	0.8116
Appanoose, IA	0.8116
Audubon, IA	0.8116
Benton, IA	0.8116
Boone, IA	0.8116
Bremer, IA	0.8733
Buchanan, IA	0.8116
Buena Vista, IA	0.8116
Butler, IA	0.8116
Calhoun, IA	0.8116
Carroll, IA	0.8116
Cass, IA	0.8116
Cedar, IA	0.8116
Cerro Gordo, IA	0.8116
Cherokee, IA	0.8116
Chickasaw, IA	0.8116
Clarke, IA	0.8116
Clay, IA	0.8116
Clayton, IA	0.8116
Clinton, IA	0.8116
Crawford, IA	0.8116
Davis, IA	0.8116
Decatur, IA	0.8116

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Delaware, IA	0.8116
Des Moines, IA	0.8116
Dickinson, IA	0.8116
Emmet, IA	0.8116
Fayette, IA	0.8116
Floyd, IA	0.8116
Franklin, IA	0.8116
Fremont, IA	0.8116
Greene, IA	0.8116
Grundy, IA	0.8116
Guthrie, IA	0.8116
Hamilton, IA	0.8116
Hancock, IA	0.8116
Hardin, IA	0.8116
Harrison, IA	0.8116
Henry, IA	0.8116
Howard, IA	0.8116
Humboldt, IA	0.8116
Ida, IA	0.8116
Iowa, IA	0.8116
Jackson, IA	0.8116
Jasper, IA	0.8116
Jefferson, IA	0.8116
Jones, IA	0.8116
Keokuk, IA	0.8116
Kossuth, IA	0.8116
Lee, IA	0.8116
Louisa, IA	0.8116
Lucas, IA	0.8116
Lyon, IA	0.8116
Madison, IA	0.8116
Mahaska, IA	0.8116
Marion, IA	0.8116
Marshall, IA	0.8116
Mills, IA	0.8116
Mitchell, IA	0.8116
Monona, IA	0.8116
Monroe, IA	0.8116
Montgomery, IA	0.8116
Muscatine, IA	0.8116
Obrien, IA	0.8116
Osceola, IA	0.8116
Page, IA	0.8116
Palo Alto, IA	0.8116
Plymouth, IA	0.8116
Pocahontas, IA	0.8116
Poweshiek, IA	0.8116
Ringgold, IA	0.8116
Sac, IA	0.8116
Shelby, IA	0.8116
Sioux, IA	0.8116
Story, IA	0.8116
Tama, IA	0.8116
Taylor, IA	0.8116
Union, IA	0.8116
Van Buren, IA	0.8116
Wapello, IA	0.8116
Washington, IA	0.8116
Wayne, IA	0.8116
Webster, IA	0.8116
Winnebago, IA	0.8116
Winneshiek, IA	0.8116
Worth, IA	0.8116
Wright, IA	0.8116
Kansas:	
Allen, KS	0.8090
Anderson, KS	0.8090
Atchison, KS	0.8090
Barber, KS	0.8090
Barton, KS	0.8090

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Bourbon, KS	0.8090
Brown, KS	0.8090
Chase, KS	0.8090
Chautauqua, KS	0.8090
Cherokee, KS	0.8090
Cheyenne, KS	0.8090
Clark, KS	0.8090
Clay, KS	0.8090
Cloud, KS	0.8090
Coffey, KS	0.8090
Comanche, KS	0.8090
Cowley, KS	0.8090
Crawford, KS	0.8090
Decatur, KS	0.8090
Dickinson, KS	0.8090
Doniphan, KS	0.8090
Edwards, KS	0.8090
Elk, KS	0.8090
Ellis, KS	0.8090
Ellsworth, KS	0.8090
Finney, KS	0.8090
Ford, KS	0.8090
Franklin, KS	0.8090
Geary, KS	0.8090
Gove, KS	0.8090
Graham, KS	0.8090
Grant, KS	0.8090
Gray, KS	0.8090
Greeley, KS	0.8090
Greenwood, KS	0.8090
Hamilton, KS	0.8090
Harper, KS	0.8090
Haskell, KS	0.8090
Hodgeman, KS	0.8090
Jackson, KS	0.8090
Jefferson, KS	0.8090
Jewell, KS	0.8090
Kearny, KS	0.8090
Kingman, KS	0.8090
Kiowa, KS	0.8090
Labette, KS	0.8090
Lane, KS	0.8090
Lincoln, KS	0.8090
Linn, KS	0.8090
Logan, KS	0.8090
Lyon, KS	0.8090
McPherson, KS	0.8090
Marion, KS	0.8090
Marshall, KS	0.8090
Meade, KS	0.8090
Mitchell, KS	0.8090
Montgomery, KS	0.8090
Morris, KS	0.8090
Morton, KS	0.8090
Nemaha, KS	0.8090
Neosho, KS	0.8090
Ness, KS	0.8090
Norton, KS	0.8090
Osage, KS	0.8090
Osborne, KS	0.8090
Ottawa, KS	0.8090
Pawnee, KS	0.8090
Phillips, KS	0.8090
Pottawatomie, KS	0.8090
Pratt, KS	0.8090
Rawlins, KS	0.8090
Reno, KS	0.8090
Republic, KS	0.8090
Rice, KS	0.8090
Riley, KS	0.8090

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Rooks, KS	0.8090
Rush, KS	0.8090
Russell, KS	0.8090
Saline, KS	0.8090
Scott, KS	0.8090
Seward, KS	0.8090
Sheridan, KS	0.8090
Sherman, KS	0.8090
Smith, KS	0.8090
Stafford, KS	0.8090
Stanton, KS	0.8090
Stevens, KS	0.8090
Sumner, KS	0.8090
Thomas, KS	0.8090
Trego, KS	0.8090
Wabaunsee, KS	0.8090
Wallace, KS	0.8090
Washington, KS	0.8090
Wichita, KS	0.8090
Wilson, KS	0.8090
Woodson, KS	0.8090
Kentucky:	
Adair, KY	0.8103
Allen, KY	0.8103
Anderson, KY	0.8103
Ballard, KY	0.8103
Barren, KY	0.8103
Bath, KY	0.8103
Bell, KY	0.8103
Boyle, KY	0.8103
Bracken, KY	0.8103
Breathitt, KY	0.8103
Breckinridge, KY	0.8103
Butler, KY	0.8103
Caldwell, KY	0.8103
Calloway, KY	0.8103
Carlisle, KY	0.8103
Carroll, KY	0.8103
Casey, KY	0.8103
Clay, KY	0.8103
Clinton, KY	0.8103
Crittenden, KY	0.8103
Cumberland, KY	0.8103
Edmonson, KY	0.8103
Elliott, KY	0.8103
Estill, KY	0.8103
Fleming, KY	0.8103
Floyd, KY	0.8103
Franklin, KY	0.8103
Fulton, KY	0.8103
Garrard, KY	0.8103
Graves, KY	0.8103
Grayson, KY	0.8103
Green, KY	0.8103
Hancock, KY	0.8103
Hardin, KY	0.8103
Harlan, KY	0.8103
Harrison, KY	0.8103
Hart, KY	0.8103
Henry, KY	0.8103
Hickman, KY	0.8103
Hopkins, KY	0.8103
Jackson, KY	0.8103
Johnson, KY	0.8103
Knott, KY	0.8103
Knox, KY	0.8103
Larue, KY	0.8103
Laurel, KY	0.8103
Lawrence, KY	0.8103
Lee, KY	0.8103

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Leslie, KY	0.8103
Letcher, KY	0.8103
Lewis, KY	0.8103
Lincoln, KY	0.8103
Livingston, KY	0.8103
Logan, KY	0.8103
Lyon, KY	0.8103
McCracken, KY	0.8103
McCreary, KY	0.8103
McLean, KY	0.8103
Magoffin, KY	0.8103
Marion, KY	0.8103
Marshall, KY	0.8103
Martin, KY	0.8103
Mason, KY	0.8103
Meade, KY	0.8103
Menifee, KY	0.8103
Mercer, KY	0.8103
Metcalfe, KY	0.8103
Monroe, KY	0.8103
Montgomery, KY	0.8103
Morgan, KY	0.8103
Muhlenberg, KY	0.8103
Nelson, KY	0.8103
Nicholas, KY	0.8103
Ohio, KY	0.8103
Owen, KY	0.8103
Owsley, KY	0.8103
Perry, KY	0.8103
Pike, KY	0.8103
Powell, KY	0.8103
Pulaski, KY	0.8103
Robertson, KY	0.8103
Rockcastle, KY	0.8103
Rowan, KY	0.8103
Russell, KY	0.8103
Shelby, KY	0.9903
Simpson, KY	0.8103
Spencer, KY	0.8103
Taylor, KY	0.8103
Todd, KY	0.8103
Trigg, KY	0.8103
Trimble, KY	0.8103
Union, KY	0.8103
Warren, KY	0.8103
Washington, KY	0.8103
Wayne, KY	0.8103
Webster, KY	0.8103
Whitley, KY	0.8103
Wolfe, KY	0.8103
Louisiana:	
Allen, LA	0.8237
Assumption, LA	0.8237
Avoyelles, LA	0.8237
Beauregard, LA	0.8237
Bienville, LA	0.8237
Caldwell, LA	0.8237
Cameron, LA	0.8237
Catahoula, LA	0.8237
Claiborne, LA	0.8237
Concordia, LA	0.8237
De Soto, LA	0.8237
East Carroll, LA	0.8237
East Feliciana, LA	0.8237
Evangeline, LA	0.8237
Franklin, LA	0.8237
Grant, LA	0.8237
Iberia, LA	0.8237
Iberville, LA	0.8237
Jackson, LA	0.8237

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Jefferson Davis, LA	0.8237
La Salle, LA	0.8237
Lincoln, LA	0.8237
Madison, LA	0.8237
Morehouse, LA	0.8237
Natchitoches, LA	0.8237
Pointe Coupee, LA	0.8237
Red River, LA	0.8237
Richland, LA	0.8237
Sabine, LA	0.8237
St. Helena, LA	0.8237
St. Mary, LA	0.8237
Tangipahoa, LA	0.8237
Tensas, LA	0.8237
Union, LA	0.8237
Vermilion, LA	0.8237
Vernon, LA	0.8237
Washington, LA	0.8237
West Carroll, LA	0.8237
West Feliciana, LA	0.8237
Winn, LA	0.8237
Maine:	
Aroostook, ME	0.8731
Franklin, ME	0.8731
Hancock, ME	0.8731
Kennebec, ME	0.8731
Knox, ME	0.8731
Lincoln, ME	0.8731
Oxford, ME	0.8731
Piscataquis, ME	0.8731
Somerset, ME	0.8731
Waldo, ME	0.8731
Washington, ME	0.8731
Maryland:	
Caroline, MD	0.9206
Dorchester, MD	0.9206
Garrett, MD	0.9206
Kent, MD	0.9206
St. Marys, MD	0.9206
Somerset, MD	0.9206
Talbot, MD	0.9206
Wicomico, MD	0.9206
Worcester, MD	0.9206
Massachusetts:	
Dukes, MA	1.0272
Franklin, MA	1.0272
Nantucket, MA	1.0272
Michigan:	
Alcona, MI	0.9452
Alger, MI	0.9452
Alpena, MI	0.9452
Antrim, MI	0.9452
Arenac, MI	0.9452
Baraga, MI	0.9452
Barry, MI	0.9452
Benzie, MI	0.9452
Branch, MI	0.9452
Cass, MI	0.9452
Charlevoix, MI	0.9452
Cheboygan, MI	0.9452
Chippewa, MI	0.9452
Clare, MI	0.9452
Crawford, MI	0.9452
Delta, MI	0.9452
Dickinson, MI	0.9452
Emmet, MI	0.9452
Gladwin, MI	0.9452
Gogebic, MI	0.9452
Grand Traverse, MI	0.9452
Gratiot, MI	0.9452

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Hillsdale, MI	0.9452
Houghton, MI	0.9452
Huron, MI	0.9452
Ionia, MI	0.9452
Iosco, MI	0.9452
Iron, MI	0.9452
Isabella, MI	0.9452
Kalkaska, MI	0.9452
Keweenaw, MI	0.9452
Lake, MI	0.9452
Leelanau, MI	0.9452
Luce, MI	0.9452
Mackinac, MI	0.9452
Manistee, MI	0.9452
Marquette, MI	0.9452
Mason, MI	0.9452
Mecosta, MI	0.9452
Menominee, MI	0.9452
Missaukee, MI	0.9452
Montcalm, MI	0.9452
Montmorency, MI	0.9452
Newaygo, MI	0.9452
Oceana, MI	0.9452
Ogemaw, MI	0.9452
Ontonagon, MI	0.9452
Osceola, MI	0.9452
Oscoda, MI	0.9452
Otsego, MI	0.9452
Presque Isle, MI	0.9452
Roscommon, MI	0.9452
St. Joseph, MI	0.9452
Sanilac, MI	0.9452
Schoolcraft, MI	0.9452
Shiawassee, MI	0.9452
Tuscola, MI	0.9452
Wexford, MI	0.9452
Minnesota:	
Aitkin, MN	0.8616
Becker, MN	0.8616
Beltrami, MN	0.8616
Big Stone, MN	0.8616
Blue Earth, MN	0.8616
Brown, MN	0.8616
Carlton, MN	0.8616
Cass, MN	0.8616
Chippewa, MN	0.8616
Clearwater, MN	0.8616
Cook, MN	0.8616
Cottonwood, MN	0.8616
Crow Wing, MN	0.8616
Dodge, MN	0.8616
Douglas, MN	0.8616
Faribault, MN	0.8616
Fillmore, MN	0.8616
Freeborn, MN	0.8616
Goodhue, MN	0.8616
Grant, MN	0.8616
Hubbard, MN	0.8616
Itasca, MN	0.8616
Jackson, MN	0.8616
Kanabec, MN	0.8616
Kandiyohi, MN	0.8616
Kittson, MN	0.8616
Koochiching, MN	0.8616
Lac Qui Parle, MN	0.8616
Lake, MN	0.8616
Lake of Woods, MN	0.8616
Le Sueur, MN	0.8616
Lincoln, MN	0.8616
Lyon, MN	0.8616

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Mc Leod, MN	0.8616
Mahnomen, MN	0.8616
Marshall, MN	0.8616
Martin, MN	0.8616
Meeker, MN	0.8616
Mille Lacs, MN	0.8616
Morrison, MN	0.8616
Mower, MN	0.8616
Murray, MN	0.8616
Nicollet, MN	0.8616
Nobles, MN	0.8616
Norman, MN	0.8616
Otter Tail, MN	0.8616
Pennington, MN	0.8616
Pine, MN	0.8616
Pipestone, MN	0.8616
Pope, MN	0.8616
Red Lake, MN	0.8616
Redwood, MN	0.8616
Renville, MN	0.8616
Rice, MN	0.8616
Rock, MN	0.8616
Roseau, MN	0.8616
Sibley, MN	0.8616
Steele, MN	0.8616
Stevens, MN	0.8616
Swift, MN	0.8616
Todd, MN	0.8616
Traverse, MN	0.8616
Wabasha, MN	0.8616
Wadena, MN	0.8616
Waseca, MN	0.8616
Watonwan, MN	0.8616
Wilkin, MN	0.8616
Winona, MN	0.8616
Yellow Medicine, MN	0.8616
Mississippi:	
Adams, MS	0.7951
Alcorn, MS	0.7951
Amite, MS	0.7951
Attala, MS	0.7951
Benton, MS	0.7951
Bolivar, MS	0.7951
Calhoun, MS	0.7951
Carroll, MS	0.7951
Chickasaw, MS	0.7951
Choctaw, MS	0.7951
Claiborne, MS	0.7951
Clarke, MS	0.7951
Clay, MS	0.7951
Coahoma, MS	0.7951
Copiah, MS	0.7951
Covington, MS	0.7951
Franklin, MS	0.7951
George, MS	0.7951
Greene, MS	0.7951
Grenada, MS	0.7951
Holmes, MS	0.7951
Humphreys, MS	0.7951
Issaquena, MS	0.7951
Itawamba, MS	0.7951
Jasper, MS	0.7951
Jefferson, MS	0.7951
Jefferson Davis, MS	0.7951
Jones, MS	0.7951
Kemper, MS	0.7951
Lafayette, MS	0.7951
Lauderdale, MS	0.7951
Lawrence, MS	0.7951
Leake, MS	0.7951

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Lee, MS	0.7951
Leflore, MS	0.7951
Lincoln, MS	0.7951
Lowndes, MS	0.7951
Marion, MS	0.7951
Marshall, MS	0.7951
Monroe, MS	0.7951
Montgomery, MS	0.7951
Neshoba, MS	0.7951
Newton, MS	0.7951
Noxubee, MS	0.7951
Oktibbeha, MS	0.7951
Panola, MS	0.7951
Pearl River, MS	0.7951
Perry, MS	0.7951
Pike, MS	0.7951
Pontotoc, MS,	0.7951
Prentiss, MS	0.7951
Quitman, MS	0.7951
Scott, MS	0.7951
Sharkey, MS	0.7951
Simpson, MS	0.7951
Smith, MS	0.7951
Stone, MS	0.7951
Sunflower, MS	0.7951
Tallahatchie, MS	0.7951
Tate, MS	0.7951
Tippah, MS	0.7951
Tishomingo, MS	0.7951
Tunica, MS	0.7951
Union, MS	0.7951
Walthall, MS	0.7951
Warren, MS	0.7951
Washington, MS	0.7951
Wayne, MS	0.7951
Webster, MS	0.7951
Wilkinson, MS	0.7951
Winston, MS	0.7951
Yalobusha, MS	0.7951
Yazoo, MS	0.7951
Missouri:	
Adair, MO	0.8198
Atchison, MO	0.8198
Audrain, MO	0.8198
Barry, MO	0.8198
Barton, MO.	0.8198
Bates, MO	0.8198
Benton, MO	0.8198
Bollinger, MO	0.8198
Butler, MO	0.8198
Caldwell, MO	0.8198
Callaway, MO	0.8198
Camden, MO	0.8198
Cape Girardeau, MO	0.8198
Carroll, MO	0.8198
Carter, MO	0.8198
Cedar, MO	0.8198
Chariton, MO	0.8198
Clark, MO	0.8198
Cole, MO	0.8198
Cooper, MO	0.8198
Crawford, MO	0.8198
Dade, MO	0.8198
Dallas, MO	0.8198
Daviess, MO	0.8198
De Kalb, MO	0.8198
Dent, MO	0.8198
Douglas, MO	0.8198
Dunklin, MO	0.8198
Gasconade, MO	0.8198

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Gentry, MO	0.8198
Grundy, MO	0.8198
Harrison, MO	0.8198
Henry, MO	0.8198
Hickory, MO	0.8198
Holt, MO	0.8198
Howard, MO	0.8198
Howell, MO	0.8198
Iron, MO	0.8198
Johnson, MO	0.8198
Knox, MO	0.8198
Laclede, MO	0.8198
Lawrence, MO	0.8198
Lewis, MO	0.8198
Linn, MO	0.8198
Livingston, MO	0.8198
McDonald, MO	0.8198
Macon, MO	0.8198
Madison, MO	0.8198
Maries, MO	0.8198
Marion, MO	0.8198
Mercer, MO	0.8198
Miller, MO	0.8198
Mississippi, MO	0.8198
Moniteau, MO	0.8198
Monroe, MO	0.8198
Montgomery, MO	0.8198
Morgan, MO	0.8198
New Madrid, MO	0.8198
Nodaway, MO	0.8198
Oregon, MO	0.8198
Osage, MO	0.8198
Ozark, MO	0.8198
Pemiscot, MO	0.8198
Perry, MO	0.8198
Pettis, MO	0.8198
Phelps, MO	0.8198
Pike, MO	0.8198
Polk, MO	0.8198
Pulaski, MO	0.8198
Putnam, MO	0.8198
Ralls, MO	0.8198
Randolph, MO	0.8198
Reynolds, MO	0.8198
Ripley, MO	0.8198
St. Clair, MO	0.8198
St. Genevieve, MO	0.8198
St. Francois, MO	0.8198
Saline, MO	0.8198
Schuyler, MO	0.8198
Scotland, MO	0.8198
Scott, MO	0.8198
Shannon, MO	0.8198
Shelby, MO	0.8198
Stoddard, MO	0.8198
Stone, MO	0.8198
Sullivan, MO	0.8198
Taney, MO	0.8198
Texas, MO	0.8198
Vernon, MO	0.8198
Washington, MO	0.8198
Wayne, MO	0.8198
Worth, MO	0.8198
Wright, MO	0.8198
Montana:	
Beaverhead, MT	0.8687
Big Horn, MT	0.8687
Blaine, MT	0.8687
Broadwater, MT	0.8687
Carbon, MT	0.8687

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Carter, MT	0.8687
Chouteau, MT	0.8687
Custer, MT	0.8687
Daniels, MT	0.8687
Dawson, MT	0.8687
Deer Lodge, MT	0.8687
Fallon, MT	0.8687
Fergus, MT	0.8687
Flathead, MT	0.8687
Gallatin, MT	0.8687
Garfield, MT	0.8687
Glacier, MT	0.8687
Golden Valley, MT	0.8687
Granite, MT	0.8687
Hill, MT	0.8687
Jefferson, MT	0.8687
Judith Basin, MT	0.8687
Lake, MT	0.8687
Lewis and Clark, MT	0.8687
Liberty, MT	0.8687
Lincoln, MT	0.8687
Mccone, MT	0.8687
Madison, MT	0.8687
Meagher, MT	0.8687
Mineral, MT	0.8687
Missoula, MT	0.8687
Musselshell, MT	0.8687
Park, MT	0.8687
Petroleum, MT	0.8687
Phillips, MT	0.8687
Pondera, MT	0.8687
Powder River, MT	0.8687
Powell, MT	0.8687
Prairie, MT	0.8687
Ravalli, MT	0.8687
Richland, MT	0.8687
Roosevelt, MT	0.8687
Rosebud, MT	0.8687
Sanders, MT	0.8687
Sheridan, MT	0.8687
Silver bow, MT	0.8687
Stillwater, MT	0.8687
Sweet Grass, MT	0.8687
Teton, MT	0.8687
Toole, MT	0.8687
Treasure, MT	0.8687
Valley, MT	0.8687
Wheatland, MT	0.8687
Wibaux, MT	0.8687
Yellowstone Natl Park, MT	0.8687
Nebraska:	
Adams, NE	0.8000
Antelope, NE	0.8000
Arthur, NE	0.8000
Banner, NE	0.8000
Blaine, NE	0.8000
Boone, NE	0.8000
Box Butte, NE	0.8000
Boyd, NE	0.8000
Brown, NE	0.8000
Buffalo, NE	0.8000
Burt, NE	0.8000
Butler, NE	0.8000
Cedar, NE	0.8000
Chase, NE	0.8000
Cherry, NE	0.8000
Cheyenne, NE	0.8000
Clay, NE	0.8000
Colfax, NE	0.8000
Cuming, NE	0.8000

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Custer, NE	0.8000
Dawes, NE	0.8000
Dawson, NE	0.8000
Deuel, NE	0.8000
Dixon, NE	0.8000
Dodge, NE	0.8000
Dundy, NE	0.8000
Fillmore, NE	0.8000
Franklin, NE	0.8000
Frontier, NE,	0.8000
Furnas, NE	0.8000
Gage, NE	0.8000
Garden, NE	0.8000
Garfield, NE	0.8000
Gosper, NE	0.8000
Grant, NE	0.8000
Greeley, NE	0.8000
Hall, NE	0.8000
Hamilton, NE	0.8000
Harlan, NE	0.8000
Hayes, NE	0.8000
Hitchcock, NE	0.8000
Holt, NE	0.8000
Hooker, NE	0.8000
Howard, NE	0.8000
Jefferson, NE	0.8000
Johnson, NE	0.8000
Kearney, NE	0.8000
Keith, NE	0.8000
Keya Paha, NE	0.8000
Kimball, NE	0.8000
Knox, NE	0.8000
Lincoln, NE	0.8000
Logan, NE	0.8000
Loup, NE	0.8000
Mc Pherson, NE	0.8000
Madison, NE	0.8000
Merrick, NE	0.8000
Morrill, NE	0.8000
Nance, NE	0.8000
Nemaha, NE	0.8000
Nuckolls, NE	0.8000
Otoe, NE	0.8000
Pawnee, NE	0.8000
Perkins, NE	0.8000
Phelps, NE	0.8000
Pierce, NE	0.8000
Platte, NE	0.8000
Polk, NE	0.8000
Red Willow, NE	0.8000
Richardson, NE	0.8000
Rock, NE	0.8000
Saline, NE	0.8000
Saunders, NE	0.8000
Scott Bluff, NE	0.8000
Seward, NE	0.8000
Sheridan, NE	0.8000
Sherman, NE	0.8000
Sioux, NE	0.8000
Stanton, NE	0.8000
Thayer, NE	0.8000
Thomas, NE	0.8000
Thurston, NE	0.8000
Valley, NE	0.8000
Wayne, NE	0.8000
Webster, NE	0.8000
Wheeler, NE	0.8000
York, NE	0.8000
Nevada:	
Churchill, NV	0.9912

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Douglas, NV	0.9912
Elko, NV	0.9912
Esmeralda, NV	0.9912
Eureka, NV	0.9912
Humboldt, NV	0.9912
Lander, NV	0.9912
Lincoln, NV	0.9912
Lyon, NV	0.9912
Mineral, NV	0.9912
Pershing, NV	0.9912
Storey, NV	0.9912
White Pine, NV	0.9912
Carson City, NV	0.9912
New Hampshire:	
Belknap, NH	1.0337
Carroll, NH	1.0337
Cheshire, NH	1.0337
Coos, NH	1.0337
Grafton, NH	1.0337
Sullivan, NH	1.0337
New Mexico:	
Catron, NM	0.9046
Chaves, NM	0.9046
Cibola, NM	0.9046
Colfax, NM	0.9046
Curry, NM	0.9046
De Baca, NM	0.9046
Eddy, NM	0.9046
Grant, NM	0.9046
Guadalupe, NM	0.9046
Harding, NM	0.9046
Hidalgo, NM	0.9046
Lea, NM	0.9046
Lincoln, NM	0.9046
Luna, NM	0.9046
Mckinley, NM	0.9046
Mora, NM	0.9046
Otero, NM	0.9046
Quay, NM	0.9046
Rio Arriba, NM	0.9046
Roosevelt, NM	0.9046
San Juan, NM	0.9046
San Miguel, NM	0.9046
Sierra, NM	0.9046
Socorro, NM	0.9046
Taos, NM	0.9046
Torrance, NM	0.9046
Union, NM	0.9046
New York:	
Allegany, NY	0.8843
Cattaraugus, NY	0.8843
Chenango, NY	0.8843
Clinton, NY	0.8843
Columbia, NY	0.8843
Cortland, NY	0.8843
Delaware, NY	0.8843
Essex, NY	0.8843
Franklin, NY	0.8843
Fulton, NY	0.8843
Greene, NY	0.8985
Hamilton, NY	0.8843
Jefferson, NY	0.8843
Lewis, NY	0.8843
Otsego, NY	0.8843
St. Lawrence, NY	0.8843
Schuyler, NY	0.8843
Seneca, NY	0.8843
Steuben, NY	0.8843
Sullivan, NY	0.8843
Tompkins, NY	0.8843

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Ulster, NY	0.8843
Wyoming, NY	0.8843
Yates, NY	0.8843
North Carolina:	
Alleghany, NC	0.8491
Anson, NC	0.8491
Ashe, NC	0.8491
Avery, NC	0.8491
Beaufort, NC	0.8491
Bertie, NC	0.8491
Bladen, NC	0.8491
Camden, NC	0.8491
Carteret, NC	0.8491
Caswell, NC	0.8491
Cherokee, NC	0.8491
Chowan, NC	0.8491
Clay, NC	0.8491
Cleveland, NC	0.8491
Columbus, NC	0.8491
Craven, NC	0.8491
Dare, NC	0.8491
Duplin, NC	0.8491
Gates, NC	0.8491
Graham, NC	0.8491
Granville, NC	0.8491
Greene, NC	0.8491
Halifax, NC	0.8491
Harnett, NC	0.8491
Haywood, NC	0.8491
Henderson, NC	0.8491
Hertford, NC	0.8491
Hoke, NC	0.8491
Hyde, NC	0.8491
Iredell, NC	0.8491
Jackson, NC	0.8491
Jones, NC	0.8491
Lee, NC	0.8491
Lenoir, NC	0.8491
McDowell, NC	0.8491
Macon, NC	0.8491
Martin, NC	0.8491
Mitchell, NC	0.8491
Montgomery, NC	0.8491
Moore, NC	0.8491
Northampton, NC	0.8491
Pamlico, NC	0.8491
Pasquotank, NC	0.8491
Pender, NC	0.8491
Perquimans, NC	0.8491
Person, NC	0.8491
Polk, NC	0.8491
Richmond, NC	0.8491
Robeson, NC	0.8491
Rockingham, NC	0.8491
Rutherford, NC	0.8491
Sampson, NC	0.8491
Scotland, NC	0.8491
Stanly, NC	0.8491
Surry, NC	0.8491
Swain, NC	0.8491
Transylvania, NC	0.8491
Tyrrell, NC	0.8491
Vance, NC	0.8491
Warren, NC	0.8491
Washington, NC	0.8491
Watauga, NC	0.8491
Wilkes, NC	0.8491
Wilson, NC	0.8491
Yancey, NC	0.8491
North Dakota:	

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Adams, ND	0.8217
Barnes, ND	0.8217
Benson, ND	0.8217
Billings, ND	0.8217
Bottineau, ND	0.8217
Bowman, ND	0.8217
Burke, ND	0.8217
Cavalier, ND	0.8217
Dickey, ND	0.8217
Divide, ND	0.8217
Dunn, ND	0.8217
Eddy, ND	0.8217
Emmons, ND	0.8217
Foster, ND	0.8217
Golden Valley, ND	0.8217
Grant, ND	0.8217
Griggs, ND	0.8217
Hettinger, ND	0.8217
Kidder, ND	0.8217
La Moure, ND	0.8217
Logan, ND	0.8217
McHenry, ND	0.8217
McIntosh, ND	0.8217
McKenzie, ND	0.8217
McLean, ND	0.8217
Mercer, ND	0.8217
Mountrail, ND	0.8217
Nelson, ND	0.8217
Oliver, ND	0.8217
Pembina, ND	0.8217
Pierce, ND	0.8217
Ramsey, ND	0.8217
Ransom, ND	0.8217
Renville, ND	0.8217
Richland, ND	0.8217
Rolette, ND	0.8217
Sargent, ND	0.8217
Sheridan, ND	0.8217
Sioux, ND	0.8217
Slope, ND	0.8217
Stark, ND	0.8217
Steele, ND	0.8217
Stutsman, ND	0.8217
Towner, ND	0.8217
Traill, ND	0.8217
Walsh, ND	0.8217
Ward, ND	0.8217
Wells, ND	0.8217
Williams, ND	0.8217
Ohio:	
Adams, OH	0.9058
Ashland, OH	0.9058
Athens, OH	0.9058
Champaign, OH	0.9058
Clinton, OH	0.9058
Coshocton, OH	0.9058
Darke, OH	0.9058
Defiance, OH	0.9058
Erie, OH	0.9058
Fayette, OH	0.9058
Gallia, OH	0.9058
Guernsey, OH	0.9058
Hancock, OH	0.9058
Hardin, OH	0.9058
Harrison, OH	0.9058
Henry, OH	0.9058
Highland, OH	0.9058
Hocking, OH	0.9058
Holmes, OH	0.9058
Huron, OH	0.9058

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Jackson, OH	0.9058
Knox, OH	0.9058
Logan, OH	0.9058
Marion, OH	0.9058
Meigs, OH	0.9058
Mercer, OH	0.9058
Monroe, OH	0.9058
Morgan, OH	0.9058
Morrow, OH	0.9058
Muskingum, OH	0.9058
Noble, OH	0.9058
Ottawa, OH	0.9058
Paulding, OH	0.9058
Perry, OH	0.9058
Pike, OH	0.9058
Preble, OH	0.9058
Putnam, OH	0.9058
Ross, OH	0.9058
Sandusky, OH	0.9058
Scioto, OH	0.9058
Seneca, OH	0.9058
Shelby, OH	0.9058
Tuscarawas, OH	0.9058
Union, OH	0.9928
Van Wert, OH	0.9058
Vinton, OH	0.9058
Wayne, OH	0.9058
Williams, OH	0.9058
Wyandot, OH	0.9058
Oklahoma:	
Adair, OK	0.8389
Alfalfa, OK	0.8389
Atoka, OK	0.8389
Beaver, OK	0.8389
Beckham, OK	0.8389
Blaine, OK	0.8389
Bryan, OK	0.8389
Caddo, OK	0.8389
Carter, OK	0.8389
Cherokee, OK	0.8389
Choctaw, OK	0.8389
Cimarron, OK	0.8389
Coal, OK	0.8389
Cotton, OK	0.8389
Craig, OK	0.8389
Custer, OK	0.8389
Delaware, OK	0.8389
Dewey, OK	0.8389
Ellis, OK	0.8389
Garvin, OK	0.8389
Grady, OK	0.8389
Grant, OK	0.8389
Greer, OK	0.8389
Harmon, OK	0.8389
Harper, OK	0.8389
Haskell, OK	0.8389
Hughes, OK	0.8389
Jackson, OK	0.8389
Jefferson, OK	0.8389
Johnston, OK	0.8389
Kay, OK	0.8389
Kingfisher, OK	0.8389
Kiowa, OK	0.8389
Latimer, OK	0.8389
Le Flore, OK	0.8389
Lincoln, OK	0.8389
Love, OK	0.8389
Mccurtain, OK	0.8389
Mcintosh, OK	0.8389
Major, OK	0.8389

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Marshall, OK	0.8389
Mayes, OK	0.8389
Murray, OK	0.8389
Muskogee, OK	0.8389
Noble, OK	0.8389
Nowata, OK	0.8389
Okfuskee, OK	0.8389
Okmulgee, OK	0.8389
Ottawa, OK	0.8389
Pawnee, OK	0.8389
Payne, OK	0.8389
Pittsburg, OK	0.8389
Pontotoc, OK	0.8389
Pushmataha, OK	0.8389
Roger Mills, OK	0.8389
Seminole, OK	0.8389
Stephens, OK	0.8389
Texas, OK	0.8389
Tillman, OK	0.8389
Washington, OK	0.8389
Washita, OK	0.8389
Woods, OK	0.8389
Woodward, OK	0.8389
Oregon:	
Baker, OR	0.9795
Benton, OR	0.9795
Clatsop, OR	0.9795
Coos, OR	0.9795
Crook, OR	0.9795
Curry, OR	0.9795
Deschutes, OR	0.9795
Douglas, OR	0.9795
Gilliam, OR	0.9795
Grant, OR	0.9795
Harney, OR	0.9795
Hood River, OR	0.9795
Jefferson, OR	0.9795
Josephine, OR	0.9795
Klamath, OR	0.9795
Lake, OR	0.9795
Lincoln, OR	0.9795
Linn, OR	0.9795
Malheur, OR	0.9795
Morrow, OR	0.9795
Sherman, OR	0.9795
Tillamook, OR	0.9795
Umatilla, OR	0.9795
Union, OR	0.9795
Wallowa, OR	0.9795
Wasco, OR	0.9795
Wheeler, OR	0.9795
Pennsylvania:	
Adams, PA	0.9890
Armstrong, PA	0.9905
Bedford, PA	0.9905
Bradford, PA	0.9905
Cameron, PA	0.9905
Clarion, PA	0.9905
Clearfield, PA	0.9905
Clinton, PA	0.9905
Crawford, PA	0.9905
Elk, PA	0.9905
Forest, PA	0.9905
Franklin, PA	0.9905
Fulton, PA	0.9905
Greene, PA	0.9905
Huntingdon, PA	0.9905
Indiana, PA	0.9905
Jefferson, PA	0.9905
Juniata, PA	0.9905

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Lawrence, PA	0.9905
McKean, PA	0.9905
Mifflin, PA	0.9905
Monroe, PA	0.9519
Montour, PA	0.9905
Northumberland, PA	0.9905
Potter, PA	0.9905
Schuylkill, PA	0.9905
Snyder, PA	0.9905
Sullivan, PA	0.9905
Tioga, PA	0.9905
Susquehanna, PA	0.9905
Union, PA	0.9905
Venango, PA	0.9905
Warren, PA	0.9905
Wayne, PA	0.9905
Puerto Rico:	
Adjuntas, PR	0.6877
Aibonito, PR	0.6877
Arroyo, PR	0.6877
Barranquitas, PR	0.6877
Ciales, PR	0.6877
Coamo, PR	0.6877
Culebra, PR	0.6877
Guanica, PR	0.6877
Guayama, PR	0.6877
Isabela, PR	0.6877
Jayuya, PR	0.6877
Lajas, PR	0.6877
Lares, PR	0.6877
Las Marias, PR	0.6877
Maricao, PR	0.6877
Maunabo, PR	0.6877
Orocovis, PR	0.6877
Patillas, PR	0.6877
Quebradillas, PR	0.6877
Rincon, PR	0.6877
Salinas, PR	0.6877
San Sebastian, PR	0.6877
Santa Isabel, PR	0.6877
Utuado, PR	0.6877
Vieques, PR	0.6877
Puerto Rico, Nfd, PR	0.6877
South Carolina:	
Abbeville, SC	0.8058
Allendale, SC	0.8058
Bamberg, SC	0.8058
Barnwell, SC	0.8058
Beaufort, SC	0.8058
Calhoun, SC	0.8058
Chester, SC	0.8058
Chesterfield, SC	0.8058
Clarendon, SC	0.8058
Colleton, SC	0.8058
Darlington, SC	0.8058
Dillon, SC	0.8058
Fairfield, SC	0.8058
Georgetown, SC	0.8058
Greenwood, SC	0.8058
Hampton, SC	0.8058
Jasper, SC	0.8058
Kershaw, SC	0.8058
Lancaster, SC	0.8058
Laurens, SC	0.8058
Lee, SC	0.8058
Mccormick, SC	0.8058
Marion, SC	0.8058
Marlboro, SC	0.8058
Newberry, SC	0.8058
Oconee, SC	0.8058

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Orangeburg, SC	0.8058
Saluda, SC	0.8058
Union, SC	0.8058
Williamsburg, SC	0.8058
South Dakota:	
Aurora, SD	0.8000
Beadle, SD	0.8000
Bennett, SD	0.8000
Bon Homme, SD	0.8000
Brookings, SD	0.8000
Brown, SD	0.8000
Brule, SD	0.8000
Buffalo, SD	0.8000
Butte, SD	0.8000
Campbell, SD	0.8000
Charles Mix, SD	0.8000
Clark, SD	0.8000
Clay, SD	0.8000
Codington, SD	0.8000
Corson, SD	0.8000
Custer, SD	0.8000
Davison, SD	0.8000
Day, SD	0.8000
Deuel, SD	0.8000
Dewey, SD	0.8000
Douglas, SD	0.8000
Edmunds, SD	0.8000
Fall River, SD	0.8000
Faulk, SD	0.8000
Grant, SD	0.8000
Gregory, SD	0.8000
Haakon, SD	0.8000
Hamlin, SD	0.8000
Hand, SD	0.8000
Hanson, SD	0.8000
Harding, SD	0.8000
Hughes, SD	0.8000
Hutchinson, SD	0.8000
Hyde, SD	0.8000
Jackson, SD	0.8000
Jerauld, SD	0.8000
Jones, SD	0.8000
Kingsbury, SD	0.8000
Lake, SD	0.8000
Lawrence, SD	0.8000
Lyman, SD	0.8000
McCook, SD	0.8000
McPherson, SD	0.8000
Marshall, SD	0.8000
Meade, SD	0.8000
Mellette, SD	0.8000
Miner, SD	0.8000
Moody, SD	0.8000
Perkins, SD	0.8000
Potter, SD	0.8000
Roberts, SD	0.8000
Sanborn, SD	0.8000
Shannon, SD	0.8000
Spink, SD	0.8000
Stanley, SD	0.8000
Sully, SD	0.8000
Todd, SD	0.8000
Tripp, SD	0.8000
Turner, SD	0.8000
Union, SD	0.8000
Walworth, SD	0.8000
Washabaugh, SD	0.8000
Yankton, SD	0.8000
Ziebach, SD	0.8000
Tennessee:	

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Bedford, TN	0.8000
Benton, TN	0.8000
Bledsoe, TN	0.8000
Bradley, TN	0.8000
Campbell, TN	0.8000
Cannon, TN	0.8000
Carroll, TN	0.8000
Chester, TN	0.8000
Claiborne, TN	0.8000
Clay, TN	0.8000
Cocke, TN	0.8000
Coffee, TN	0.8000
Crockett, TN	0.8000
Cumberland, TN	0.8000
Decatur, TN	0.8000
DeKalb, TN	0.8000
Dyer, TN	0.8000
Fentress, TN	0.8000
Franklin, TN	0.8000
Gibson, TN	0.8000
Giles, TN	0.8000
Grainger, TN	0.8791
Greene, TN	0.8000
Grundy, TN	0.8000
Hamblen, TN	0.8000
Hancock, TN	0.8000
Hardeman, TN	0.8000
Hardin, TN	0.8000
Haywood, TN	0.8000
Henderson, TN	0.8000
Henry, TN	0.8000
Hickman, TN	0.8000
Houston, TN	0.8000
Humphreys, TN	0.8000
Jackson, TN	0.8000
Jefferson, TN	0.8791
Johnson, TN	0.8000
Lake, TN	0.8000
Lauderdale, TN	0.8000
Lawrence, TN	0.8000
Lewis, TN	0.8000
Lincoln, TN	0.8000
McMinn, TN	0.8000
McNairy, TN	0.8000
Macon, TN	0.8000
Marshall, TN	0.8000
Maury, TN	0.8000
Meigs, TN	0.8000
Monroe, TN	0.8000
Moore, TN	0.8000
Morgan, TN	0.8000
Obion, TN	0.8000
Overton, TN	0.8000
Perry, TN	0.8000
Pickett, TN	0.8000
Polk, TN	0.8000
Putnam, TN	0.8000
Rhea, TN	0.8000
Roane, TN	0.8000
Scott, TN	0.8000
Sequatchie, TN	0.9114
Smith, TN	0.8000
Stewart, TN	0.8000
Trousdale, TN	0.8000
Van Buren, TN	0.8000
Warren, TN	0.8000
Wayne, TN	0.8000
Weakley, TN	0.8000
White, TN	0.8000
Texas:	

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Anderson, TX	0.8082
Andrews, TX	0.8082
Angelina, TX	0.8082
Aransas, TX.,	0.8082
Armstrong, TX	0.8082
Atascosa, TX	0.8082
Austin, TX	0.8082
Bailey, TX	0.8082
Bandera, TX	0.8082
Baylor, TX	0.8082
Bee, TX	0.8082
Blanco, TX	0.8082
Borden, TX	0.8082
Bosque, TX	0.8082
Brewster, TX	0.8082
Briscoe, TX	0.8082
Brooks, TX	0.8082
Brown, TX	0.8082
Burleson, TX	0.8082
Burnet, TX	0.8082
Calhoun, TX	0.8082
Callahan, TX	0.8082
Camp, TX	0.8082
Carson, TX	0.8082
Cass, TX	0.8082
Castro, TX	0.8082
Cherokee, TX	0.8082
Childress, TX	0.8082
Clay, TX	0.8082
Cochran, TX	0.8082
Coke, TX	0.8082
Coleman, TX	0.8082
Collingsworth, TX	0.8082
Colorado, TX	0.8082
Comanche, TX	0.8082
Concho, TX	0.8082
Cooke, TX	0.8082
Cottle, TX,	0.8082
Crane, TX	0.8082
Crockett, TX	0.8082
Crosby, TX	0.8082
Culberson, TX	0.8082
Dallam, TX	0.8082
Dawson, TX	0.8082
Deaf Smith, TX	0.8082
Delta, TX	0.8082
De Witt, TX	0.8082
Dickens, TX	0.8082
Dimmit, TX	0.8082
Donley, TX	0.8082
Duval, TX	0.8082
Eastland, TX	0.8082
Edwards, TX	0.8082
Erath, TX	0.8082
Falls, TX	0.8082
Fannin, TX	0.8082
Fayette, TX	0.8082
Fisher, TX	0.8082
Floyd, TX	0.8082
Foard, TX	0.8082
Franklin, TX	0.8082
Freestone, TX	0.8082
Frio, TX	0.8082
Gaines, TX	0.8082
Garza, TX	0.8082
Gillespie, TX	0.8082
Glasscock, TX	0.8082
Goliad, TX	0.8082
Gonzales, TX	0.8082
Gray, TX	0.8082

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Grimes, TX	0.8082
Hale, TX	0.8082
Hall, TX	0.8082
Hamilton, TX	0.8082
Hansford, TX	0.8082
Hardeman, TX	0.8082
Hartley, TX	0.8082
Haskell, TX	0.8082
Hemphill, TX	0.8082
Hill, TX	0.8082
Hockley, TX	0.8082
Hopkins, TX	0.8082
Houston, TX	0.8082
Howard, TX	0.8082
Hudspeth, TX	0.8082
Hutchinson, TX	0.8082
Irion, TX	0.8082
Jack, TX	0.8082
Jackson, TX	0.8082
Jasper, TX	0.8082
Jeff Davis, TX	0.8082
Jim Hogg, TX	0.8082
Jim Wells, TX	0.8082
Jones, TX	0.8082
Karnes, TX	0.8082
Kendall, TX	0.8082
Kenedy, TX	0.8082
Kent, TX	0.8082
Kerr, TX	0.8082
Kimble, TX	0.8082
King, TX	0.8082
Kinney, TX	0.8082
Kleberg, TX	0.8082
Knox, TX	0.8082
Lamar, TX	0.8082
Lamb, TX	0.8082
Lampasas, TX	0.8082
La Salle, TX	0.8082
Lavaca, TX	0.8082
Lee, TX	0.8082
Leon, TX	0.8082
Limestone, TX	0.8082
Lipscomb, TX	0.8082
Live Oak, TX	0.8082
Llano, TX	0.8082
Loving, TX	0.8082
Lynn, TX	0.8082
Mc Culloch, TX	0.8082
Mc Mullen, TX	0.8082
Madison, TX	0.8082
Marion, TX	0.8082
Martin, TX	0.8082
Mason, TX	0.8082
Matagorda, TX	0.8082
Maverick, TX	0.8082
Medina, TX	0.8082
Menard, TX	0.8082
Milam, TX	0.8082
Mills, TX	0.8082
Mitchell, TX	0.8082
Montague, TX	0.8082
Moore, TX	0.8082
Morris, TX	0.8082
Motley, TX	0.8082
Nacogdoches, TX	0.8082
Navarro, TX	0.8082
Newton, TX	0.8082
Nolan, TX	0.8082
Ochiltree, TX	0.8082
Oldham, TX	0.8082

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Palo Pinto, TX	0.8082
Panola, TX	0.8082
Parmer, TX	0.8082
Pecos, TX	0.8082
Polk, TX	0.8082
Presidio, TX	0.8082
Rains, TX	0.8082
Reagan, TX	0.8082
Real, TX	0.8082
Red River, TX	0.8082
Reeves, TX	0.8082
Refugio, TX	0.8082
Roberts, TX	0.8082
Robertson, TX	0.8082
Runnels, TX	0.8082
Rusk, TX	0.8082
Sabine, TX	0.8082
San Augustine, TX	0.8082
San Jacinto, TX	0.8082
San Saba, TX	0.8082
Schleicher, TX	0.8082
Scurry, TX	0.8082
Shackelford, TX	0.8082
Shelby, TX	0.8082
Sherman, TX	0.8082
Somervell, TX	0.8082
Starr, TX	0.8082
Stephens, TX	0.8082
Sterling, TX	0.8082
Stonewall, TX	0.8082
Sutton, TX	0.8082
Swisher, TX	0.8082
Terrell, TX	0.8082
Terry, TX	0.8082
Throckmorton, TX	0.8082
Titus, TX	0.8082
Trinity, TX	0.8082
Tyler, TX	0.8082
Upton, TX	0.8082
Uvalde, TX	0.8082
Val Verde, TX	0.8082
Van Zandt, TX	0.8082
Walker, TX	0.8082
Ward, TX	0.8082
Washington, TX	0.8082
Wharton, TX	0.8082
Wheeler, TX	0.8082
Wilbarger, TX	0.8082
Willacy, TX	0.8082
Winkler, TX	0.8082
Wise, TX	0.8082
Wood, TX	0.8082
Yoakum, TX	0.8082
Young, TX	0.8082
Zapata, TX	0.8082
Zavala, TX	0.8082
Utah:	
Beaver, UT	0.8632
Box Elder, UT	0.8632
Cache, UT	0.8632
Carbon, UT	0.8632
Daggett, UT	0.8632
Duchesne, UT	0.8632
Emery, UT	0.8632
Garfield, UT	0.8632
Grand, UT	0.8632
Iron, UT	0.8632
Juab, UT	0.8632
Millard, UT	0.8632
Morgan, UT	0.8632

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Piute, UT	0.8632
Rich, UT	0.8632
San Juan, UT	0.8632
Sanpete, UT	0.8632
Sevier, UT	0.8632
Summit, UT	0.8632
Tooele, UT	0.8632
Uintah, UT	0.8632
Wasatch, UT	0.8632
Washington, UT	0.8632
Wayne, UT	0.8632
Vermont:	
Addison, VT	0.9006
Bennington, VT	0.9006
Caledonia, VT	0.9006
Essex, VT	0.9006
Lamoille, VT	0.9006
Orange, VT	0.9006
Orleans, VT	0.9006
Rutland, VT	0.9006
Washington, VT	0.9006
Windham, VT	0.9006
Windsor, VT	0.9006
Virgin Islands	0.6594
Virginia:	
Accomack, VA	0.8346
Alleghany, VA	0.8346
Amelia, VA	0.8346
Appomattox, VA	0.8346
Augusta, VA	0.8346
Bath, VA	0.8346
Bland, VA	0.8346
Brunswick, VA	0.8346
Buchanan, VA	0.8346
Buckingham, VA	0.8346
Caroline, VA	0.8346
Carroll, VA	0.8346
Charlotte, VA	0.8346
Craig, VA	0.8346
Cumberland, VA	0.8346
Dickenson, VA	0.8346
Essex, VA	0.8346
Floyd, VA	0.8346
Franklin, VA	0.8346
Frederick, VA	0.8346
Giles, VA	0.8346
Grayson, VA	0.8346
Greensville, VA	0.8346
Halifax, VA	0.8346
Henry, VA	0.8346
Highland, VA	0.8346
King and Queen, VA	0.8346
King William, VA	0.8346
Lancaster, VA	0.8346
Lee, VA	0.8346
Louisa, VA	0.8346
Lunenburg, VA	0.8346
Madison, VA	0.8346
Mecklenburg, VA	0.8346
Middlesex, VA	0.8346
Montgomery, VA	0.8346
Nelson, VA	0.8346
Northampton, VA	0.8346
Northumberlnd, VA	0.8346
Nottoway, VA	0.8346
Orange, VA	0.8346
Page, VA	0.8346
Patrick, VA	0.8346
Prince Edward, VA	0.8346
Pulaski, VA	0.8346

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Rappahannock, VA	0.8346
Richmond, VA	0.8346
Rockbridge, VA	0.8346
Rockingham, VA	0.8346
Russell, VA	0.8346
Shenandoah, VA	0.8346
Smyth, VA	0.8346
Southampton, VA	0.8346
Surry, VA	0.8346
Sussex, VA	0.8346
Tazewell, VA	0.8346
Westmoreland, VA	0.8346
Wise, VA	0.8346
Wythe, VA	0.8346
Buena Vista City, VA	0.8346
Clifton Forge City, VA	0.8346
Covington City, VA	0.8346
Emporia City, VA	0.8346
Franklin City, VA	0.8346
Galax City, VA	0.8346
Harrisonburg City, VA	0.8346
Lexington City, VA	0.8346
Martinsville City, VA	0.8346
Nansemond City, VA	0.8346
Norton City, VA	0.8346
Radford City, VA	0.8346
South Boston City, VA	0.8346
Staunton City, VA	0.8346
Waynesboro City, VA	0.8346
Winchester City, VA	0.8346
Washington:	
Adams, WA	0.9843
Asotin, WA	0.9843
Chelan, WA	0.9843
Clallam, WA	0.9843
Columbia, WA	0.9843
Cowlitz, WA	0.9843
Douglas, WA	0.9843
Ferry, WA	0.9843
Garfield, WA	0.9843
Grant, WA	0.9843
Grays Harbor, WA	0.9843
Jefferson, WA	0.9843
Kittitas, WA	0.9843
Klickitat, WA	0.9843
Lewis, WA	0.9843
Lincoln, WA	0.9843
Mason, WA	0.9843
Okanogan, WA	0.9843
Pacific, WA	0.9843
Pend Oreille, WA	0.9843
San Juan, WA	0.9843
Skagit, WA	0.9843
Skamania, WA	0.9843
Stevens, WA	0.9843
Wahkiakum, WA	0.9843
Walla Walla, WA	0.9843
Whitman, WA	0.9843
West Virginia:	
Barbour, WV	0.8938
Boone, WV	0.8938
Braxton, WV	0.8938
Calhoun, WV	0.8938
Clay, WV	0.8938
Doddridge, WV	0.8938
Fayette, WV	0.8938
Gilmer, WV	0.8938
Grant, WV	0.8938
Greenbrier, WV	0.8938
Hampshire, WV	0.8938

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Hardy, WV	0.8938
Harrison, WV	0.8938
Jackson, WV	0.8938
Lewis, WV	0.8938
Lincoln, WV	0.8938
Logan, WV	0.8938
McDowell, WV	0.8938
Marion, WV	0.8938
Mason, WV	0.8938
Mercer, WV	0.8938
Mingo, WV	0.8938
Monongahela, WV	0.8938
Monroe, WV	0.8938
Morgan, WV	0.8938
Nicholas, WV	0.8938
Pendleton, WV	0.8938
Pleasants, WV	0.8938
Pocahontas, WV	0.8938
Preston, WV	0.8938
Raleigh, WV	0.8938
Randolph, WV	0.8938
Ritchie, WV	0.8938
Roane, WV	0.8938
Summers, WV	0.8938
Taylor, WV	0.8938
Tucker, WV	0.8938
Tyler, WV	0.8938
Upshur, WV	0.8938
Webster, WV	0.8938
Wetzel, WV	0.8938
Wirt, WV	0.8938
Wyoming, WV	0.8938
Wisconsin:	
Adams, WI	0.8518
Ashland, WI,	0.8518
Barron, WI	0.8518
Bayfield, WI	0.8518
Buffalo, WI	0.8518
Burnett, WI	0.8518
Clark, WI	0.8518
Columbia, WI	0.8518
Crawford, WI	0.8518
Dodge, WI	0.8518
Door, WI	0.8518
Dunn, WI	0.8518
Florence, WI	0.8518
Fond Du Lac, WI	0.8518
Forest, WI	0.8518
Grant, WI	0.8518
Green, WI	0.8518
Green lake, WI	0.8518
Iowa, WI	0.8518
Iron, WI	0.8518
Jackson, WI	0.8518
Jefferson, WI	0.8518
Juneau, WI	0.8518
Kewaunee, WI	0.8518
Lafayette, WI	0.8518
Langlade, WI	0.8518
Lincoln, WI	0.8518
Manitowoc, WI	0.8518
Marinette, WI	0.8518
Marquette, WI	0.8518
Menomonee, WI	0.8518
Monroe, WI	0.8518
Oconto, WI	0.8518
Oneida, WI	0.8518
Pepin, WI	0.8518
Polk, WI	0.8518
Portage, WI	0.8518

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

Nonurban area	Wage index [2]
Price, WI	0.8518
Richland, WI	0.8518
Rusk, WI	0.8518
Sauk, WI	0.8518
Sawyer, WI	0.8518
Shawano, WI	0.8518
Taylor, WI	0.8518
Trempealeau, WI	0.8518
Vernon, WI	0.8518
Vilas, WI	0.8518
Walworth, WI	0.8518
Washburn, WI	0.8518
Waupaca, WI	0.8518
Waushara, WI	0.8518
Wood, WI	0.8518
Wyoming:	
Albany, WY	0.9291
Big Horn, WY	0.9291
Campbell, WY	0.9291
Carbon, WY	0.9291
Converse, WY	0.9291
Crook, WY	0.9291
Fremont, WY	0.9291
Goshen, WY	0.9291
Hot Springs, WY	0.9291
Johnson, WY	0.9291
Lincoln, WY	0.9291
Niobrara, WY	0.9291
Park, WY	0.9291
Platte, WY	0.9291
Sheridan, WY	0.9291
Sublette, WY	0.9291
Sweetwater, WY	0.9291
Teton, WY	0.9291
Uinta, WY	0.9291
Washakie, WY	0.9291
Weston, WY	0.9291

[2] Wage index values are based on fiscal year 1993 hospital cost report data prior to reclassification. This wage index is further adjusted. Wage index values greater than 0.8 are subject to a budget neutrality adjustment of 1.020768. Wage index values below 0.8 are adjusted to be the greater of a 15 percent increase, subject to a maximum wage index value of 0.8, or an adjustment by multiplying the hospice wage index value for a given area by the budget neutrality adjustment. All of these adjustments are built into the wage index values reflected in Table B.

V. Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless we certify that a rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all hospices 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 rule has 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.

This impact analysis compares hospice payments under the current wage index (column 3 of the Table C) to the first transition year blend (column 4). The wage index blend for the first transition year of the 3-year transition is two-thirds of the current wage index added to one-third of the new wage index. The data used in developing the quantitative analysis for this final rule were obtained from the June 1996 update of the national claims history file of all bills submitted during fiscal year 1995. We deleted bills from hospices that have since closed.

Table C demonstrates the results of our analysis. The table categorizes hospices by various geographic and provider characteristics. The top row of the table demonstrates that the overall impact on the 1,834 hospices included in the analysis is budget neutral. The next two rows of the table categorize hospices according to their geographic location (urban and rural). There are 1,200 hospices located in urban areas included in our analysis and 634 hospices located in rural areas. The next two groupings in the table indicate the number of hospices by census region, also broken down by urban and rural hospices. The next grouping shows the impact on hospices based on the size of the hospice's program. We determined that the majority of hospice payments are made at the routine home care rate; therefore, we based the size of each individual hospice's program on the number of routine home care days provided in 1995. The next grouping shows the impact on hospices by type of ownership. The final grouping shows the impact on hospices defined by whether they are provider-based or freestanding.

In column 2 of the table we indicate the number of routine home care days that were included in our analysis, although the analysis was performed on all types of hospice care. Columns 3 and 4 show the payments that would have been made to hospices under the 1983 wage index and payments that would be made under the 1997 wage index. As the first row in column 4 indicates, the wage index is budget neutral. The final column shows the percent change in hospice payments based on the category of the hospice.

The results of our analysis show that the greatest increases are for urban hospices in the New England and Pacific regions, 4.4 percent and 1.7 percent respectively. The greatest decreases, besides Puerto Rico, are the urban East South Central and West South Central regions with 1.6 percent and 1.4 percent respectively. The most dramatic shift occurs in Puerto Rico, where urban payments decrease by 7.3 percent and rural payments decrease by 8.9 percent. The region most affected by the revision to the wage index floor is Puerto Rico. This is because the wage index values for the Puerto Rico region are more than 15 percent below 0.8. Under the current wage index floor, Puerto Rico's wage index value would have been adjusted to 0.8. Under the final wage index floor, Puerto Rico's wage index will be the pre-reclassification hospital wage index value multiplied by 1.15.

Small hospice programs show small decreases while larger programs show slight increases. Proprietary hospices show slight decreases in payment due to the wage index change while voluntary programs gain slightly. Finally, freestanding and skilled nursing facility-based hospices show small decreases while home health agency and hospital-based hospice programs show small increases.

TABLE C.—IMPACT OF HOSPICE WAGE INDEX CHANGE

	Number of hospices	Number of routine home care days in thousands	Payments using old wage index in thousands	Payments using new wage index first transition year blend in thousands	Percent change in hospice payments
	(1)	(2)	(3)	(4)	(5)
All Hospices	1,834	17,179	1,904,050	1,904,049	0.0

TABLE C.—IMPACT OF HOSPICE WAGE INDEX CHANGE—Continued

	Number of hospices (1)	Number of routine home care days in thousands (2)	Payments using old wage index in thousands (3)	Payments using new wage index first transition year blend in thousands (4)	Percent change in hospice payments (5)
Urban Hospices	1,200	14,811	1,685,552	1,686,214	0.0
Rural Hospices	634	2,368	218,497	217,835	−0.3
Region (Urban):					
New England	91	545	64,625	67,473	4.4
Middle Atlantic	157	1,687	200,376	202,123	0.9
South Atlantic	160	3,335	384,600	385,506	0.2
East North Cent	202	2,631	297,586	295,001	−0.9
East South Cent	77	639	72,432	71,261	−1.6
West North Cent	85	989	102,553	102,139	−0.4
West South Cent	158	1,883	195,386	192,709	−1.4
Mountain	73	816	101,912	100,685	−1.2
Pacific	168	2,126	253,035	257,225	1.7
Puerto Rico	29	159	13,049	12,091	−7.3
Region (Rural):					
New England	18	54	5,231	5,316	1.6
Middle Atlantic	34	157	15,981	15,826	−1.0
South Atlantic	103	511	46,636	46,436	−0.4
East North Cent	111	455	42,290	42,203	−0.2
East South Cent	67	322	28,309	28,202	−0.4
West North Cent	131	339	31,020	30,898	−0.4
West South Cent	67	227	19,860	19,783	−0.4
Mountain	58	141	13,251	13,163	−0.7
Pacific	42	149	14,769	14,960	1.3
Puerto Rico	3	14	1,150	1,048	−8.9
Size (Routine Home Care Days):					
0 - 1,551 Days	458	323	33,983	33,923	−0.2
1,551 - 4385 Days	459	1,310	132,410	132,086	−0.2
4,385 -10,110 Days	458	3,160	324,347	324,965	0.2
10,110 + Days	459	12,387	1,413,310	1,413,075	0.0
Type of Ownership:					
Voluntary	1,272	12,517	1,370,153	1,372,430	0.2
Proprietary	388	4,152	482,816	480,497	−0.5
Government	151	450	45,046	45,044	0.0
Other	23	60	6,035	6,078	0.7
Hospice Base:					
Freestanding	674	9,375	1,046,456	1,042,436	−0.4
Home Health Agency	679	4,633	507,575	510,966	0.7
Hospital	464	3,058	334,128	334,891	0.2
Skilled Nurs. Fac	17	112	15,891	15,756	−0.9

We have concluded that this final regulation will have an impact on small hospices. However, the provisions of this regulation were determined by consensus through a negotiated rulemaking committee. Based on all of the options considered, the committee determined that the provisions in this regulation were favorable for the hospice community as a whole, as well as for the beneficiaries that they serve.

We have also determined, and certify, that this final rule will not result in a significant economic impact on a substantial number of small entities and will not have a significant impact on the operations of a substantial number of small rural hospitals. For these reasons, we are not preparing analyses for the RFA or section 1102(b) of the Act.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

VI. Collection of Information Requirements

This document 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 *et seq.*).

Lists of Subjects for 42 CFR Part 418

Health facilities, Hospice care, Medicare, Reporting and recordkeeping requirements.

42 CFR part 418 is amended as set forth below:

PART 418—HOSPICE CARE

1. The authority citation for part 418 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. In § 418.306, paragraph (c) is revised to read as follows:;

§ 418.306 Determination of payment amounts.

* * * * *

(c) *Adjustment for wage differences.* HCFA will issue annually, in the **Federal Register**, a hospice wage index based on the most current available HCFA hospital wage data, including any

changes to the definitions of Metropolitan Statistical Areas. The payment rates established by HCFA are adjusted by the intermediary to reflect local differences in wages according to the revised wage index.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 16, 1997.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Appendix: Note This Appendix Will Not Appear in the Code of Federal Regulations

United States Department of Health and Human Services Negotiating Committee on the Medicare Hospice Wage Index

Committee Statement

April 13, 1995.

The Negotiating Committee on Medicare Hospice Wage Index has concurred in the following recommendations, considered as a whole, concerning the wage index used to adjust Medicare payment rates for hospice services to reflect geographic differences in wages:

A. Data to be Used

The wage index for hospices will be based on the wage index used by the Health Care Financing Administration (HCFA) for hospitals under the Medicare Prospective Payment System, prior to reclassification. This means that the hospital wage index will not be adjusted to take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and 1886(d)(10) of the Social Security Act.

The hospital wage index prior to reclassification will be referred to in this statement as the Raw Index and will be adjusted as provided below to calculate what will be referred to as the Revised Wage Index.

Special provisions governing a transition period are described in paragraph D below.

B. Budget Neutrality

HCFA will determine a Budget Neutrality Factor that will be applied to achieve budget neutrality during and after the transition period. Budget neutrality means that, in a given year, estimated aggregate payments for Medicare hospice services using the Revised Wage Index will equal estimated payments that would have been made for the same services if the wage index adopted for hospices in 1983 (1983 Index) had remained in effect. HCFA will estimate aggregate payments for Medicare hospice services using the best available utilization data.

C. Adjustments

Each Raw Index value will be adjusted in one of two ways to determine the Revised Wage Index value applicable to each area.

(1) If the Raw Index value for any area is 0.8 or greater, the Revised Wage Index will be calculated by multiplying the Raw Index value for that area by the Budget Neutrality Factor.

(2) If the Raw Index value for any area is less than 0.8, the Revised Wage Index will be the greater of either:

(a) The Raw Index value for that area multiplied by the Budget Neutrality Factor; or

(b) The Raw Index value for that area multiplied by 1.15 (in effect, a 15-percent increase), but subject to a maximum index value of 0.8.

D. Transition Period

The Revised Wage Index will be implemented over a 3-year transition period beginning on or about October 1, 1996. For the first year of the transition period, a blended index will be calculated by adding two-thirds of each 1983 Index value for an area to one-third of the Revised Wage Index value for that area. During the second year of the transition period, the calculation will be similar, except that the blend will be one-third of the 1983 Index values and two-thirds of the Revised Wage Index values. During the third year the Revised Wage Index will be fully implemented.

Throughout the transition period, new hospices will be treated the same as existing hospices based in the same county.

E. Annual Updates

The Revised Wage Index will be updated annually, so that it is based on the most current available data used by HCFA to construct the hospital wage index, as well as on changes by the Office of Management and Budget to Metropolitan Statistical Areas as adopted by HCFA in calculating the hospital wage index.

HCFA will use the most current hospital cost report data available that allows HCFA to publish a proposed rule containing wage index values at least 4 months in advance of the effective date of each annual update to the Revised Wage Index.

F. Effective Date

The effective date of a final rule revising the wage index as stated above should be October 1, 1997.

G. Statement to Accompany Proposed and Final Hospice Wage Index Notice

The proposed rule is based upon a Committee Statement developed by a Negotiating Committee on the Medicare hospice wage index which was convened under the Negotiated Rulemaking Act. A new hospice wage index is needed because the existing hospice wage index is based on a 1983 wage index using 1981 Bureau of Labor Statistics (BLS) data which is inaccurate and outdated.

The Committee reached consensus; however, this means only that all Committee members could ''live with'' the agreement, considered as a whole, even if elements of that agreement were not the preferred choice of individual Committee members. The Committee Statement reflects those issues upon which the Committee ultimately concurred, but does not address many issues that were considered by the Committee.

The Committee considered the appropriate data to be used to construct a wage index, the appropriateness of retaining a 0.8 floor, budget neutrality, and how to structure a transition to timely update the index yet ensure access to hospice care. In particular, the Committee considered the problems faced by hospices that would receive significant decreases under the new wage indices, rural hospices, hospices with low wage indices, and hospices that may have disproportionately high non-wage costs.

The Committee received extensive information from experts who appeared before the Committee and from the hospice community, and sought public input. While considerable data were reviewed, the Committee acknowledges that hospice data collection is maturing and encourages its continued development. In addition, while other issues were identified, the scope of the Committee's negotiations was limited by the notice of intent to negotiate.

Given these constraints, and taking into account the differing and conflicting interests that would be significantly affected, the Committee sought to develop a wage index that would be as accurate, reliable, and equitable as possible, but would not threaten access to hospice care.

The Committee recognizes that hospice care is still not universally available. The Committee further recognizes that there may be geographic or other circumstances that inhibit the provision of hospice care. The Committee strongly requests that HCFA consider options to address these access problems.

Reaching consensus was a long and deliberative process. The Committee concurred that the wage index it recommends will be better both for the hospice community as a whole, and for the Medicare beneficiaries it serves, than a wage index developed by the traditional rulemaking process.

[FR Doc. 97–20775 Filed 8–1–97; 4:55 pm]

BILLING CODE 4120–01–P

federal register

Friday
August 8, 1997

Part III

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51864; FRL–5731–5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from June 1, 1997 to June 30, 1997.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51864]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by following the instructions under SUPPLEMENTAL INFORMATION. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

The official record for this notice, as well as the public version, has been established for this notice under docket control number ''[OPPTS–51864]'' (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 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460. The official record is located at the address in ''ADDRESSES''.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPPTS–51864]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 119 Premanufacture Notices Received From: 06/01/97 to 06/30/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0708	06/02/97	08/31/97	Albright & Wilson Americas	(S) Pesticide intermediate	(S) Phosphorochloridothioic acid,*O*-ethyl *S*-(1-methylpropyl) ester
P–97–0709	06/02/97	08/31/97	Alox Corporation	(S) Lubricant additive; corrosion inhibitor	(G) Complex synthetic ester produced from aliphatic alcohol and aliphatic acids including oxidates (petroleum)
P–97–0713	06/02/97	08/31/97	Olin Corporation	(S) Surfactant/ rinse aid for household automatic dishwashing; surfactant/ rinse aid for industrial and institutional dishwashing; surfactant hard surface cleaning	(G) Alcohol alkoxylate
P–97–0714	06/02/97	08/31/97	Olin Corporation	(S) Surfactant/ rinse aid for household automatic dishwashing; surfactant/ rinse aid for industrial and institutional dishwashing; surfactant hard surface cleaning	(G) Alcohol alkoxylate
P–97–0715	06/02/97	08/31/97	Olin Corporation	(S) Surfactant/ rinse aid for household automatic dishwashing; surfactant hard surface cleaning	(G) Alcohol alkoxylate
P–97–0716	06/02/97	08/31/97	Olin Corporation	(S) Surfactant/ rinse aid for household automatic dishwashing; surfactant hard surface cleaning	(G) Alcohol alkoxylate
P–97–0717	06/02/97	08/31/97	Olin Corporation	(S) Surfactant/ rinse aid for household automatic dishwashing; surfactant hard surface cleaning	(G) Alcohol alkoxylate
P–97–0718	06/03/97	09/01/97	CBI	(S) Silicone crosslinking agent	(G) Trifunctional ketoximino silane
P–97–0719	06/02/97	08/31/97	CBI	(S) Intermediate in a chemical synthesis	(G) 3,6-dihydroxy-4-(1,1-dimethylethyl)benzo-carbopolycycle
P–97–0720	06/02/97	08/31/97	CBI	(S) Intermediate in a chemical synthesis	(G) Ethanone, 1-93-pyridinyl-,*N*-substituted
P–97–0721	06/03/97	09/01/97	Perstorp Polyols, Inc.	(G) Polymer additive	(G) Propanoic acid, 3-hydroxy-2(hydroxymethyl)-2 methyl-, polymer with polyhydric alcohols; epoxidized ester
P–97–0722	06/04/97	09/02/97	Dow Corning	(S) Silicone fabric softener	(G) Amino-functional siloxane
P–97–0726	06/06/97	09/01/97	CBI	(G) Surfactant for dispersion of dyes in water	(G) Sodium salt of aromaticsulfonic acid formaldehyde condensate
P–97–0727	06/05/97	09/01/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0728	06/05/97	09/03/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0729	06/05/97	09/03/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0730	06/05/97	09/03/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0731	06/05/97	09/03/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0732	06/05/97	09/03/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0733	06/05/97	09/03/97	CBI	(G) Gellant for low polarity fluilds	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, ethylenediamine and a fatty alcohol.
P–97–0734	06/05/97	09/03/97	CBI	(G) Gellant for low polarity fluilds	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, ethylenediamine and a fatty alcohol.
P–97–0735	06/05/97	09/03/97	CBI	(G) Gellant for low polarity fluildspolymers with ethylenediamine and a fatty alcohol.	
P–97–0736	06/05/97	09/03/97	CBI	(G) Gellant for low polarity fluilds	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, ethylenediamine and a fatty alcohol.
P–97–0737	06/05/97	09/03/97	CBI	(G) Gellant for low polarity fluilds	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, ethylenediamine and a fatty alcohol.
P–97–0738	06/05/97	09/03/97	CBI	(G) Gellant for low polarity fluilds	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, ethylenediamine and a fatty alcohol.

I. 119 Premanufacture Notices Received From: 06/01/97 to 06/30/97—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0739	06/04/97	09/02/97	Ciba-Gigy Corporation, Textile Products Division	(G) Textile dye	(G) Glycine, *N*-[3-(substitutedlamino)phenyl]-*N*-(carboxymethyl)-, diesters, reaction products with diazotized 2-chloro-4-nitrobenzenamine
P–97–0740	06/09/97	09/07/97	Shin-Etsu Silicones of America, Inc	(S) Ingredient for plastic resins	(S) Polymer of: siloxanes and silicones, 3-[(2-aminoethyl)amino]propyl me, di-me; polyethylene-polypropylene glycol bu glycidyl ether
P–97–0741	06/06/97	09/04/97	CBI	(G) Paper stiffener	(G) Polyol, polymer with formaldehyde and melamine, stabilized
P–97–0742	06/06/97	09/04/97	CBI	(G) Coating for wood building products	(G) Polyol, polymer with formaldehyde, urea, and melamine, stabilized
P–97–0743	06/06/97	09/04/97	CBI	(G) Glass fiber resin	(G) Polyol, polymer with formaldehyde and melamine, stabilized
P–97–0744	06/05/97	09/03/97	Henkel Corporation (Emery Group)	(G) Textile lubricant	(S) Castor oil, hydrogenated, ethoxylated, triisooctadecanoate
P–97–0745	06/09/97	09/07/97	CBI	(G) Processing aid	(G) Alkali metal salts of fatty acid distillation residues
P–97–0746	06/05/97	09/03/97	CBI	(G) Gellant for low polarity fluids	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, polymers with ethylenediamine, fatty alcohol and dicarboxylic acid
P–97–0747	06/05/97	09/03/97	CBI	(G) Gellant for low polarity fluids	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, polymers with ethylenediamine, fatty alcohol and dicarboxylic acid
P–97–0748	06/05/97	09/03/97	CBI	(G) Gellant for low polarity fluids	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, polymers with ethylenediamine, fatty alcohol and dicarboxylic acid
P–97–0749	06/05/97	09/03/97	CBI	(G) Gellant for low polarity fluids	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, polymers with ethylenediamine, fatty alcohol and dicarboxylic acid
P–97–0750	06/05/97	09/03/97	CBI	(G) Gellant for low polarity fluids	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, polymers with ethylenediamine, fatty alcohol and dicarboxylic acid
P–97–0751	06/05/97	09/03/97	CBI	(G) Gellant for low polarity fluids	(G) Fatty acids, C_{18}-unsaturated, dimers, hydrogenated, polymers with ethylenediamine, fatty alcohol and dicarboxylic acid
P–97–0752	06/09/97	09/07/97	Ranbar Eectrical Materials,Inc.	(S) Insulating coating for electrical apparatus	(G) Ether-ester polymer
P–97–0753	06/06/97	09/04/97	CBI	(S) Automotive coatings	(G) Blocked aliphatic polyisocyanate
P–97–0754	06/06/97	09/04/97	CBI	(S) Automotive coatings	(G) Blocked aliphatic polyisocyanate
P–97–0755	06/06/97	09/04/97	CBI	(S) Automotive coatings	(G) Blocked aliphatic polyisocyanate
P–97–0756	06/06/97	09/04/97	CBI	(S) Automotive coatings	(G) Blocked aliphatic polyisocyanate
P–97–0757	06/06/97	09/04/97	CBI	(S) Automotive coatings	(G) Blocked aliphatic polyisocyanate
P–97–0758	06/06/97	09/04/97	CBI	(S) Automotive coatings	(G) Blocked aliphatic polyisocyanate
P–97–0759	06/06/97	09/04/97	Cerestar USA, Inc.	(G) Inclusion complexation agent	(G) Chemically modified cyclodextrin
P–97–0760	06/10/97	09/08/97	Dow Corning	(S) Siloxane cure catalyst	(G) Tetra alkoxytitanate
P–97–0761	06/10/97	09/08/97	CBI	(G) Destructive use	(G) Aromatic boro complex with halide
P–97–0762	06/10/97	09/08/97	CBI	(G) Paint	(G) Polycarbodiimide polymer
P–97–0763	06/10/97	09/08/97	CBI	(G) Synthetic industrial lubricant	(G) Isocetyl stearate
P–97–0764	06/10/97	09/08/97	CBI	(G) Synthetic industrial lubricant	(G) Isocetyl stearate
P–97–0765	06/11/97	09/09/97	Asahi Chemical Industry America Inc.	(S) Hardner of polyurethane paint	(G) Alkylene glycol, reaction products with aliphatic diisocyanate
P–97–0766	06/11/97	09/09/97	CBI	(S) Organic synthesis intermediate	(G) Tetrahydro hetero polycycle
P–97–0767	06/11/97	09/09/97	CBI	(G) Consumer article component	(G) 1-ethyl-tetrahydro hetero polycycle, salt with 4-methylbenzenesulfonic acid (1:1)
P–97–0768	06/12/97	09/10/97	Hercules Incorporated	(G) Papermaking additive	(G) Amphoteric polyacrylamide
P–97–0769	06/12/97	09/10/97	Witco Chemical Corporation	(G) Polymerization co-catalyst	(G) Zirconium dichloride
P–97–0770	06/11/97	09/09/97	S C Johnson Polymer	(G) Open, non-dispersive use	(G) Acrylic emulsion polymer

I. 119 Premanufacture Notices Received From: 06/01/97 to 06/30/97—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0771	06/11/97	09/09/97	S C Johnson Polymer	(G) Open, non-dispersive use	(G) Acrylic emulsion polymer
P–97–0772	06/11/97	09/09/97	S C Johnson Polymer	(G) Open, non-dispersive use	(G) Acrylic emulsion polymer
P–97–0773	06/11/97	09/09/97	S C Johnson Polymer	(G) Open, non-dispersive use	(G) Acrylic emulsion polymer
P–97–0774	06/12/97	09/10/97	Wacker Chemicals (USA), Inc.	(S) Additive for thermoplastic resins	(S) Alpha.-cyclodextrin, octadeca acetate
P–97–0775	06/13/97	09/11/97	Boulder Scientific Company	(S) Polymerization catalyst	(G) Substituted bis(cyclopentadienyl)zirconium dichloride
P–97–0776	06/13/97	09/11/97	Hi-Tech Color, Inc.	(G) Coatings for thermal transfer foil	(G) Dimethyl poly siloxane mono (6-hydroxy-4-oxahexyl terminated), polymer with polyisocyanate
P–97–0777	06/12/97	09/10/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0778	06/12/97	09/10/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0779	06/12/97	09/10/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0780	06/12/97	09/10/97	CBI	(G) Polymer additive	(G) Brominated aromatic phthalate ester
P–97–0781	06/17/97	09/15/97	CBI	(G) Polymerization cocatalyst	(G) Oragano zirconium dichloride
P–97–0782	06/17/97	09/15/97	CBI	(G) Polymerization cocatalyst	(G) Oragano zirconium dichloride
P–97–0783	06/17/97	09/15/97	CBI	(G) Polymerization cocatalyst	(G) Oragano zirconium dichloride
P–97–0784	06/17/97	09/15/97	Syntech, Inc.	(S) Powder coatings	(G) Polymeric blocked isocyanate
P–97–0785	06/17/97	09/15/97	CBI	(G) Fuel additive	(G) Carboxylic acid amides
P–97–0786	06/17/97	09/15/97	CBI	(G) Fuel additive	(G) Carboxylic acid amides
P–97–0787	06/16/97	09/14/97	CBI	(G) Paint	(G) Epoxy ester polymer
P–97–0788	06/16/97	09/14/97	CBI	(G) Paint	(G) Epoxy ester polymer
P–97–0789	06/17/97	09/15/97	CBI	(S) Paint	(G) Alkyl ester, polymer with oxiranylmethyl 2-propenoate
P–97–0790	06/17/97	09/15/97	3M Company	(G) Surfactant	(G) Fluoroalkyl ammonium derivative
P–97–0791	06/17/97	09/15/97	Bedoukian Research, Inc.	(S) Chemical intermediate for use in a pheromone synthesis	(G) Halo alkene
P–97–0792	06/18/97	09/16/97	CBI	(G) Resin coating	(G) Acrylated urethane
P–97–0793	06/12/97	09/10/97	CBI	(G) Polymerization inhibitor	(G) Phenylenediamine salt
P–97–0794	06/17/97	09/15/97	CBI	(G) Processing aid	(G) Alkyl polyether polysiloxanes
P–97–0795	06/18/97	09/16/97	CBI	(G) Automotive paint	(G) Hydroxy acrylic polymer
P–97–0796	06/18/97	09/16/97	The Lubrizol Corporation	(S) Reagent in the manufacture of a polymethacrylate	(S) 2-propenoic acid, 2-methyl-, nonyl ester
P–97–0797	06/17/97	09/15/97	CBI	(G) Label coating	(G) Epoxy resin
P–97–0798	06/19/97	09/17/97	Union Carbide Corporation	(S) Thickener for water based paints	(G) Alkyl aryl cellulosic ether
P–97–0799	06/19/97	09/17/97	Union Carbide Corporation	(S) Thickener for water based paints	(G) Alkyl aryl cellulosic ether
P–97–0800	06/23/97	09/22/97	CBI	(S) Raw materials for sealants or molding compounds	(G) Polyolefin derivative
P–97–0801	06/23/97	09/22/97	CBI	(S) Raw materials for sealants	(G) Polyolefin derivative
P–97–0802	06/24/97	09/22/97	Dupont Dow Elastomers, L.L.C.	(G) Intermediate; non-dispersive destructive use	(G) Halogenated alkyl amide
P–97–0803	06/24/97	09/22/97	Dupont Dow Elastomers, L.L.C.	(G) Intermediate;enclosed non-dispersive use	(G) Halogenated cyclic alkyl ether
P–97–0804	06/24/97	09/22/97	Dupont Dow Elastomers, L.L.C.	(G) Polymer modifier	(G) Halogenated alkylnitrile
P–97–0805	06/26/97	09/24/97	CBI	(G) Refrigeration lubricant ingredient	(G) Polyol polyketal
P–97–0806	06/24/97	09/22/97	Wacker Chemical (USA), Inc.	(S) Addotove for thermoplastic resins	(S) Beta,-cyclodextrim, heneicosacetate
P–97–0807	06/24/97	09/22/97	Hoechst Celanese Corporation	(G) Polymer used in electronics	(G) Terpolymer of substituted aromatic olefins and aliphatic olefinic ester
P–97–0808	06/24/97	09/22/97	CBI	(S) High solids baking enamel crosslinked with malamines	(G) Tmpd polyester resin
P–97–0809	06/25/97	09/23/97	CBI	(G) Component of fomulated adhesive	(G) Isocyanate terminated polyurethane
P–97–0810	06/24/97	09/22/97	CBI	(G) Contained use	(G) Halogenated aromatics
P–97–0811	06/26/97	09/24/97	Essex Specialty Products, Inc.	(S) Polymer used in foams and adhesives maufacture	(S) Polymer of: isocyanic acid, polymethylenepolyphenylene ester; poly. oxy(methyl-1,2-ethanediyl)., alpha.-hydro-.omeha.-hydroxy-; 1-butanol

I. 119 Premanufacture Notices Received From: 06/01/97 to 06/30/97—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0812	06/24/97	09/22/97	Piedmont Chemical Industries	(S) Dispersant/leveling agent for textile dyeing; dye removal agent for textiles	(S) Naphthalenesulfonic acid, methylenebis-, compound with 2,22-nitrilotris (ethanol) (1:2)
P–97–0813	06/24/97	09/22/97	CBI	(G) Polymer additive	(G) Diphenol tars
P–97–0814	06/26/97	09/24/97	Dupont	(G) Resin for coating applications	(G) Aliphatic polyamide
P–97–0815	06/26/97	09/24/97	Dupont	(G) Resin for coating applications	(G) Aliphatic polyamide
P–97–0816	06/24/97	09/22/97	CBI	(S) Reactive dyestuff for cotton, silk etc.	(G) C.I. reactive blue 15:1
P–97–0817	06/26/97	09/24/97	The Polyset Company, Inc.	(G) Chemical intermediate material used exclusively in the manufacture of a catalylic agent	(S) 2-tetradecanol,1-phenoxy-
P–97–0818	06/26/97	09/24/97	The Polyset Company, Inc.	(G) Chemical intermediate used exclusively in the manufacture of a catalylic agent	(S) Iodium, hydroxyphenyl-, salt with 4-methylbenzene sulfonic acid(1:1)
P–97–0819	06/27/97	09/25/97	CBI	(S) Reactive dyestuff for dying cotton, silk and etc.	(G) C.I.reactive orange 99
P–97–0820	06/27/97	09/25/97	CBI	(S) Disperse dyestuff for polyester textiles	(G) C.I.reactive orange 99
P–97–0821	06/24/97	09/22/97	Shell Chemical Company	(S) Metal coating-corrosion inhibitor; drilling fluid component	(S) Alkanes, $C_{13–17}$
P–97–0822	06/27/97	09/25/97	CBI	(G) Processing aid	(G) Modified polybutadiene

II. 78 Notices of Commencement Received From: 06/01/97 to 06/30/97

Case No.	Received Date	Commencement/Import Date	Chemical
P–88–1936	06/10/97	06/24/97	(S) Reaction product of 5-((4-hydroxyphenyl)amino)-8-(phenylamino)-1-naphthalene sulfonic acid with sodium sulfide (Na2)(Sx),-oxidized
P–88–2416	06/05/97	05/10/97	(G)Fluorinated acrylate polymer containing acrylic acid
P–91–1020	06/18/97	06/06/97	(G) Mixed tall oil fatty acids/polyamine condensate
P–91–1050	06/18/97	06/09/97	(G) Mixed tall oil fatty acids/polyamine condensate, acetate salt
P–93–0305	06/09/97	11/10/95	(S) Basic calcium aluminum hydroxy phosphites
P–93–1055	06/17/97	06/04/97	(G) Polyester of aromatic/aliphatic polybasic acids and alkane diols
P–93–1121	06/09/97	05/23/97	(G) 2-Propenoic acid, 2-methyl-,2-hydroxyethyl ester, polymer with oxirane and diisocyanate
P–94–0145	06/03/97	05/08/97	(G) Epoxy resin alkylated phenolic polyamine adduct
P–94–0968	06/03/97	05/29/97	(G) Rosin, maleated, polymer with an alkylphenol, formaldehyde and a polyol, calcium, magnesium and zinc salts
P–94–2133	06/05/97	05/29/97	(G) Polyalphaolefins
P–95–0120	06/10/97	05/14/97	(G) Fluorinated oxazolidinone
P–95–0246	06/04/97	05/12/97	(G) Silicon-modified polyester resin
P–95–0247	06/17/97	05/15/97	(G) Polyester resin
P–95–1128	06/12/97	05/16/97	(G) Brominated aromatic ester
P–95–1297	06/06/97	04/23/97	(G) Alkylated phenol
P–95–1302	06/06/97	05/13/97	(G) Alkylated phenol
P–95–1654	06/10/97	05/21/97	(G) Organosilane ester
P–95–1667	06/18/97	05/21/97	(G) Polyamino acid
P–95–2075	06/02/97	05/28/97	(G) Phthalate dialkyl ester
P–96–0245	06/02/97	05/02/97	(G) *N*-2(1,3-dioxanyl)-ethyl, alkyl pyridinium bromide
P–96–0332	06/11/97	06/05/97	(G) Propenoic acid ester
P–96–0759	06/17/97	06/09/97	(G) Acrylate functionalized polyester
P–96–0816	06/11/97	06/05/97	(G) Half esterified maleinized polybutadiene
P–96–0853	06/17/97	05/18/97	(G) Aliphatic polymer salt
P–96–1277	06/10/97	06/04/97	(G) Ester of alkyl ether with acid of group III B element
P–96–1322	06/13/97	06/09/97	(S) Phosphinic acid, [3-(acetyloxy)-3-cyanopropyl]methyl-, butylester
P–96–1433	06/02/97	05/13/97	(G) Perfluoroalkyl sulfonamide derivatives
P–96–1434	06/02/97	05/13/97	(G) Perfluoroalkyl sulfonamide derivatives
P–96–1438	06/02/97	05/12/97	(G) Potassium salt of perfluoroalkyl sulfonamide
P–96–1521	06/17/97	05/19/97	(G) Polyester resin
P–96–1588	06/02/97	05/02/97	(G) Salt of a fatty acid-amine reaction product
P–96–1651	06/12/97	06/04/97	(G) Water soluble polymer containing oxazoline group
P–96–1659	06/05/97	05/15/97	(G) Polyolefin esters
P–96–1674	06/24/97	06/04/97	(G) Alkyl amino nitrile
P–96–1675	06/24/97	06/04/97	(G) Alkyl amino nitrile
P–96–1680	06/24/97	06/09/97	(G) Mixed alkyl nitrile compounds
P–96–1681	06/24/97	06/09/97	(G) Mixed alkyl nitrile compounds
P–96–1682	06/24/97	06/09/97	(G) Mixed alkyl nitrile compounds
P–96–1683	06/24/97	06/09/97	(G) Mixed alkyl nitrile compounds

II. 78 Notices of Commencement Received From: 06/01/97 to 06/30/97—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–96–1684	06/24/97	06/09/97	(G) Mixed alkyl nitrile compounds
P–97–0006	06/13/97	05/29/97	(G) Hydroxy functional acrylate
P–97–0070	06/17/97	05/16/97	(G) Vinylimidazole copolymer
P–97–0084	06/03/97	05/20/97	(S) 6-Octen-3-one,2,4,4,7-tetramethyl
P–97–0140	06/04/97	05/07/97	(G) Polyester acrylate
P–97–0155	06/03/97	06/03/97	(S) Polymer of: dimer fatty acids; sebacic acids; ethylenediamine; piperazine; 1,3, di-(4-piperidyl) propane
P–97–0171	06/17/97	05/27/97	(S) 9,10-Anthracenedione, 1,4-diamino-*N C′N C′*-mixed 2 ethylhexyl, isopn, me and pentyl derivative
P–97–0185	06/10/97	05/21/97	(G) Fluoro phenyl acetamide
P–97–0192	06/03/97	05/28/97	(G) Silicic acid, alkyl ester
P–97–0223	06/03/97	05/23/97	(G) *PDI* polyester prepolymer
P–97–0224	06/24/97	06/13/97	(G) Reaction product of alkylthio alcohol and substituted phosphorous compound
P–97–0234	06/05/97	05/27/97	(G) Zinc dialkyl dithiophosphate
P–97–0263	06/11/97	06/05/97	(G) Anionic aliphatic polyurethane dispersion
P–97–0268	06/10/97	05/29/97	(G) Acrylate/acrylonitrile copolymer
P–97–0281	06/09/97	06/02/97	(G) Modified alkyd resin
P–97–0323	06/17/97	06/06/97	(G) Alkylated arylamines
P–97–0335	06/16/97	05/26/97	(G) Aromatic fluoro alkyl mixture complex
P–97–0345	06/10/97	05/28/97	(G) Modified polyacrylate
P–97–0346	06/10/97	05/28/97	(G) Modified polyacrylate
P–97–0347	06/10/97	05/28/97	(G) Modified polyacrylate
P–97–0348	06/10/97	05/28/97	(G) Modified polyacrylate
P–97–0349	06/10/97	05/28/97	(G) Modified polyacrylate
P–97–0350	06/10/97	05/28/97	(G) Organic silicon polymer
P–97–0351	06/10/97	05/28/97	(G) Organic silicon polymer
P–97–0352	06/10/97	05/28/97	(G) Organic silicon polymer
P–97–0353	06/10/97	05/28/97	(G) Organic silicon polymer
P–97–0354	06/10/97	05/28/97	(G) Organic silicon polymer
P–97–0355	06/20/97	05/22/97	(G) Aryl-aliphatic copolyester resin
P–97–0356	06/13/97	05/29/97	(S) Iodonium, [4-(1-methylethyl) phenyl] (4-methylphenyl)-, tetrakis (pentafluorophenyl) borate (1-)
P–97–0407	06/09/97	06/04/97	(S) 1,1,3,3-tetramethyl-1,3-bis [2-(7-oxabicyclo[4.1.0]hept-3-yl)ethyl]disiloxane
P–97–0421	06/24/97	06/11/97	(G) Alkenoic acid ester
P–97–0463	06/09/97	04/18/88	(G) Multi ester acid
P–97–0464	06/17/97	10/18/93	(G) Multi ester acid
P–97–0470	06/17/97	06/12/97	(G) Alkyd polymer
P–97–0471	06/17/97	06/11/97	(G) Cobalt functional alkyl acrylate copolymer
P–97–0484	06/20/97	06/18/97	(G) Complex mixed metal oxide
P–97–0485	06/26/97	06/18/97	(G) Complex mixed metal oxide

List of Subjects

Environmental protection, Premanufacture notices.

Dated: July 30, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–20984 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51865; FRL–5733–4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from July 1, 1997 to July 11, 1997.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51865]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51865]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on

electronic submissions can be found under ''SUPPLEMENTARY INFORMATION''.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51865]'' (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 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES''.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify PMNs received from July 1, 1997 to July 11, 1997.

38 Premanufacture Notices Received From: 07/01/97 to 07/11/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0823	07/02/97	09/30/97	CBI	(G) Curing agent for coatings	(G) Tetraalkyl ammonium salt
P–97–0824	07/01/97	09/29/97	The Dow Chemical Company	(G) Rubber impact modifier for engineering thermoplastic resins, open, non dispersive use	(S) Polymer of: poly(oxy-1,2-ethanediyloxycarbonyl-1,4-phenylenecarbonyl); 2-propenoic acid, 2-methyl-, oxiranylmethyl ester, polymer with ethene
P–97–0825	07/01/97	09/29/97	The Dow Chemical Company	(G) Rubber impact modifier for engineering thermoplastic resins, open, non dispersive use	(S) Polymer of: 1,4-benzenedicarboxylic acid, ester with 1,2-ethanediol; 2-propenoic acid, 2-methyl-, oxiranylmethyl ester, polymer with ethene
P–97–0826	07/01/97	09/29/97	The Dow Chemical Company	(G) Rubber impact modifier for engineering thermoplastic resins, open, non dispersive use	(S) Polymer of: 1,4-benzenedicarboxylic acid, dimethyl ester, polymer with 1,2-ethanediol and 2,2′-oxybis(ethanol); 2-propenoic acid, 2-methyl-, oxiranylmethyl ester, polymer with ethene

38 Premanufacture Notices Received From: 07/01/97 to 07/11/97—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0827	07/01/97	09/29/97	The Dow Chemical Company	(G) Rubber impact modifier for engineering thermoplastic resins, open, non dispersive use	(S) Polymer of: 1,4-benzenedicarboxylic acid, dimethyl ester, manuf. of by-products from, polymer with ethylene glycol; 2-propenoic acid, 2-methyl-, oxiranylmethyl ester, polymer with ethene
P–97–0828	07/01/97	09/29/97	The Dow Chemical Company	(G) Rubber impact modifier for engineering thermoplastic resins, open, non dispersive use	(S) Polymer of: 1,4-benzenedicarboxylic acid, dimethyl ester, polymer with 1,2-ethanediol; 2-propenoic acid, 2-methyl-, oxiranylmethyl ester, polymer with ethene
P–97–0829	07/01/97	09/29/97	The Dow Chemical Company	(G) Rubber impact modifier for engineering thermoplastic resins, open, non dispersive use	(S) Polymer of: 1,4-benzenedicarboxylic acid, dimethyl ester, polymer with 1,2-ethanediol, distn. residues; 2-propenoic acid, 2-methyl-, oxiranylmethyl ester, polymer with ethene
P–97–0830	07/02/97	09/30/97	Dupont	(G) Resin for coating applications	(G) Aliphatic polyamide
P–97–0831	07/02/97	09/30/97	Dystar L.P.	(S) Disperse dye for coloration of polyester fiber	(G) 3-pyridinecarbonitrile, 5-(substituted)-1,2-dihydro-6-hydroxy-substituted-2-oxo-
P–97–0832	07/03/97	10/01/97	Allied Signal Corporation	(G) Destructive use	(G) Brominated biphenyl
P–97–0833	07/07/97	10/05/97	CBI	(G) Component of lubricating composition for finishing product OG fiber and yarn	(G) Alkyl sulfonate salt
P–97–0834	07/07/97	10/05/97	CBI	(G) Open, non-dispersive (resin)	(G) Alkyl phenol blocked polyisocyanate
P–97–0835	07/02/97	09/30/97	CBI	(G) Synthetic lubricant/ fuel additive	(S) Isooctanoic acid, mixed ester with dipentaerythritol, pentaerythritol, and tripentaerythritol
P–97–0836	07/02/97	09/30/97	CBI	(G) Synthetic lubricant/fuel additive	(S) Isooctanoic acid, mixed ester with dipentaerythritol, pentaerythritol, 3,5,5-trimethylhexanoic acid and tripentaerythritol
P–97–0837	07/02/97	09/30/97	CBI	(G) Synthetic lubricant/fuel additive	(S) Fatty acids, C_{8-10}, mixed ester with dipentaerythritol, isooctanoic acid, pentaerythritol, and tripentaerythritol
P–97–0838	07/03/97	10/01/97	CBI	(S) Chemical intermediate to produce polyurethane elastomer articles	(G) MDI polyether prepolymer
P–97–0839	07/07/97	10/05/97	Aztec Peroxides, Inc	(S) Initiator for polymerisation of monomers E.G. vinylchloride or ethylene	(G) Organic peroxide, perester
P–97–0840	07/07/97	10/05/97	Polymer Ventures	(G) Chemical additive	(S) Propanoic acid, 2-hydroxy, 1,2,3-propanetriyl ester
P–97–0841	07/08/97	10/06/97	CBI	(G) Destructive use	(G) Polyetheramine
P–97–0842	07/08/97	10/06/97	CBI	(G) Open, non-dispersive (resin)	(G) Alkyl phenol blocked polyisocyanate
P–97–0843	07/07/97	10/05/97	Perstorp Polyols, Inc.	(G) Polymer additive	(G) Propanoic acid, 3-hydroxy-2 (hydroxymethyl) - 2 methyl - polymer with polyhydric alcohols; epoxidized ester
P–97–0844	07/07/97	10/05/97	CBI	(S) Co-stabilizer for flexible PVC; co-stabilizer for rigid PVC	(G) Heterocyclic sulfide alkanol
P–97–0845	07/08/97	10/06/97	3M Company	(G) Adhesive	(G) Preurethane prepolymer
P–97–0846	07/09/97	10/07/97	Burlington Chemical Company, Inc.	(G) Dye leveler for textile dyeing	(G) Alkyl ester of aryl ethoxylate
P–97–0847	07/09/97	10/07/97	CBI	(S) Site-limited intermediate/agricultural	(G) Chloroalkyl aryl ether
P–97–0848	07/09/97	10/07/97	CBI	(G) Antiscalant for industrial water treatment	(G) 2-propenoic acid, polymer with vinyl monomer, sodium salt, disodium disulfite initiated
P–97–0849	07/09/97	10/07/97	CBI	(G) Resin for tipping primer for automotive coatings	(G) Polyurethane based PM 1.6-diisocyanatohexane and polycaprolactone diol
P–97–0850	07/07/97	10/05/97	CBI	(S) Co-stabilizer for flexible PVC; co-stabilizer for rigid PVC	(G) Heterocyclic sulfide ester
P–97–0851	07/07/97	10/05/97	CBI	(S) Co-stabilizer for flexible PVC; co-stabilizer for rigid PVC	(G) Heterocyclic sulfide ester
P–97–0852	07/07/97	10/05/97	CBI	(S) Co-stabilizer for flexible PVC; co-stabilizer for rigid PVC	(G) Heterocyclic sulfide ester
P–97–0853	07/07/97	10/05/97	CBI	(S) Co-stabilizer for flexible PVC; co-stabilizer for rigid PVC	(G) Heterocyclic sulfide ester
P–97–0854	07/08/97	10/06/97	CBI	(S) Component of toner for electrophoto copier	(G) 3,6-bis(dialkylamino)-9-[2-alkoxyscarbonyl)phenyl]-xanthylium salt

38 Premanufacture Notices Received From: 07/01/97 to 07/11/97—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0855	07/09/97	10/07/97	Polaroid Corporation	(S) Organic synthesis intermediate	(S) 1*H*-Isoindole-1,3(2*H*)-dione, 2,2 ′-(iminodi-3,1-propanediyl)bis-, monohydrochloride
P–97–0856	07/08/97	10/06/97	CBI	(S) Component of laminating adhesive	(G) Hydroxyl terminated polyetherol
P–97–0857	07/07/97	10/05/97	CBI	(G) Component of coating with open use	(G) Polyester polyurethane diol
P–97–0858	07/07/97	10/05/97	CBI	(G) Component of coating with open use	(G) Polyester polyurethane diol
P–97–0859	07/07/97	10/05/97	CBI	(G) Component of coating with open use	(G) Polyester polyurethane diol
P–97–0860	07/10/97	10/08/97	CBI	(G) Component of coating with open use	(G) Polyester urethane aqueous dispersion

List of Subjects

Environmental protection, Premanufacture notices.

Dated: July 30, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–20985 Filed 8–7–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51866; FRL–5735–9]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from July 12, 1997 to July 19, 1997.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51866]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS–51866]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION''.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51866]'' (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 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES''.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these

separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify PMNs received from July 12, to 19, 1997.

17 Premanufacture Notices Received From: 07/12/97 to 07/19/97

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–97–0864	07/11/97	10/09/97	CBI	(G) Open, non-dispersive (additive)	(G) Polycycloamide
P–97–0866	07/11/97	10/09/97	Mace Adhesives & Coatings Company, Inc.	(S) UV/EB curable coatings for plastics, metal and wood UV/EB curable adhesive	(G) Aliphatic epoxyester
P–97–0867	07/11/97	10/09/97	Mace Adhesives & Coatings Company, Inc.	(S) UV/EB curable coatings for plastics, metal and wood UV/EB curable adhesive	(G) Aliphatic epoxyester
P–97–0868	07/14/97	10/12/97	International Flavors and Fragrances, Inc.	(S) Raw material for use in fragrances of soaps, detergents, cleaners and other household products	(S) Cyclo propanecarboxylic acid, 3-hexenyl ester, (*z*)
P–97–0869	07/15/97	10/13/97	CBI	(G) Specialty solvet for organic materials	(G) Alkylated diphenyls
P–97–0870	07/15/97	10/13/97	CBI	(G) Specialty solvet for organic materials	(G) Alkylated diphenyls
P–97–0871	07/15/97	10/13/97	CBI	(G) Specialty solvet for organic materials	(G) Alkylated diphenyls
P–97–0873	07/15/97	10/13/97	CBI	(G) Component of industrial adhesive	(G) Water dispersible polyurethane
P–97–0874	07/14/97	10/12/97	CBI	(G) Chemical intermediate	(G) Alkyl polyoxyalkylpropanamine
P–97–0875	07/15/97	10/13/97	Rohmax USA	(G) Monomer used in polymerization reactions	(G) Methacrylic acid ester
P–97–0876	07/16/97	10/14/97	Rohmax USA	(G) Monomer used in polymerization reactions	(G) Methacrylic acid ester
P–97–0877¶	07/16/97	10/14/97	Rohmax USA	(G) Monomer used in polymerization reactions	(G) Methacrylic acid ester
P–97–0878	07/17/97	10/15/97	CBI	(G) Antioxidant	(G) Hydroxylamine
P–97–0879	07/16/97	10/14/97	CBI	(S) Site-limited intermediate	(G) Alkylpolyoxyalkyl propionitrile
P–97–0880	07/17/97	10/15/97	Huntsman Corporation.	(S) Fuel additive	(G) Alkylphenyl polyether alkanolamine
P–97–0881	07/17/97	10/15/97	Huntsman Corporation.	(S) Fuel additive	(G) Alkylphenyl polyether alkanolamine
P–97–0882	07/17/97	10/15/97	Huntsman Corporation.	(S) Fuel additive	(G) Alkylphenyl polyether alkanolamine

List of Subjects

Environmental protection, Premanufacture notices.

Dated: July 30, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–20986 Filed 8–7–97; 8:45 am]

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Nonconforming vehicle conformity certificates; review and processing; fee schedule; comments due by 8-14-97; published 7-15-97

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/nara/fedreg/fedreg.html.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

H.R. 2015/P.L. 105–33

Balanced Budget Act of 1997 (Aug. 5, 1997; 111 Stat. 251)

H.R. 2014/P.L. 105–34

Taxpayer Relief Act of 1997 (Aug. 5, 1997; 111 Stat. 788)

H.R. 1226/P.L. 105–35

Taxpayer Browsing Protection Act (Aug. 5, 1997; 111 Stat. 1104)

H.R. 709/P.L. 105–36

National Geologic Mapping Reauthorization Act of 1997 (Aug. 5, 1997; 111 Stat. 1107)

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