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September 11, 1997

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 441 and 457

General Crop Insurance Regulations; Table Grape Crop Insurance Regulations and Common Crop Insurance Regulations; Table Grape 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 table grapes. 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 table grape crop insurance regulations under the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current table grape crop insurance regulations to the 1997 and prior crop years.

EFFECTIVE DATE: October 14, 1997.

FOR FURTHER INFORMATION CONTACT: John Meyer, Insurance Management Specialist, Product Development Division, Policy Development and Standards Branch, 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, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Following publication of the proposed rule, 62 FR 2059, the public was afforded 60 days to submit written comments on information collection requirements currently being reviewed by OMB under OMB control number 0563–0003. No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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) for 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. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, all producers are required to complete an application and acreage report. If the crop is damaged or destroyed, insureds are required to give notice of loss and provide the necessary information to complete a claim for indemnity. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. 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 final rule has been reviewed in accordance with Executive Order No. 12988 on civil justice reform. 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 Wednesday, January 15, 1997, FCIC published a proposed rule in the **Federal Register** at 62 FR 2059 to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.149, (Table Grape Crop Insurance Provisions). The new provisions will replace and supersede the current provisions for insuring table grapes found at 7 CFR part 441 and will

be effective for the 1998 and succeeding crop years.

Following publication of the proposed rule, the public was afforded 60 days to submit written comments. A total of 14 comments were received from reinsured companies and an insurance service organization. The comments received, and FCIC's responses, follow:

Comment: A reinsured company questioned the need to define ''FSA'' and recommended it be deleted.

Response: FCIC agrees with the comment and has deleted the definition.

Comment: A reinsured company suggested that in the definition of ''Good farming practices,'' the phrase ''* * * by the Cooperative State Research, Education, and Extension Service'' be deleted since some producers carry out practices that are compatible but not ''generally'' recognized by the Extension Service.

Response: FCIC has removed the word ''generally'' from this part of the definition. However, FCIC believes that the Cooperative State Research, Education, and Extension Service (CSREES) recognizes farming practices that are considered acceptable for producing table grapes. If a producer is following practices currently 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. Such limitations would be considered by FCIC.

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 agrees that water quality is an important issue. However, since no standards or procedures have been developed to measure water quality for insurance purposes, quality cannot be included in the definition. Therefore, no change will be made.

Comment: An insurance service organization questioned whether the change in the number of pounds of table grapes in a lug will require a recalculation of previously certified production history to bring it up-to-date, or does the change only apply to future production history.

Response: For 1996 and prior years, the certified actual production history must be adjusted by use of a factor to conform with the new weight standard for lugs. For all California districts and Arizona, the adjustment factor is 1.1000.

Comment: An insurance service organization stated that the language in section 2(a) ''A unit * * * will be divided into basic units * * *'' may be confusing since unit division usually deals with optional units (as in section 2.(b)). It was suggested this be rewritten to read, ''Basic units as defined in section 1 * * * will be established for each table grape variety you insure.''

Response: FCIC agrees the provisions may be confusing and has clarified this section.

Comment: An insurance service organization indicated that section 2(f)(3) states that non-contiguous land qualifies for separate optional units and that basic units by non-contiguous land are allowed by current provisions. It was suggested that this policy change be identified in the Summary of Changes so agents and policyholders are made aware of the change and can make necessary adjustments.

Response: FCIC agrees that the change from basic to optional unit status should have been identified in the Summary of Changes. FCIC will describe this change to insurance providers when the policy is released for use.

Comment: A reinsured company suggested including the acreage reporting date in section 6 of the crop provisions.

Response: FCIC believes the acreage reporting date should remain in the Special Provisions because it could vary by region. Therefore, no changes have been made to these provisions.

Comment: A reinsured company recommended a new paragraph (7(b)(3)) be added to the policy to read as follows: ''That, after grafting over, have reached the third growing season or produced at least 150 lugs per acre, whichever occurs first.''

Response: FCIC agrees that mature grapes ''grafted over'' to produce a variety other than originally grown tend to produce faster than normal rootstock that is set out; however, occasionally grafts do not ''take'' and the vines may never produce 150 lugs per acre. Table grapes must have produced 150 lugs per acre before they are insurable. Therefore, no change has been made.

Comment: A reinsured company suggested that the first sentence in section 9(a)(1) be shortened to read, ''Coverage begins on February 1 of each crop year.'' The industry believes the additional wordage only adds confusion and suggests a poor producer could avoid an inspection by sending an application in early. Also, they questioned whether 10 days was sufficient time for insurance providers to send adjusters out to inspect every table grape vineyard, and stated that section 7(a)(4) already specifies that the vineyard must be acceptable to the insurance provider.

Response: The provisions were revised to clarify that late-filed applications are not allowed. The ten day waiting period is necessary to prevent insurance against an immediate cause of loss and avoid unnecessary exposure to uninsured causes of loss. The insurance provider must expedite its review of the application and any supporting documentation filed by the producer, determine if a visual inspection is necessary, and perform any necessary inspections within the 10-day period. The period of 10 days is believed appropriate to meet the needs of both the producer and the insurance provider. Section 7(a)(4) does not require an inspection, it just states, that if there is an inspection, the orchard must be acceptable. This is unrelated to the requirement for an inspection during the 10 day period to determine whether the producer is attempting to insure an existing or probable loss. Therefore, no change has been made.

Comment: A reinsured company suggested that section 9(a)(2) be changed to read, ''This policy is continuous after the first year of application, except the calendar date for the end of the insurance period (as specified in the Special Provisions) for each crop year, is the date during the calendar year in which the grapes are normally harvested.''

Response: Section 2(a) of the Basic Provisions states that the policy is continuous. Therefore, it is not necessary to repeat this provision in the Crop Provisions.

Comment: A reinsured company recommended removing the ''end of insurance period dates'' from the policy since they are currently listed in the Special Provisions. This would allow the addition of dates for new varieties or revisions of existing dates to be accomplished more quickly.

Response: FCIC agrees with this recommendation and has amended the provisions accordingly.

Comment: A reinsured company stated that phylloxera should not be excluded as a cause of loss, but should be included under ''Disease or insect infestation'' referenced in section 10(b)(1). The comment also stated that it is impossible to determine the amount of loss or damage attributable specifically to phylloxera and that implementation would be a loss adjusting nightmare and impossible to audit.

Response: It is widely accepted that Type B phylloxera will ultimately destroy nearly all vineyards that were planted on non-resistant root stock. The wine industry has done extensive research and worked with producers to develop plans to destroy and replace non-resistant vineyards and some

vineyards have been destroyed immediately after finding infestations. Providing coverage for phylloxera related losses may inhibit the efforts being made to stop the spread of this pest and may be considered to promote poor pest management practices. Attributing losses to phylloxera should be no more difficult than attributing losses to any other uninsurable cause of loss. Therefore, no changes have been made.

Comment: An insurance service organization suggested combining the provisions contained in section 13(e) with the provisions in section 13(a).

Response: The requirement that requests for written agreement be executed by the sales closing date is intended to be the rule and the application submitted after the sales closing date will only be an exception to this rule in limited circumstances. Therefore, no change will be made.

Comment: Two reinsured companies and an insurance service organization suggested the provision in section 13(d) stating ''Each written agreement will only be valid for one year'' be deleted. The valid period should be stated in the wording of the agreement. In most cases, written agreements should be continuous, like policies. Limiting written agreements to one year only increases administrative cost, complexity and opportunity for misunderstanding and error.

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 insure that the insured is well aware of the specific terms of the policy. Therefore, no change will be made.

In addition to the changes indicated above, FCIC has made the following changes:

1. Preamble—Include the Catastrophic Risk Protection Endorsement for clarification.

2. Section 1—Add a definition for ''adapted'' to clarify the provisions that identify the insured crop (section 7(a)), and change the lug (box) weight in Arizona from 22 pounds to 20 pounds to be consistent with comparable marketing areas in Riverside and Imperial Counties, California (Coachella Valley).

3. Section 2—Clarify that written agreements may only be used to obtain optional units on other than non-contiguous land.

4. Section 11(c)—Clarify that the damaged crop must not be destroyed until the earlier of 15 days from the date notice of loss was given or after the insurance provider gives written consent to do so. Failure to meet this requirement will result in all such production to be considered undamaged and included as production to count.

List of Subjects in 7 CFR Parts 441 and 457

Crop insurance, Table grape, Table grape crop insurance regulations.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 441 and 457, as follows:

PART 441—TABLE GRAPE CROP INSURANCE REGULATIONS FOR THE 1987 THROUGH 1997 CROP YEARS

1. The authority citation for 7 CFR part 441 is amended to read as follows:

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

2. The part heading is revised to read as set forth above.

3. Subpart heading ''Subpart—Regulations for the 1987 and Succeeding Crop Years'' is removed.

4. Section 441.7 is amended by revising the introductory text of paragraph (d) to read as follows:

§ 441.7 The application and policy.

* * * * *

(d) The application for the 1987 and succeeding crop years is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Table Grape Insurance Policy for the 1987 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 457.149 is added to read as follows:

§ 457.149 Table grape crop insurance provisions.

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

For FCIC policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

For reinsured policies:

(Insurance provider's name or other appropriate heading)

For both FCIC and reinsured policies:

TABLE GRAPE CROP 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 other provisions.

1. Definitions

Adapted. Varieties that are recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Cluster thinning and removal. Removing parts of an immature cluster or the entire cluster of grapes.

Days. Calendar days.

Direct marketing. Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

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 recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the area.

Graft. To unite a shoot or bud (scion) with a rootstock or an existing vine in accordance with recommended practices to form a living union.

Harvest. Severing the clusters of mature grapes from the vine.

Interplanted. Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

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.

Lug. Twenty pounds of table grapes in the Coachella Valley, California district; 21 pounds in all other California districts; and 20 pounds in Arizona.

Non-contiguous. Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway, or an irrigation canal will be considered as contiguous.

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

Set out. Physically planting the grape plant in the vineyard.

Table grapes. Grapes that are grown for commercial sale for human consumption as fresh fruit on acreage where the cultural practices to produce fresh marketable grapes are carried out.

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

2. Unit Division

(a) In addition to the provisions of crop definition of unit contained in section 1 (Definitions) of the Basic Provisions (§ 457.8), a basic unit will also be established for each table grape variety you insure.

(b) Unless limited by the Special Provisions, these basic units may be divided into optional units if, for each optional unit, you meet all the conditions of this section.

(c) Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, and variety, other than as described in this section.

(d) 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 premium paid for the purpose of electing optional units will be refunded to you for the units combined.

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

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

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

(2) You must have records of marketed production or measurement of stored production from each optional unit 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

(3) Unless otherwise allowed by a written agreement, each optional unit must be located on non-contiguous land.

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):

(a) You may select only one price election and coverage level for each table grape variety in the county insured under this policy.

(b) You must report, by the production reporting date designated in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), by variety if applicable:

(1) Any damage, removal of bearing vines, change in practices, or any other circumstance that may reduce the expected yield below the yield upon which the insurance guarantee is based, and the number of affected acres;

(2) The number of bearing vines on insurable and uninsurable acreage;

(3) The age of the vines and the planting pattern; and

(4) For the first year of insurance for acreage interplanted with another perennial crop, and any time the planting pattern of such acreage is changed:

(i) The age of the interplanted crop, and type if applicable;

(ii) The planting pattern; and

(iii) Any other information that we request in order to establish your approved yield.

We will reduce the yield used to establish your production guarantee as necessary, based on our estimate of the effect of the following: Interplanting perennial crop, removal of vines, damage, change in practices and any other circumstance that may affect the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee as necessary at any time we become aware of the circumstance.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is October 31 preceding the cancellation date.

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 January 31.

6. Report of Acreage

In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report the acreage of table grapes in the county by variety.

7. Insured Crop

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be any insurable variety of grapes in the county that you elect and for which a premium rate is provided by the actuarial table:

(1) In which you have a share;

(2) That are grown for harvest as table grapes;

(3) That are adapted to the area; and

(4) That are grown in a vineyard that, if inspected, is considered acceptable by us.

(b) In addition to table grapes not insurable under section 8 (Insured Crop) of the Basic Provisions (§ 457.8), we do not insure any table grapes grown on vines:

(1) That, after being set out or grafted, have not reached the number of growing seasons designated by the Special Provisions; or

(2) That have not produced an average of at least 150 lugs of table grapes per acre in at least one of the most recent three crop years in your actual production history base period. However, we may inspect and agree in writing to insure acreage that has not produced this amount.

8. Insurable Acreage

In lieu of the provisions in section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8) that prohibit insurance attaching to a crop planted with another crop, table grapes interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the requirements contained in your policy.

9. Insurance Period

(a) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) Coverage begins on February 1 of each crop year, except that for the year of application, if your application is received after January 22 but prior to February 1, insurance will attach on the 10th day after your properly completed application is received in our local office, unless we inspect the acreage during the 10-day period and determine that it does not meet insurability requirements. You must provide any information that we require for the crop or to determine the condition of the vineyard.

(2) The calendar date for the end of the insurance period for each crop year is the date during the calendar year in which the grapes are normally harvested or contained in the Special Provisions as provided to you on or before the contract change date.

(b) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) If you acquire an insurable share in any insurable acreage after coverage begins but on or before the acreage reporting date for the crop year, and after an inspection we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period.

(2) If you relinquish your insurable share on any insurable acreage of table grapes on or before the acreage reporting date for the crop year, insurance will not be considered to have attached to, and no premium will be due or indemnity paid for such acreage for that crop year unless:

(i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;

(ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(iii) The transferee is eligible for crop insurance.

10. Causes of Loss

(a) 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:

(1) Adverse weather conditions;

(2) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the vineyard;

(3) Wildlife;

(4) Earthquake;

(5) Volanic eruption; or

(6) Failure of irrigation water supply, if caused by an insured cause of loss ((a)(1) through (5) of this section) that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against damage or loss of production due to:

(1) Disease or insect infestation, unless adverse weather:

(i) Prevents the proper application of control measures or causes properly applied control measures to be ineffective; or

(ii) Causes disease or insect infestation for which no effective control mechanism is available;

(2) Phylloxera, regardless of cause; or

(3) Inability to market the table grapes for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

11. Duties In the Event of Damage or Loss

In addition to the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the following will apply:

(a) You must notify us within 3 days after the date harvest should have started if the crop will not be harvested.

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

(c) If the crop has been damaged during the growing season, you must provide notice at least 15 days prior to the beginning of harvest if you intend to claim an indemnity as a result of the damage previously reported. You must not destroy the damaged crop until the earlier of 15 days from the date you gave notice of loss, or our written consent to do so. If you fail to meet the requirements of this section all such production will be considered undamaged and included as production to count.

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 each 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 the result in section 12(b)(1) by the respective price election for the variety;

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

(4) Multiplying the total production to be counted of the variety (see section 12(c)) by the respective price election;

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

(6) Subtracting the result of section 12(b)(5) from the result in section 12(b)(3); and

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

(c) The total production to count (in lugs) 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 acreage:

(A) That is abandoned;

(B) That is sold by direct marketing if you fail to meet the requirements in section 11(b);

(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 that meets, or would meet if properly handled, the California Department of Food and Agriculture minimum standards for table grapes; and

(iv) Potential production on insured acreage that you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) All harvested production from insurable acreage regardless of condition or disposition. The quantity of production to count for table grape production damaged by insurable causes within the insurance period that is marketed for any use other than table grapes will be determined by multiplying the greater of (1) the value of the table grapes per ton or (2) $50, by the number of tons and dividing that result by the highest price election available for the insured unit. This result will be the number of lugs to count.

13. Written Agreement

Terms of this policy which are specifically designated as allowing the use of a 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, 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, DC, on September 4, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–23906 Filed 9–10–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 235

[INS No. 1796–96]

RIN 1115–AE53

Canadian Border Boat Landing Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations to clarify and standardize procedures for the application, issuance, and use of Form I–68, Canadian Border Boat Landing Card. This rule promotes uniformity and clarity in the application requirements, decision-making process, and issuance of entry documents, while enhancing effective and efficient border enforcement within the Canadian Border Boat Landing (I–68) program.

DATES: *Effective Date:* This rule is effective September 11, 1997.

Comment Date: Written comments must be received on or before November 10, 1997.

ADDRESSES: Please submit written comments, in triplicate, to the Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS No. 1796–96 on your correspondence. Comments are available for public inspection at this location by calling

(202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Ronald J. Hays, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street, NW., Room 4060, Washington, DC 20536, Telephone (202) 514–0912.

SUPPLEMENTARY INFORMATION: The Service regulations at 8 CFR 235.1(a) require that in general an application for entry to the United States must be made in person to an immigration officer at a U.S. Port-of-Entry (POE) at a time when the port is open for inspection. However, 8 CFR 235.1(e) provides an exception to this requirement by providing for participation in the Canadian Border Boat Landing Permit (I–68) program which allows certain persons who enter the United States by small boat to be inspected once per year, and thereafter enter from time to time for recreational purposes without further inspection. Boaters who choose not to obtain Form I–68 must report in person for inspection at a POE upon each entry to the United States. This is often difficult, since the Service lacks sufficient resources to station inspectors along all waterways. Therefore, boaters who have not obtained Form I–68 may report in person to Inspectors of the United States Customs Service, who are cross-designated to perform immigration inspections. Inspection by a Customs officer will satisfy the Service requirement of reporting in person for immigration inspection. However, telephonic inspections, allowed by Customs Service regulations to satisfy their reporting requirement, are not authorized by Service regulations.

Although United States citizens are not generally subject to the immigration laws, the regulations at 8 CFR 235.1(b) require that any person claiming to be a United States citizen must establish that fact to an immigration officer. United States citizens who enter the United States without Form I–68 or without reporting in person for inspection may be subject to fines or criminal sanctions. There is also the potential for some inconvenience to the United States citizen boater not in possession of Form I–68 to demonstrate United States citizenship when encountered by a Service officer. United States citizen boaters who transport aliens not in possession of Form I–68, and who do not report in person for inspection are subject to arrest, fine, imprisonment, and possible seizure of the boat. Non-United States citizens traveling by boat who do not have Form I–68, or who have not presented themselves for inspection, are subject to arrest and possible fine or deportation.

The I–68 program was established in 1963 to facilitate boating and fishing on boundary waters in Minnesota. It was expanded to other areas in 1967. The program was not implemented nationally until several years ago, when Service districts along the northern border began a publicity campaign to educate boaters as to the proper requirements for entry into the United States by boat and the benefits of participation in the program. Most Service districts make Form I–68 permits easily available by sending inspectors to marinas and boat shows and involving boating organizations in the process. Until October 9, 1995, the Form I–68 was issued without charge.

By a final rule published in the **Federal Register** on August 7, 1995, at 60 FR 40064–9, the Service established a fee for applying to participate in the I–68 program. Effective October 9, 1995, a fee of $16.00 per individual with a family cap of $32.00 was established. A family was described in that rule as a husband, wife, unmarried children under 21 years of age, and the parents of either husband or wife residing at the same address. Under the Federal User Fee Statute, 31 U.S.C. 9701, and the Office of Management and Budget Circular A–25, User Charges, reasonable charges should be imposed to recover the full cost to the Federal Government of rendering certain services that provide a specific benefit to the recipient of those services.

During the past several years, members of the boating community and members of Congress have expressed concern regarding the I–68 program. Specifically, they were concerned that the enrollment and enforcement criteria and procedures vary from district office-to-district office and that the permit is sometimes difficult to obtain. The imposition of a fee for the permit has also sparked concern.

In an effort to improve the I–68 program, the Service met with members of the boating community, other Federal inspection and enforcement agencies, congressional staffers, and representatives of the Canadian Government in Alexandria, Virginia, on August 13, 1996. Numerous suggestions for improving the program were received and have been incorporated into this interim regulation. The following is a discussion of those concerns and the Service's response.

Geographical Limitations

One of the concerns the Service received relates to the geographical limitations on travel by those permit holders who are not United States citizens or permanent residents. The current regulation allows for visits for pleasure which do not involve travel beyond the immediate shoreline area to include nearby neighborhoods and shopping centers. This lack of specificity in the regulation has led to varying enforcement of the program. The Service has determined to eliminate this problem by specifying the area within which permit holders may travel. The Service currently has a program on the southern border, similar in some respects to the I–68 program, which allows Mexican citizens who are in possession of a Mexican Border Crossing Card to enter the United States for brief visits for pleasure which do not exceed 72 hours in duration or travel more than 25 miles from the border. Since these programs are comparable, the Service has determined that it is equitable to afford I–68 program participants a similar privilege of travel as is accorded to Mexican visitors in possession of a Mexican Border Crossing Card. In addition, as two large bodies of water along the border, Puget Sound and Lake Michigan, lie almost wholly within the United States, the Service will also permit travel by program participants within 25 miles of the shoreline area of these bodies of water as well.

Obtaining the Form I–68

Another concern related to the difficulty in obtaining a permit. Currently, persons who wish to enroll in the program must travel, yearly, to a staffed Service office and apply in person. The Service proposes to reduce this burden by allowing persons who are renewing a valid permit to do so by mail. This means that a person who maintains his or her membership in the program will only have to report in person to obtain his or her first permit, unless the district director determines, on a case-by-case basis to require the applicant to report in person. The Service will evaluate the eligibility of any person to participate in the program by an examination of any records available to the Service. Application forms will also be made available by mail to the public.

The Service will also reduce the burden on the public by considering those persons who are enrolled in one of the Service's Alternative Inspections programs such as the Immigration and Naturalization Service's Passenger Accelerated Service System (INSPASS), the Dedicated Commuter Lane (DCL), or an Automated Permit Port (APP) program to be automatically included in the I–68 program without requiring an

additional application or fee. These alternative Inspections programs currently allow program participants the privilege of entering the United States by air or car without having to report for immigration inspection each time they do so. Since only the means of entry differs from the I–68 program, it is logical to include participants in other Alternative Inspections programs in the I–68 program.

Fee

The Service received several complaints concerning the charging of a fee for participation in the I–68 program. As previously stated in the August 7, 1995, final rule, the Federal User Fee Statute (31 U.S.C. 9701) and regulations require that recipients of special benefits bear the cost of providing these services. The Office of Management and Budget (OMB) Circular A–25, User Charges, states as a general policy that reasonable charges should be imposed to recover the full cost to the Federal Government of rendering such services. In July 1993, the Office of the Inspector General completed an audit of services performed and special benefits provided by the Service. The audit concluded that the Service was not in compliance with OMB directives with regard to these services, including the Canadian Border Boat Landing Permit, Form I–68, and that failure to collect fees for services resulted in the cost being paid by the general public out of the general fund appropriation. Accordingly, in 1995 the Service established a fee of $16.00 to cover the costs associated with adjudicating an application to participant in the program. This rule will not change the fee.

The Service has also been requested by the Government of Canada to include within the program landed immigrants to Canada who are not citizens of British Commonwealth Countries. At present, for example, a French citizen who is a landed immigrant in Canada is not eligible to participate in the I–68 Program. Upon consideration, the Service has decided to include such persons within the program provided they are nationals of a country designated for participation in the Visa Waiver Pilot Program and are in possession of a valid unexpired passport issued by their country of nationality, an unexpired, United States visa, and a valid I–94 marked for multiple entries to the United States at both the time they make application for inclusion within the program and each time they take advantage of the program to enter the United States.

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based upon the ''good cause'' exceptions found at 5 U.S.C. 553 (b)(B) and (d)(3). The reasons and the necessity for immediate implementation of this interim rule without prior notice and comment are as follows: this interim rule relieves a restriction, does not impose a new burden, and is beneficial to the traveling public and United States businesses which are patronized by persons benefiting from this rule.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities because of the following factors: the Form I–68 is applied for by individuals, not small entities, and the rule simply codifies policies and procedures that have been in place for many years, imposing no additional burden on applicants or small entities.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

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

Executive Order 12988 Civil Justice Reform

The rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

This interim rule does not impose any new reporting or recordkeeping requirements. The information collection (Form I–68) was previously approved for use by the Office of Management and Budget (OMB) under the OMB control number 1115–0065.

List of Subjects in 8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Passports and visas.

Accordingly, part 235 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

1. The authority citation for part 235 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1183, 1201, 1224, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

2. In § 235.1, paragraph (e) is revised to read as follows:

§ 235.1 Scope of examination.

* * * * *

(e) *U.S. citizens, lawful permanent residents of the United States, and other aliens, entering the United States along the northern border, other than at a Port-of-Entry.* A citizen or lawful permanent resident of the United States, a Canadian national or landed immigrant of Canada having a common nationality with nationals of Canada, or a landed immigrant of Canada who is a national of a country listed in § 217.2(a), may, if in possession of a valid, unexpired, Canadian Border Boat Landing Permit (Form I–68) or evidence

of enrollment in any other Service Alternaitve Inspections program (e.g., the Immigration and Naturalization Service Passenger Accelerated Service System (INSPASS) or the Port Passenger Accelerated Service System (PORTPASS)), enter the United States by means of a pleasure craft along the northern border of the United States from time-to-time without further inspection. No persons other than those described in this paragraph may participate in this program. Landed immigrants of Canada who do not share a common nationality with nationals of Canada but whose country of nationality is listed in § 217.2(a) must also be in possession of a valid, unexpired, passport issued by their country of nationality, a valid, unexpired, United States visa, and a valid, unexpired Form I–94 marked for multiple entries to the Untied States. When an entry to the United States is made by a person who is a Canadian citizen or a landed immigrant of Canada, entry may be made under this program only for a purpose as described in section 101(a)(15)(B)(ii) of the Act. Persons seeking to enter the United States for any other purpose must do so at a staffed Port-of-Entry. Persons aboard a vessel which has crossed the international boundary between the United States and Canada and who do not intend to land in the United States, other than at a staffed Port-of-Entry, are not required to be in possession of Form I–68 or evidence of enrollment in an Alternative Inspections program merely because they have crossed the international boundary. However, the Service retains the right to conduct inspections or examinations of all persons applying for admission or readmission to or seeking transit through the United States in accordance with the Act.

(1) *Application.* An eligible applicant may apply for a Canadian Border Boat Landing Permit by completing the Form I–68 in triplicate. Application forms will be made readily available through the Internet, from a Service office, or by mail. A family may apply on a single application. For the purposes of this paragraph, a family is defined as a husband, wife, unmarried children under the age of 21, and the parents of either husband or wife, who reside at the same address. In order for the I–68 application to be considered complete, it must be accompanied by the following:

(i) For each person included on the application, evidence of citizenship, and, if not a citizen of the Untied States or Canada, evidence of legal permanent resident status in either the United States or Canada. Evidence of residency must be submitted by all applicants. It is not required that all persons on the application be of the same nationality; however, they must all be individually eligible to participate in this program.

(ii) If multiple members of a family, as defined in paragraph (e)(1) of this section, are included on a single application, evidence of the familial relationship.

(iii) A fee as prescribed in § 103.7(b)(1) of this chapter.

(iv) A copy of any previously approved Form I–68.

(v) A landed immigrant of Canada who does not have a common nationality with nationals of Canada must also present a valid, unexpired, Form I–94 endorsed for multiple entries to the United States, his or her passport, and United States visa.

(2) *Submission of Form I–68.* Except as indicated in this paragraph, Form I–68 shall be properly completed and submitted in person, along with the documentary evidence and the required fee as specified in § 103.7(b)(1) of this chapter, to a United States immigration officer at a Canadian border Port-of-Entry located within the district having jurisdiction over the applicant's residence or intended place of landing. Persons previously granted Form I–68 approval may apply by mail to the issuing Service office for renewal if a copy of the previous Form I–68 is included in the application. At the discretion of the district director concerned, any applicant for renewal of Form I–68 may be required to appear for an interview in person if the applicant does not appear to be clearly eligible for renewal.

(3) *Denial of Form I–68.* If the applicant has committed a violation of any immigration or customs regulation or, in the case of an alien, is inadmissible to the United States, approval of the Form I–68 shall be denied. However, if, in the exercise of discretion, the district director waives under section 212(d)(3) of the Act all applicable grounds of inadmissibility, the I–68 application may be approved for such non-citizens. If the Form I–68 application is denied, the applicant shall be given written notice of and the reasons for the denial by letter from the district director. There is no appeal from the denial of the Form I–68 application, but the denial is without prejudice to a subsequent application for this program or any other Service benefit, except that the applicant may not submit a subsequent Form I–68 application for 90 days after the date of the last denial.

(4) *Validity.* Form I–68 shall be valid for 1 year from the date of issuance, or until revoked or voided by the Service, except that in the case of a Form I–68 issued to a landed immigrant of Canada who does not have a common nationality with nationals of Canada, such Form I–68 shall not be valid for longer than the validity of the applicant's Form I–94.

(5) *Conditions for participation in the I–68 program.* Upon being inspected and positively identified by an immigration officer and found admissible and eligible for participation in the I–68 program, a participant must agree to abide by the following conditions:

(i) Form I–68 may be used only when entering the United States by means of a vessel exclusively used for pleasure, including chartered vessels when such vessel has been chartered by an approved Form I–68 holder. When used by a person who is a not a citizen or a lawful permanent resident of the United States, admission shall be for a period not to exceed 72 hours to visit within 25 miles of the shore line along the northern border of the United States, including the shore line of Lake Michigan and Puget Sound.

(ii) Participants must be in possession of any authorization documents issued for participation in this program or another Service Alternative Inspections program (INSPASS or PORTPASS). Participants over the age of 15 years and who are not in possession of an INSPASS or PORTPASS enrollment card must also be in possession of a photographic identification document issued by a governmental agency. Participants who are landed immigrants of Canada and do not have a common nationality with nationals of Canada must also be in possession of a valid, unexpired, Form I–94 endorsed for multiple entries to the United States, a valid passport, and United States visa.

(iii) Participants may not import merchandise or transport controlled or restricted items while entering the United States under this program. The entry of any merchandise or goods must be in accordance with the laws and regulations of all Federal Inspection Services.

(iv) Participants must agree to random checks or inspections that may be conducted by the Service, at any time and at any location, to ensure compliance.

(v) Participants must abide by all Federal, state, and local laws regarding the importation of alcohol or agricultural products or the importation or possession of controlled substances as defined in section 101 of the Controlled Substance Act (21 U.S.C. 802).

(vi) Participants acknowledge that all devices, decals, cards, or other Federal Government supplied identification or technology used to identify or inspect persons or vessels seeking entry via this program remain the property of the United States Government at all times, and must be surrendered upon request by a Border Patrol Agent or any other officer of a Federal Inspection Service.

(vii) The captain, charterer, master, or owner (if aboard) of each vessel bringing persons into the United States is responsible for determining that all persons aboard the vessel are in possession of a valid, unexpired Form I–68 or other evidence of participation in a Service Alternative Inspections program (INSPASS or PORTPASS) prior to entry into the territorial waters of the United States. If any person on board is not in possession of such evidence, the captain, charterer, master, or owner must transport such person to a staffed United States Port-of-Entry for an in-person immigration inspection.

(6) *Revocation.* The district director, the chief patrol agent, or their designated representatives may revoke the designation of any participant who violates any condition of this program, as contained in paragraph (e)(5) of this section, or who has violated any immigration law or regulation, or a law or regulation of the United States Customs Service or other Federal Inspection Service, has abandoned his or her residence in the United States or Canada, is inadmissible to the United States, or who is otherwise determined by an immigration officer to be ineligible for continued participation in this program. Such persons may be subject to other applicable sanctions, such as criminal and/or administrative prosecution or deportation, as well as possible seizure of goods and/or vessels. If permission to participate is revoked, a written request to the district director for restoration of permission to participate may be made. The district director will notify the person of his or her decision and the reasons therefore in writing.

(7) *Compliance checking.* Participation in this program does not relieve the holder from responsibility to comply with all other aspects of United States Immigration, Customs, or other Federal inspection service laws or regulations. To prevent abuse, the United States Immigration and Naturalization Service retains the right to conduct inspections or examinations of all persons applying for admission or readmission to or seeking transit through the United States in accordance with the Immigration and Nationality Act.

* * * * *

Dated: July 30, 1997.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 97–24124 Filed 9–10–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–220–AD; Amendment 39–10121; AD 97–19–01]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB 2000 series airplanes, that requires a one-time inspection of the hydraulic tubes and electrical harness wires of the wing rear access door for chafing, leakage, or wear damage; repair of any discrepancy found; and modification of the wing rear access door. This amendment is prompted by reports of interference between the wing rear access door and the hydraulic tubes and electrical harnesses, and chafing damage to the hydraulic tubes. The actions specified by this AD are intended to prevent such interference or chafing damage, which could lead to failure of the number 2 hydraulic system or loss of certain electrical and landing systems, and resultant reduced controllability of the airplane.

DATES: Effective October 16, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 16, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1721; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes was published in the **Federal Register** on June 24, 1997 (62 FR 34024). That action proposed to require a one-time visual inspection of the hydraulic tubes and electrical harness wires of the wing rear access door for chafing, leakage, or wear damage; repair of any discrepancy found; and modification of the wing rear access door.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 3 Saab Model SAAB 2000 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to operators.

Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $720, or $240 per airplane.

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

Regulatory Impact

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

not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–19–01 SAAB Aircraft AB: Amendment 39–10121. Docket 96–NM–220–AD.

Applicability: Model SAAB 2000 series airplanes, serial numbers –004 through –030 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the hydraulic tubes and electrical harnesses, which could lead to failure of the number 2 hydraulic system or loss of certain electrical and landing systems, and resultant reduced controllability of the airplane, accomplish the following:

(a) Within 60 days after the effective date of this AD, perform a one-time visual inspection of the hydraulic tubes and electrical harness wires of the wing rear access door for chafing, leakage, or wear damage; in accordance with paragraph B. of the Accomplishment Instructions of Saab Service Bulletin 2000–53–010, Revision 01, dated October 10, 1995.

(1) If any chafing or leakage of the hydraulic tubes is detected, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(2) If any damage to the metal braid or wire insulation is detected, prior to further flight, repair in accordance with paragraph E. of the Accomplishment Instructions of Saab Service Bulletin 2000–53–010, Revision 01, dated October 10, 1995.

(b) Within 60 days after the effective date of this AD, modify the wing rear access door and apply silicon tape to the electrical harnesses, in accordance with paragraph C. of the Accomplishment Instructions of Saab Service Bulletin 2000–53–010, Revision 01, dated October 10, 1995.

(c) As of the effective date of this AD, no person shall install wing rear access doors, part numbers 7353500–713/–714 or 7353500–715/–716, on any airplane, unless the part has been modified in accordance with Saab Service Bulletin 2000–53–010, Revision 01, dated October 10, 1995.

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

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

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

(f) The inspection, modification, and certain repairs shall be done in accordance with Saab Service Bulletin 2000–53–010, Revision 01, dated October 10, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on October 16, 1997.

Issued in Renton, Washington, on September 3, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–23858 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–SW–28–AD; Amendment 39–10129; AD 97–19–09]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 214ST Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Bell Helicopter Textron, Inc. (BHTI) Model 214ST helicopters, that requires creation of a component history card or equivalent record using a Retirement Index Number (RIN) system; establishes a system for tracking increases to the accumulated RIN; and establishes a maximum accumulated RIN for the pillow block bearing bolts (bearing bolts). This amendment is prompted by fatigue analyses and tests that show certain bearing bolts fail sooner than originally anticipated because of the unanticipated high number of takeoffs and external load lifts utilizing high-power settings in addition to the time-in-service (TIS) accrued under other operating conditions. The actions specified by this AD are intended to prevent fatigue failure of the bearing bolts, which could result in failure of the main rotor system and subsequent loss of control of the helicopter.

EFFECTIVE DATE: October 16, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Harrison, Aerospace Engineer, FAA, Rotorcraft Certification Office, Rotorcraft Directorate, Fort Worth, Texas 76193–0170, telephone (817) 222–5447, fax (817) 222–5959.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to BHTI Model 214ST helicopters was published in the **Federal Register** on December 23, 1996 (61 FR 67503). That action proposed to require creation of a component history

card using a RIN system; establishing a system for tracking increases to the accumulated RIN; and establishing a maximum accumulated RIN for the bearing bolts.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule with three non-substantive changes. The words ''based on condition'' were deleted from paragraph (d) of the AD. If any of the four bearing bolts are replaced for any reason, all four bearing bolts must be replaced. The words ''or equivalent record'' are added to paragraphs (b) and (c). The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 6 helicopters of U.S. registry will be affected by this AD, that it will take approximately (1) 24 work hours per helicopter to replace the affected bearing bolts due to the new method of determining the retirement life required by this AD; (2) 2 work hours per helicopter to create the component history card or equivalent record (record); (3) 10 work hours per helicopter to maintain the record each year, and that the average labor rate is $60 per work hour. Required parts will cost approximately $2,000 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators for the first year is estimated to be $7,760 and each subsequent year to be $7,160. These costs assume replacement of the bearing bolts in one-sixth of the fleet each year, creation and maintenance of the records for all the fleet the first year, and creation of one-sixth of the fleet's records and maintenance of the records for all the fleet each subsequent year.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

97–19–09 Bell Helicopter Textron Inc.: Amendment 39–10129. Docket No. 94–SW–28–AD.

Applicability: All Model 214ST helicopters with pillow block bearing bolts (bearing bolts), part number (P/N) 20–057–12–48D or –50D, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within 25 hours time-in-service (TIS) after the effective date of this AD, unless accomplished previously.

To prevent fatigue failure of the bearing bolts, which could result in failure of the main rotor system and subsequent loss of control of the helicopter, accomplish the following:

(a) Create a component history card or an equivalent record for the bearing bolts, P/N 20–057–12–48D or –50D.

(b) To determine the accumulated Retirement Index Number (RIN) to date on parts in service, multiply the factored flight hour total to date by 13.6 (round-off the result to the next higher whole number). Record on the component history card or equivalent record the accumulated RIN.

Note 2: Bell Helicopter Textron, Inc. Alert Service Bulletin 214ST–94–69, dated November 7, 1994, pertains to this AD.

(c) After compliance with paragraphs (a) and (b) of this AD, during each operation thereafter, maintain a count of each takeoff and external load lift performed, and at the end of each day's operations, increase the accumulated RIN on the component history cards or equivalent record as follows:

(1) Increase the RIN by 2 for each takeoff.

(2) Increase the RIN by 2 for each external load lift, or increase the RIN by 4 for each external load lift operation in which the load is picked up at a higher elevation and released at a lower elevation, and the difference in elevation between the pickup point and the release point is 200 feet or greater.

(d) Remove the bearing bolts from service on or before attaining an accumulated RIN of 17,000. If any of the four bearing bolts are replaced, then all four bolts must be replaced at that time. The bolts are no longer retired based upon flight hours. This AD revises the Airworthiness Limitations section of the maintenance manual by establishing a new retirement life for the bearing bolts of 17,000 RIN.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

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

(g) This amendment becomes effective on October 16, 1997.

Issued in Fort Worth, Texas, on September 5, 1997.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–24117 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AWP–6]

RIN 2120–AA66

Modification to the Saipan Class D Airspace Area; CQ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Saipan, CQ, Class D airspace area. Specifically, this action raises the ceiling of the existing Class D airspace area from 2,500 feet mean sea level (MSL) to 2,700 feet MSL. The FAA is taking this action to enhance safety and better manage air traffic operations into and out of the Saipan International Airport.

EFFECTIVE DATE: 0901 UTC, November 6, 1997.

FOR FURTHER INFORMATION CONTACT: William C. Nelson, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On May 19, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Saipan Class D airspace area (62 FR 27212). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice.

Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies the Saipan Class D airspace area. Specifically, this action raises the existing ceiling of the Saipan Class D airspace area from 2,500 feet MSL to 2,700 feet MSL. This action provides additional controlled airspace for the instrument approach procedures into Saipan. The FAA is taking this action to enhance safety and better manage air traffic operations into and out of the Saipan International Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Because these amendments involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 5000—Class D Airspace

* * * * *

AWP CQ D Saipan, CQ [Revised]

Saipan International Airport (Primary Airport)
(Lat. 15°07′08″ N, long. 145°43′46″ E)
Saipan RBN
(Lat. 15°06′41″ N, long. 145°42′37″ E)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 4.3-mile radius of Saipan International Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory, Chart Supplement/Pacific.

* * * * *

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

John S. Walker,

Program Director for Air Traffic Airspace Management.

[FR Doc. 97–24103 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–21]

Establishment of Class E Airspace; Moorhead, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Moorhead, MN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 30 has been developed for Moorhead Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action creates the controlled airspace required for this SIAP. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, June 13, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Moorhead, MN (62 FR 32242). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal

operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Moorhead, MN, to accommodate aircraft executing the GPS Runway 30 SIAP at Moorhead County Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E5 Moorhead, MN [New]

Moorhead Municipal Airport, MN
(Lat. 46°50′21″ N, long. 96°39′50″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Moorhead Municipal Airport excluding that airspace within the Fargo, ND, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois, on July 31, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–24099 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–20]

Establishment of Class E Airspace; Preston, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Preston, MN. A Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAP) to Runway 28 has been developed for Fillmore County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action creates the controlled airspace required for this SIAP. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, June 13, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Preston, MN (62 FR 32245). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Preston, MN, to accommodate aircraft executing the GPS Runway 28 SIAP at Fillmore County Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E5 Preston, MN [New]

Fillmore County Airport, MN
(Lat. 43°40′36″ N, long. 92°10′47″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Fillmore County Airport, excluding that airspace within the Rochester, MN, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois, on July 31, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–24098 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–25]

Modification of Class E Airspace; Lawrenceville, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Lawrenceville, IL. A Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) Standard Instrument Approach Procedure (SIAP) to Runway 18 and a VOR/DME SIAP to Runway 36 have been developed for Lawrenceville-Vincennes International Airport because of relocation of the Lawrenceville VOR/DME. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action adds an extension to the northeast of the existing Class E airspace for the Lawrenceville-Vincennes International Airport. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, June 13, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class E airspace at Lawrenceville, IL (62 FR 32245). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Lawrenceville, IL, to accommodate aircraft executing the VOR/DME Runway 18 SIAP and the Runway 36 SIAP, by adding an extension to the northeast of the existing Class E airspace for Lawrenceville-Vincennes International Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IL E5 Lawrenceville, IL [Revised]

Lawrenceville-Vincennes International Airport, IL
(Lat. 38°45′51″ N, long. 87°36′20″ W)
Mount Carmel Municipal Airport, IL
(Lat. 38°36′23″ N, long. 87°43′36″ W)
Lawrenceville, VOR/DME
(Lat. 38°46′12″ N, long. 87°36′14″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Lawrenceville-Vincennes International Airport, and within 4.8 miles either side of the Lawrenceville VOR/DME 018° radial, extending from the 7-mile radius area to 7 miles northeast of the VOR/DME, and within a 6.4-mile radius of the Mount Carmel Municipal Airport, and within 2.7 miles each side of the 196° bearing from the Mount Carmel Municipal Airport, extending from the 6.4-mile radius to 7.4 miles south of the airport.

* * * * *

Issued in Des Plaines, Illinois on July 31, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–24097 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–24]

Modification of Class E Airspace; Eagle River, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace Eagle River, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 04 has been developed for Eagle River Union Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action adds an extension to the southwest of the existing Class E airspace at Eagle River, WI. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, June 13, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace at Eagle River, WI (62 FR 32243). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modified Class E airspace at Eagle River, WI, to accommodate aircraft executing the GPS Runway 04 SIAP at Eagle River Union Airport, by adding an extension to the southwest of the existing Class E airspace at Eagle River Union Airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Eagle River, WI [Revised]

Eagle River Union Airport, WI
(Lat. 45°55′54″ N, long. 89°16′09″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Eagle River Union Airport and within 2 miles each side of the 225° bearing from the airport extending from the 6.6-mile radius to 11.6 miles southwest of the airport.

* * * * *

Issued in Des Plaines, Illinois on July 31, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–24096 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–007]

Establishment of Class E Airspace; Frostburg, PA; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the legal description of the Frostburg, PA, Class E airspace area which was established by a final rule that was published in the **Federal Register** on May 23, 1997 (62 FR 28337), Airspace Docket No. 97–AEA–007.

EFFECTIVE DATE: September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Tom A. Bock, Air Traffic Division, Airspace Branch, AEA–520, Federal Aviation Administration, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430, telephone: (718) 553–4530.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 97–13579, Airspace Docket 97–AEA–007, published on May 23, 1997 (62 FR 28337), established Class E–5 airspace area at Frostburg, PA. The legal description included an error in the point in space coordinates. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the legal airspace description for the Class E airspace area at Frostburg, PA, as published in the **Federal Register** on May 23, 1997 (62 FR 28337) (Federal Register Document 97–13579; page 28337, column 3), is corrected to read as follows:

§ 71.1 [Corrected]

* * * * *

AEA PA E5 Frostburg, PA [Corrected]

Punxsutawney Area Hospital Heliport, PA
Point In Space coordinates
(Lat 40°57′04″ N., long. 79°01′24″)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Punxsutawney Area Hospital Heliport, excluding that portion that coincides with the Punxsutawney, PA, Class E airspace area.

* * * * *

Issued in Jamaica, New York, on August 20, 1997.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–24095 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 10, 20, 25, 71, 101, 170, 171, 312, 314, 511, 514, 570, 571, 601, 812, and 814

[Docket No. 96N–0057]

National Environmental Policy Act; Revision of Policies and Procedures; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of July 29, 1997 (62 FR 40570). The document amended the regulations governing compliance with the National Environmental Policy Act of 1969 (NEPA) as implemented by the regulations of the Council on Environmental Quality (CEQ). The document was published with an error. This document corrects that error.

EFFECTIVE DATE: The regulations are effective on August 28, 1997.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In FR Doc. 97–19566, appearing on page 40570 in the **Federal Register** of Tuesday, July 29, 1997, the following correction is made:

1. On page 40591, in the first column, in the last paragraph, in line three, ''OMB Control No. 0910–0332'' is corrected to read ''OMB Control No. 0910–0322''.

Dated: August 25, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–24121 Filed 9–10–97; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC31–1–9646a: FRL–5874–9]

Approval and Promulgation of State Implementation Plan, South Carolina: Listing of Exempt Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On May 6, 1996, the South Carolina Department of Health and Environmental Control submitted revisions to the South Carolina State Implementation Plan (SIP) involving the addition of several compounds to the list of compounds exempt from regulation as Volatile Organic Compounds (VOC). Since these exempt compounds are on the EPA list of such compounds, these revisions are being incorporated into the Federally approved South Carolina SIP.

DATES: This action is effective November 10, 1997 unless adverse or critical comments are received by October 14, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

South Carolina Department of Health, and Environmental Control 2600 Bull Street, Columbia, South Carolina 29201–1708.

FOR FURTHER INFORMATION CONTACT: Randy Terry, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia, 30303. The telephone number is (404) 562–9032.

SUPPLEMENTARY INFORMATION: On May 6, 1996, the State of South Carolina Department of Health and Environmental Control submitted a notice to amend Chapter 61–62.1. Definitions, Permit Requirements, and Emission Inventory. The Department's Bureau of Air Quality has revised rule 61–62.1, Definition #80, Volatile Organic Compounds to add acetone, parachlorobenzotrifluoride (PCBTF), volatile methyl siloxanes (VMS), and perfluorocarbons (PFCs) to the list of exempted compounds. The U.S. EPA published a final rule on June 16, 1995, [60 FR 31633], to revise 40 CFR 51.100(s) to exempt acetone from regulation as a VOC. EPA published earlier revisions on October 5, 1994 (59 FR 50639, 40 CFR 51.100(s)) to exempt parachlorobenzotrifluoride and volatile methyl siloxanes, and on March 18, 1991, to remove perfluorocarbons (56 FR 11389, 40 CFR 51.100(s)) from the definition of VOC's. Two errors in nomenclature are also being corrected by changing CFC–22 to HCFC–22 and FC–23 to HFC–23.

Final Action

EPA is approving South Carolina's notice submitted on May 6, 1996, for incorporation into the South Carolina SIP. The EPA is publishing this action without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 10, 1997 unless, by October 14, 1997 adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a

subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective November 10, 1997.

The EPA has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

I. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

C. Unfunded Mandates

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

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

D. 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, EPA 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 the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 10, 1997. Filing a petition for reconsideration by the administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in the proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 22, 1997.

R. F. McGhee,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart PP—South Carolina

2. In § 52.2120 (c), the table is amended by revising the entry ''Section I'' under Regulation No. 62.1 to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/Subject	State effective date	EPA approval date	Federal Register notice
Regulation No. 62.1	Definitions, Permits Requirements, and Emissions Inventory			
Section I	Definitions	1/26/96	9/11/97	9/11/97; p. 47760

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA—Continued

State citation	Title/Subject	State effective date	EPA approval date	Federal Register notice
*	*	*	*	*

[FR Doc. 97–24147 Filed 9–10–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–60; RM–8982]

Radio Broadcasting Services; Waynesboro and Collinwood, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Ohio Broadcast Associates, reallots Channel 235C3 from Waynesboro to Collinwood, Tennessee, and modifies Station WFRQ-FM's license to specify Collinwood as its community of license. *See* 62 FR 07984, February 21, 1997. Channel 235C3 can be allotted to Collinwood in compliance with the Commission's minimum distance separation requirements at the site specified in Station WFRQ-FM's license. The coordinates for Channel 235C3 at Collinwood are 35–08–16 NL and 87–49–43 WL. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 20, 1997.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–60, adopted August 27, 1997, and released September 5, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing Channel 235C3 at Waynesboro and adding Collinwood, Channel 235C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–24007 Filed 9–10–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–253; RM–8962]

Radio Broadcasting Services; Bainbridge, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Chattahoochee Broadcast Associates, allots Channel 270A to Bainbridge, GA, as the community's second local FM service. *See* 61 FR 67765, December 24, 1996. Channel 270A can be allotted to Bainbridge in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 30–54–30 North Latitude and 84–34–30 West Longitude. With this action, this proceeding is terminated.

DATES: Effective October 20, 1997. The window period for filing applications will open on October 20, 1997, and close on November 20, 1997.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–253, adopted August 27, 1997, and released September 5, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Channel 270A at Bainbridge.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–24005 Filed 9–10–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–196, RM–8878]

Radio Broadcasting Services; Georgetown and Garden City, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Coastline Communications of Carolina, Inc., reallots Channel 249C1 from Georgetown to Garden City, South Carolina, and modifies Station WWXM(FM)'s license accordingly. *See* 61 FR 51075, September 30, 1996. Channel 249C1 can be allotted to Garden City in compliance with the Commission's minimum distance separation requirements with a site restriction of 3 kilometers (1.9 miles)

northwest at petitioner's licensed site. The coordinates for Channel 249C1 at Garden City are North Latitude 33–35–27 and West Longitude 79–02–53. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 20 , 1997.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–196, adopted August 27, 1997, and released September 5, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by removing Channel 249C1 from Georgetown and adding Garden City, Channel 249C1.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–24004 Filed 9–10–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–230; RM–8911, RM–9049]

Radio Broadcasting Services; Levan and Oakley, UT and Green River, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Windy Valley Broadcasting, allots Channel 256A to Levan, Utah, as the community's first local aural transmission service. *See* 61 FR 63810, December 2, 1996. In response to a counterproposal filed by MRF Enterprises, the Commission allots Channel 268C1 to Oakley, Utah. In order to accommodate the new service at Oakley, the Commission also substitutes Channel 221C for Channel 268C at Green River, Wyoming. Channel 256A at Levan and Channel 268C at Green River can be allotted in compliance with the Commission's minimum distance separation requirements using the city references coordinates for the respective communities. Channel 268C1 can be allotted to Oakley with a site restriction of 29.2 kilometers (18.1 miles) east. The coordinates for Channel 256A at Levan, Utah, are 39–33–18 NL and 111–51–42 WL. The coordinates for Channel 221C at Green River, Wyoming, are 41–31–36 NL and 109–28–06 WL. The coordinates for Channel 268C1 at Oakley, Utah, are 40–43–07 NL and 110–57–17 WL. With this action, this proceeding is terminated.

DATES: October 20, 1997. The window period for filing applications for Channel 256A at Levan and Channel 268C1 at Oakley, Utah, will open on October 20, 1997, and close on November 20, 1997.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–230, adopted August 27, 1997, and released September 5, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Utah, is amended by adding Levan, Channel 256A.

3. Section 73.202(b), the Table of FM Allotments under Utah, is amended by adding Oakley, Channel 268C1.

4. Section 73.202(b), Table of FM Allotments under Wyoming, is amended by removing Channel 268C and adding Channel 221C at Green River.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–24003 Filed 9–10–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 580

[Docket No. 87–09, Notice 16]

RIN 2127–AG83

Odometer Disclosure Requirements; Exemptions

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule amends 49 CFR Part 580 by establishing a new § 580.17, by repromulgating the exemptions for certain categories of vehicles from odometer disclosure requirements now located in § 580.6, and by moving the exemptions to the new § 580.17. This interim final rule also revises the authority citation for part 580 to reflect Public Law 104–205.

The agency is taking this action pursuant to recent Federal legislation affirming the agency's exemption authority. Pub. L. 104–205 (Sept. 30, 1996). The repromulgation is necessitated by a recent United States Court of Appeals decision that has raised questions about NHTSA's authority to exempt categories of vehicles from the Federal odometer disclosure requirements.

This document is published as an interim final rule, to be effective immediately on publication in the **Federal Register**. NHTSA is requesting comments on this rule. At the close of the comment period, NHTSA will publish a document responding to the comments and, if appropriate, amending the provisions of this rule.

DATES: This rule is effective immediately upon publication in the

Federal Register. Comments on this rule are due not later than October 14, 1997.

ADDRESSES: Written comments should refer to the docket number of this notice and should be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 5109, Washington, DC 20590. (Docket hours are 9:30 a.m. through 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Eileen Leahy, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 5219, Washington, DC 20590. 202–366–5263.

SUPPLEMENTARY INFORMATION:

Background

In August 1988, to implement the Truth in Mileage Act of 1986 (''TIMA''), NHTSA amended the Federal odometer disclosure regulations (49 CFR Part 580). 53 FR 29464 (Aug. 5, 1988). Part 580 had first been promulgated in 1973 pursuant to Title IV of the Motor Vehicle Information and Cost Savings Act of 1972. Pub. L. 92–513.

Between 1973 and 1988, NHTSA amended Part 580 in several respects. Among the amendments it adopted were several which exempted certain categories of vehicles from the requirement that there be a written disclosure of the mileage when there was a transfer of ownership of the vehicle. As of 1988, there were five categories of exempt vehicles: those whose Gross Vehicle Weight Rating (GVWR) exceeded 16,000 pounds (''heavy vehicle exemption''); non-self-propelled vehicles (e.g., trailers); vehicles over 25 years old (''older vehicle exemption''); vehicles sold directly by a manufacturer to an agency of the Federal government pursuant to contractual specifications; and vehicles being transferred prior to their first purchase for purposes other than resale. During this time period, several courts ruled on the validity of the heavy vehicle exemption, with mixed results. *See Mitchell* v. *White Motor Corp., 627 F. Supp. 1241 (M. D. Tenn. 1986); Davis* v. *Dils Motor Co. 566 F. Supp. 1360 (S. D. W.Va. 1983); Lair* v. *Lewis Service Center, 428 F. Supp. 778 (D. Neb. 1977); W. W. Wallwork, Inc.* v. *Duchscherer, 501 N.W. 2d 751 (N. D. 1993).*

The agency considered these exemptions again when it proposed the amendments to Part 580 to implement TIMA. It adopted them as part of the 1988 amendments to Part 580, with no changes except for a reduction in the age limit for the older vehicle exemption, from 25 to 10 years. This change was adopted after NHTSA considered a number of the comments on the NPRM that had advocated substantial reductions in the age of vehicles that would qualify for this exemption. 53 FR 49472 (Aug. 5, 1988).

In 1994, the United States Court of Appeals for the Ninth Circuit ruled that NHTSA lacked authority to adopt heavy vehicle exemption in *Orca Bay Seafoods* v. *Northwest Truck Sales, Inc., 32 F.3d 433 (9th Cir. 1994).* In response to the *Orca Bay* decision, Congress included as part of the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1997 (''1997 DOT Appropriations Act'') a provision which states that ''notwithstanding any other provision of law, the Secretary may use funds appropriated under this Act, or any subsequent Act, to administer and implement the exemption provisions of 49 CFR 580.6 and to adopt or amend exemptions from the disclosure requirements for any class or category of vehicles that the Secretary deems appropriate.'' Section 332, Pub. L. 104–205 (Sept. 30, 1996).

On March 31, 1997, the United States Court of Appeals for the Seventh Circuit held that the older vehicle exemption in Part 580 was invalid because NHTSA did not have statutory authority to exempt categories of vehicles from the odometer disclosure requirements. *Diersen* v. *Chicago Car Exchange, 110 F.3d 481 (1997), rehearing denied, 1997 USApp LEXIS 11334 (7th Cir. May 13, 1997).* The court's opinion did not mention section 332 of the 1997 DOT Appropriations Act.

Discussion

Since the *Diersen* decision, NHTSA has received a number of inquiries from state motor vehicle administrators, vehicle auction companies, representatives of dealer associations and others asking whether the exemptions in 49 CFR 580.6 are still valid, and whether or not odometer disclosure statements are now required for the vehicles exempted by that Section. These inquiries show that there is widespread confusion among buyers and sellers of vehicles, as well as those responsible for issuing vehicle titles, as to when an odometer disclosure statement is required. The effect is most acute in the states located within the jurisdiction of the Seventh Circuit (Illinois, Indiana and Wisconsin) and Ninth Circuit (....); but given the interstate nature of many vehicle transfers, the uncertainty affects all states.

In view of the potential harm this uncertainty could cause to the effectiveness of TIMA, and to the titling process in general, NHTSA has concluded that there is an immediate need to clarify the legal status of the exemptions to Part 580. Accordingly, NHTSA is publishing this interim final rule today, and making it effective immediately upon publication. The interim final rule repromulgates the exemptions formerly contained in section 580.6 in a new section (numbered 580.17), relying on the authority of the 1997 DOT Appropriations Act. This legislation evidences Congress intent that NHTSA have the authority to adopt and amend exemptions to the odometer disclosure requirements of Part 580. In repromulgating the exemptions, the agency reaffirms that the exemptions are consistent with the purposes of TIMA and that effective administration of TIMA will be served best both by maintaining continuity in the exemptions that are recognized, and by ensuring consistency among the states. The agency is requesting comments from the public, as well as from entities that are affected by the exemptions, such as state motor vehicle administrators, automobile auctions, vehicle manufacturers, lease companies and dealers. The comments should address such issues as the relative costs and benefits of retaining or eliminating all or some of the exemptions; and the effect, if any, that retaining or eliminating all or some exemptions would have on reducing odometer fraud.

Pursuant to 5 U.S.C. § 553(b)(B), the agency concludes that there is good cause for adopting this interim final rule without prior notice and opportunity for public comment. Prior notice and public comment are unnecessary in this case because the rule merely repromulgates rules that have already been subject to the notice and comment procedures of 5 U.S.C. § 553(b). The need stated above for prompt agency action to clarify the legal status of these exemptions in light of the confusion caused by the Seventh Circuit's decision in *Diersen* also makes prior notice and opportunity for comment impracticable. As the agency has described above, the public interest now lies in immediate resolution of the uncertainty caused by that decision; further delay would only exacerbate the harmful effects of that confusion.

This rule is exempt under 5 U.S.C. § 553(d)(1) from the general requirement that rules be published not less than 30 days prior to their effective date because it grants an exemption. Accordingly, this rule will be effective immediately upon publication in the **Federal Register**.

Federalism Assessment

The agency has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612, and has determined that the interim final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The interim final rule merely repromulgates existing exemptions to the odometer disclosure requirements, and does not alter the effect on the states of existing statutory or regulatory requirements.

Rulemaking Analyses

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has analyzed this rule and determined that it is neither ''major'' nor ''significant'' within the meaning of Executive Order 12886 or of Department of Transportation regulatory policies and procedures. Because the agency estimates that this rule would not have a significant impact, it has not prepared a regulatory evaluation.

B. Regulatory Flexibility Act

The agency has also considered the effects of this action under the Regulatory Flexibility Act. I certify that this action will not have a substantial economic impact upon a substantial number of small entities. Because it is limited to amending the statutory authority for existing exemptions to agency regulations, it does not affect the impact of those regulations on small businesses.

C. National Environmental Policy Act

The agency has analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment. Accordingly, it has not prepared an environmental impact statement.

D. Paperwork Reduction Act

The interim final rule is not a collection of information as that term is defined by OMB in 5 CFR Part 1320. It amends the statutory authority for exemptions to the odometer disclosure requirements in 49 CFR Part 580. Those exemptions do not require the collection of any information. The information collection requirements established by Part 580 have been approved by OMB. (OMB 2127–0047).

E. Civil Justice Reform

This rule will not have any retroactive effect. States may not adopt laws on disconnecting, altering, or tampering with an odometer with intent to defraud that are inconsistent with 49 U.S.C. Chapter 327. 49 U.S.C. Chapter 327 does not exempt persons from complying with state laws on disconnecting, altering or tampering with an odometer with intent to defraud. Agency regulations issued under 49 U.S.C. Chapter 327 are subject to judicial review under 5 U.S.C. 704. There is no requirement for a petition for reconsideration or other administrative proceeding before a party may file a suit in court.

List of Subjects in 49 CFR Part 580

Odometers, consumer protection.

In consideration of the foregoing, 49 CFR Part 580 is amended as follows:

PART 580—ODOMETER DISCLOSURE REQUIREMENTS

1. The authority citation for 49 CFR Part 580 is revised to read as follows:

Authority: 49 U.S.C. 32705; Sec. 332, Public Law No. 104–205; delegation of authority at 49 CFR 1.50(f) and 501.8(e)(1).

§ 580.6 [Redesignated as § 580.17]

2. Section 580.6 is redesignated as § 580.17 and republished without change to read as follows:

§ 580.17 Exemptions.

Notwithstanding the requirements of §§ 580.5 and 580.7:

(a) A transferor or a lessee of any of the following motor vehicles need not disclose the vehicle's odometer mileage:

(1) A vehicle having a Gross Vehicle Weight Rating, as defined in § 571.3 of this title, of more than 16,000 pounds;

(2) A vehicle that is not self-propelled;

(3) A vehicle that is ten years old or older; or

(4) A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications.

(b) A transferor of a new vehicle prior to its first transfer for purposes other than resale need not disclose the vehicle's odometer mileage.

(c) A lessor of any of the vehicles listed in paragraph (a) of this section need not notify the lessee of any of these vehicles of the disclosure requirements of § 580.7.

Issued: September 5, 1997.

Ricardo Martinez,

Administrator.

[FR Doc. 97–23991 Filed 9–5–97; 4:50 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 970804190–7190–01; I.D. 070997A]

RIN: 0648–AJ89

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Vermilion Snapper Size Limit

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

ACTION: Interim rule with request for comments.

SUMMARY: This rule increases the minimum size limit for vermilion snapper. The intended effect is to reduce overfishing of vermilion snapper in the Gulf of Mexico.

DATES: This rule is effective September 14, 1997 through March 10, 1998. Comments must be received not later than October 14, 1997.

ADDRESSES: Comments on this interim rule must be mailed to, and copies of documents supporting this action may be obtained from, the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813–570–5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The Council, by non-unanimous vote, requested that NMFS issue this interim rule to increase the vermilion snapper minimum size limit from 8 to 10 inches (20.3 to 25.4 cm) total length, pending NMFS' review and approval of Amendment 15 to the FMP. Amendment 15 contains a 10–inch minimum size limit and additional details regarding such limit. This size limit responds to the 1996 vermilion snapper stock assessment, the 1997 Addendum to that assessment, and the 1996 and 1997 Reef Fish Stock Assessment Panel (RFSAP) Reports. In those documents, scientists concluded

that the vermilion snapper resource, while not currently overfished, is undergoing overfishing based on decreasing trends in overall catch, mean size of individual fish, catch-per-unit-effort, and estimated numbers of age–1 fish in the population. The Council recommended implementation of the minimum size limit increase as an interim measure to help reduce overfishing in the short term and mitigate the need for more severe vermilion snapper management measures to reduce fishing mortality in the future. The 10–inch minimum size limit would reduce fishing mortality, increase yield per recruit, increase the vermilion snapper spawning potential ratio, and thereby improve the status of the resource while the Council develops corrective, long-term action (i.e, through FMP amendment).

The RFSAP suggested that a 10–inch minimum size limit would be an effective intermediate measure until a new stock assessment and additional analysis could be completed. The Council, in its discussion of the interim rule request, recognized that additional management measures may be needed to prevent overfishing on a long-term basis.

The NMFS Southeast Fisheries Science Center has determined that the Council's request is based on the best available scientific information. Given the determination of overfishing, this request for an interim measure is consistent with section 305(c) of the Magnuson-Stevens Act.

NMFS concurs with the Council's finding regarding the need to reduce overfishing of vermilion snapper in the Gulf of Mexico and the need for immediate regulatory action. Accordingly, NMFS issues this interim rule, effective for 180 days, as authorized by section 305(c) of the Magnuson-Stevens Act. This interim rule may be extended for an additional 180 days provided that the public has had an opportunity to comment on the interim rule and, at the time of extension, the Council is actively preparing a plan amendment or proposed regulations to address the overfishing on a permanent basis. Public comments on this interim rule will be considered in determining whether to maintain or extend this rule to address overfishing of vermilion snapper. Responses to comments will be provided if the interim rule is revoked, modified, or extended.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary to reduce overfishing of vermilion snapper in the Gulf of Mexico and is consistent with the Magnuson-Stevens Act and other applicable laws.

A delay in action to reduce overfishing increases the likelihood of a loss of long-term productivity of vermilion snapper in the Gulf of Mexico and increases the probable need for more severe restrictions in the future. The public is aware of this increased minimum size limit and has had an initial opportunity to comment on it at Council meetings and at hearings conducted on Amendment 15. Accordingly, pursuant to authority set forth at 5 U.S.C. 553(b)(B), the AA finds that these reasons constitute good cause to waive the requirement to provide prior notice and the opportunity for prior public comment, as such procedures would be contrary to the public interest. Similarly, the need to implement these measures in a timely manner to address the overfishing of vermilion snapper constitutes good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness. However, to provide sufficient notification of the increased minimum size limit for vermilion snapper, particularly to vessels that may be at sea, NMFS makes this rule effective September 14, 1997.

This interim rule has been determined to be not significant for purposes of E.O. 12866.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by U.S.C. § 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*, are inapplicable.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: September 5, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.37, paragraph (d)(1) is revised and paragraph (d)(6) is added to read as follows:

§ 622.37 Minimum sizes.

* * * * *

(d) *Gulf reef fish.* (1) Black sea bass and lane snapper—8 inches (20.3 cm), TL.

* * * * *

(6) Vermilion snapper—10 inches (25.4 cm), TL.

* * * * *

[FR Doc. 97–24163 Filed 9–10–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 970903225–7225–01; I.D. 081297G]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico

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

ACTION: Final rule, technical amendment.

SUMMARY: NMFS issues this final rule to correct two of the coordinates that specify the boundary of the Tortugas shrimp sanctuary and to redesignate a paragraph of the regulations pertaining to the sanctuary.

DATES: Effective on September 11, 1997.

FOR FURTHER INFORMATION CONTACT: W. Perry Allen, 813–570–5326.

SUPPLEMENTARY INFORMATION: The shrimp fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Under the FMP, the Tortugas shrimp sanctuary has been closed to trawling since 1981. Three small areas are excepted from that closure for specified periods of the year. The current regulations on the Tortugas shrimp sanctuary incorrectly state one latitude and one longitude in the list of coordinates that make up the sanctuary. In addition, a paragraph specifying one of the exceptions to the closure is incorrectly designated. These errors were introduced into the regulations when the regulations on the shrimp fishery, previously contained in 50 CFR

part 658, were consolidated with ten other parts into one part, part 622, covering fisheries of the Caribbean, Gulf of Mexico, and South Atlantic (61 FR 34930, July 3, 1996).

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant Administrator for Fisheries (AA), NOAA, under 5 U.S.C. 553 (b)(B), for good cause, finds that providing prior notice and an opportunity for public comment on this rule is unnecessary. Since this rule merely corrects long established boundary coordinates that were incorrectly listed in a recent regulatory consolidation, providing prior notice and opportunity for public comment would serve no useful purpose. Similarly, the AA, under 5 U.S.C. 553 (d)(3), for good cause, finds that delaying the effective date of this correction for 30 days is unnecessary. The boundaries of the sanctuary have been long established and respected by the fishery participants.

Because prior notice and opportunity for public comment is not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable..

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: September 5, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

§ 622.34 [Amended]

2. In § 622.34(i), in paragraph (1), in the list of coordinates, the North Lat. for Point F is revised to read ''24°50.7''' and the West Long. for Point P is revised to read ''82°08.0'''; and paragraph (i)(3) is redesignated as paragraph (i)(2)(iii).

[FR Doc. 97–24164 Filed 9–10–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961210346–7035–02; I.D. 090897B]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Connecticut

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

ACTION: Commercial quota harvest.

SUMMARY: NMFS announces that the summer flounder commercial quota available to the State of Connecticut has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Connecticut for the remainder of calendar year 1997, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notice to advise the State of Connecticut that the quota has been harvested and to advise vessel and dealer permit holders that no commercial quota is available for landing summer flounder in Connecticut.

DATES: Effective September 9, 1997, through December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Lucille L. Helvenston, Fishery Management Specialist, 508–281–9347.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the states from North Carolina through Maine. The process to set the annual commercial quota and the percentage allocated to each state are described in § 648.100.

The initial total commercial quota for summer flounder for the 1997 calendar year was set equal to 11,111,298 lb (5,040,000 kg) (March 7, 1997, 62 FR 10473). The percentage allocated to vessels landing summer flounder in Connecticut is 2.25708 percent, or 250,791 lb (113,767 kg).

Section 648.100(d)(2) stipulates that any overages of commercial quota landed in any state be deducted from that state's annual quota for the following year. In the calendar year 1996, a total of 278,776 lb (126,451 kg) were landed in Connecticut. The amount allocated for Connecticut landings in 1996 was 250,791 lb (113,757 kg), creating a 27,985 lb (12,694 kg) overage that was deducted from the amount allocated for landings in that state during 1997 (March 7, 1997, 62 FR 10474). The resulting 1997 quota for Connecticut is 222,806 lb (101,063 kg).

Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor state commercial quotas and to determine when a state commercial quota is harvested. The Regional Administrator is further required to publish a notice in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. Because the available information indicates that the State of Connecticut has attained its quota for 1997, the Regional Administrator has determined based on dealer reports and other available information, that the State's commercial quota has been harvested.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, September 9, 1997, further landings of summer flounder in Connecticut by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1997 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective the date above, federally permitted dealers are also advised that they may not purchase summer flounder from federally permitted vessels that land in Connecticut for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12286.

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

Dated: September 9, 1997.

Bruce Morehead,

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

BILLING CODE 3510–22–F

[FR Doc. 97–24161 Filed 9–8–97; 4:34 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961126334–7025–02; I.D. 090597A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1997 total allowable catch (TAC) for pollock in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 7, 1997, until 2400 hrs, A.l.t., December 31, 1997.

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

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

The 1997 TAC for pollock in Statistical Area 610 of the GOA was established as 18,600 metric tons (mt) by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997), determined in accordance with § 679.20(a)(5)(ii)(A).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1997 TAC for pollock in Statistical Area 610 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 18,500 mt, and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is closing directed fishing for pollock in Statistical Area 610 of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1997 TAC for pollock in Statistical Area 610 of the GOA. Providing prior notice and an opportunity for comment is impracticable and contrary to public interest. The fleet will soon take the 1997 TAC for pollock in Statistical Area 610 of the GOA. Further delay would only result in overharvest which would disrupt the FMP's objective of providing sufficient pollock as bycatch to support other anticipated groundfish fisheries. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: September 5, 1997.

Bruce Morehead,

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

[FR Doc. 97–24017 Filed 9–5–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961126334–7052–02; I.D. 090597B]

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

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of Pacific cod by vessels catching Pacific cod for processing by the inshore component in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the allocation of Pacific cod by vessels catching Pacific cod for processing by the inshore component in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 5, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

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

The allocation of Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA was established by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997), and subsequent reserve apportionment (62 FR 11771, March 13, 1997) as 21,803 metric tons (mt). See § 679.20(c)(4).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the allocation of Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b)(2).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the allocation of Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA. Providing prior notice and an opportunity for comment is impracticable and contrary to public interest. The fleet has taken the allocation of Pacific cod by vessels catching Pacific cod for processing by the inshore component. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under

5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: September 5, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries

National Marine Fisheries Service.

[FR Doc. 97–24046 Filed 9–5–97; 4:50 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 176
Thursday, September 11, 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

7 CFR Part 319

[Docket No. 96–082–1]

Bamboo

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to consolidate the regulations pertaining to the importation of bamboo, contained in ''Subpart—Bamboo Capable of Propagation,'' and the regulations pertaining to propagative material in general, contained in ''Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products.'' This change would simplify and clarify our regulations. We are also proposing to amend the regulations in ''Subpart—Fruits and Vegetables'' to add provisions allowing fresh bamboo shoots without leaves or roots to be imported into the United States from various countries for consumption. This action is based on assessments that indicate that bamboo shoots without leaves or roots may be imported into the United States from certain countries without a significant risk of introducing plant pests.

DATES: Consideration will be given only to comments received on or before November 10, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–082–1, 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. 96–082–1. Comments 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: Mr. James Petit de Mange, Staff Officer, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1231, telephone (301) 734–6799; or e-mail jpdmange@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations at 7 CFR part 319 prohibit or restrict the importation of plants, plant parts, and related materials to prevent the introduction of foreign plant pests into the United States.

The importation into the United States of any variety of bamboo seed, bamboo plants, and bamboo cuttings capable of propagation, including all genera and species of the tribe *Bambuseae,* is regulated under ''Subpart—Bamboo Capable of Propagation,'' contained in 7 CFR 319.34. Section 319.34, paragraph (a), provides that all varieties of bamboo seeds, bamboo plants, and bamboo cuttings capable of propagation are prohibited importation into the United States unless they are imported: (1) For experimental or scientific purposes by the United States Department of Agriculture; (2) for export, or for transportation and exportation in bond, in accordance with 7 CFR part 352; or (3) into Guam, in accordance with § 319.37–4(b).

''Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products'' (referred to below as ''Subpart—Nursery Stock''), contained in 7 CFR 319.37 through 319.37–14, regulates the importation into the United States of most other propagative plant material. Regulated articles are designated as either prohibited or restricted.

We are proposing to consolidate ''Subpart—Bamboo Capable of Propagation'' and ''Subpart—Nursery Stock.'' We would do this by adding bamboo seed, bamboo plants, and bamboo cuttings, except those imported into Guam, to the list of prohibited articles in § 319.37(a). In conjunction with this action, we would remove ''Subpart—Bamboo Capable of Propagation'' and remove all references to § 319.34 contained in part 319. These changes would not alter the requirements for importing these articles.

Bamboo seeds, bamboo plants, and bamboo cuttings capable of propagation would continue to be eligible for importation into Guam. Bamboo seeds, bamboo plants, and bamboo cuttings capable of propagation and imported into Guam would be considered restricted articles, and their importation into Guam would be governed by the requirements in ''Subpart—Nursery Stock'' for the importation of restricted articles. (The term *restricted article* is defined in § 319.37–1 as any class of nursery stock or other class of plant, root, bulb, seed, or other plant product for, or capable of, propagation, excluding any prohibited articles listed in § 319.37–2 (a) or (b) of ''Subpart—Nursery Stock,'' and excluding any articles regulated under other subparts of part 319, or under 7 CFR part 321.)

The importation of bamboo seeds, bamboo plants, and bamboo cuttings for experimental or scientific purposes by the United States Department of Agriculture also would not be affected by this change. Section 319.37–2(c) provides that any article listed as a prohibited article in § 319.37(a) may be imported for experimental or scientific purposes by the Department of Agriculture.

In addition, bamboo seeds, bamboo plants, and bamboo cuttings capable of propagation would continue to be eligible for movement through the United States for export, or for transportation and exportation in bond, in accordance with 7 CFR part 352. The regulations at 7 CFR 352, ''Plant Quarantine Safeguard Regulations,'' allow plants and plant parts that are not eligible for entry into the United States to move through the United States for export to other countries under safeguards intended to prevent the introduction of plant pests.

We are also proposing to amend ''Subpart—Fruits and Vegetables,'' contained in §§ 319.56 through 319.56–8, to add provisions allowing fresh bamboo shoots without leaves or roots to be imported into the United States for consumption from China, the Dominican Republic, Japan, and Taiwan. Bamboo shoots without leaves or roots would be added to the list of fruits and vegetables in § 319.56–2t that may be imported from specified countries or places in accordance with

§ 319.56–6 and all other applicable provisions of the regulations. Section 319.56–6 provides, among other things, that all imported fruits and vegetables, as a condition of entry, shall be inspected and shall be subject to disinfection at the port of first arrival as required by an inspector. This proposed action is based on assessments that show that fresh bamboo shoots without leaves or roots may be imported from the countries listed into the United States for consumption without presenting a significant pest risk.

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 purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

We do not anticipate that this rulemaking will have any significant economic impact on any affected parties. The proposed changes concerning bamboo seed, bamboo plants, and bamboo cuttings are administrative in nature and do not change the requirements for importing these articles. This proposed rule would add provisions to allow fresh, edible bamboo shoots without leaves or roots to be imported into the United States for consumption from China, the Dominican Republic, Japan, and Taiwan. There appears to be little, if any, commercial production of bamboo shoots in the United States, and imported bamboo shoots would not be marketed in competition with any other domestic produce. Consequently, the importation of bamboo shoots should not have a significant economic impact on domestic producers or other small 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 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.*).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 would be amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

Subpart—Bamboo Capable of Propagation—[Removed]

2. Subpart—Bamboo Capable of Propagation, consisting of § 319.34, would be removed.

§ 391.37–1 [Amended]

3. In § 319.37–1, the definition for *Restricted article* would be amended by removing the reference to ''319.34'' and adding ''319.24'' in its place.

§ 391.37–2 [Amended]

4. In § 319.37–2(a), the table would be amended as follows:

a. By adding, in alphabetical order, an entry for ''Bambuseae,'' to read as set forth below.

b. By amending the entry for ''Poaceae'' by revising the text in the first column, to read as set forth below.

§ 319.37–2 Prohibited Articles.

(a) * * *

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
* *	* * *	* *
Bambuseae (seeds, plants, and cuttings, except those imported into Guam).	All	Various plant diseases, including bamboo smut (*Ustilago shiraiana*)
* *	* * *	* *
Poaceae (vegetative parts of all grains and grasses except species of Bambuseae).		
*	* * *	*

* * * * * * *

§ 319.40–2 [Amended]

5. In § 319.40–2, paragraph (c) would be amended by removing the words ''§ 319.34, ''Subpart—Bamboo Capable of Propagation''.

6. In § 319.56–2t, the table would be amended by adding entries, in alphabetical order, to read as follows:

§ 319.56–2t Administrative instructions; conditions governing the entry of certain fruits and vegetables.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
*	*	*	*
China	Bamboo	*Bambuseae spp.*	Edible shoot, free of leaves and roots.
*	*	*	*
Dominican Republic	Bamboo	*Bambuseae spp.*	Edible shoot, free of leaves and roots.
*	*	*	*
Japan	Bamboo	*Bambuseae spp.*	Edible shoot, free of leaves and roots.
*	*	*	*
Taiwan	Bamboo	*Bambuseae spp.*	Edible shoot, free of leaves and roots.
*	*	*	*

* * * * *

Done in Washington, DC, this 5th day of September 1997.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–24129 Filed 9–10–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

RIN 0563–AB15

General Administrative Regulations; Submission of Policies and Provisions of Policies, and Rates of Premium

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend its General Administrative Regulations. The intended effect of this action is to prescribe the guidelines necessary to implement and administer sections 506 and 508 of the Federal Crop Insurance Act, as amended, (Act) with respect to the submission of policies and provisions of policies and rates of premium to FCIC's Board of Directors (Board) for review, approval or disapproval, publication, and implementation.

DATES: Written comments and opinions on this rule will be accepted until close of business November 10, 1997, and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131.

FOR FURTHER INFORMATION CONTACT: Timothy Hoffmann, Director, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–3707.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

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

Paperwork Reduction Act of 1995

It has been determined by OMB that this rule is exempt from the information collection requirement contained under the Paperwork Reduction Act of 1995 (44 U.S.C., chapter 35).

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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) for 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 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provision 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

The Manager, Federal Crop Insurance Corporation, certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The action provides the guidelines to be used by approved insurance providers, or any other applicant, FCIC, and its Board, for the submission, review, and approval of policies, provisions of policies, or rates of premium which, if approved by FCIC, may ultimately be sold to producers through approved insurance providers and reinsured by FCIC or incorporated into policies reinsured by FCIC. Section 508(h)(5) of the Act requires FCIC to publish the guidelines and regulations for the submission and Board review of policies and other related materials. This regulation will not impose more stringent requirements on small entities than on large entities. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) 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 12372

This program is not subject to the provisions of Executive Order 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 proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have retroactive effect prior to the effective date. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC 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 duplication of regulations and improve those that remain in force.

Background

The Corporation makes available standard policies and forms for producers to insure certain crops against various agricultural production risks and perils. Under the provisions of section 508(h) of the Act, any person may submit or propose other crop insurance policies, provisions of policies, or rates of premium for insuring wheat, soybeans, field corn, and any other crop as determined by the Secretary of Agriculture. The Act states that these policies may be submitted without regard to limitations contained in the Act. The Act also requires that FCIC issue regulations to establish guidelines for the submission, and FCIC Board review, of policies or other material submitted to the Board under the Act.

This regulation provides the guidelines needed to carry out the requirements of the Act with respect to the submission of policies and materials to the Board.

List of Subjects in 7 CFR part 400

Administrative practice and procedures, Claims, Crop insurance, Reporting and record keeping requirements.

Proposed Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 400 by adding Subpart V to read as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart V—Submission of Policies, Provisions of Policies and Rates of Premium

Sec.
400.700 Basis, purpose, and applicability.
400.701 Definitions.
400.702 Confidentiality of submission.
400.703 Timing of submission.
400.704 Type of submission.
400.705 Contents of submission.
400.706 RMA review.
400.707 Presentation to and review by the Board for approval or disapproval.
400.708 Approved submission.
400.709 Review of an approved program.
400.710 Preemption and premium taxation.
400.711 Right of review, modification, and amendment.

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

Subpart V—Submission of Policies, Provisions of Policies and Rates of Premium

§ 400.700 Basis, purpose, and applicability.

(a) The Act requires FCIC to issue regulations that establish guidelines for the submission of policies or other material to the FCIC Board under section 508(h) of the Act. These guidelines prescribe the timing, submission, and approval process so that the Board may timely consider any submission for approval and if approved, make it available for sale to producers by any approved insurance providers for the first crop year that the submission is authorized for either reinsurance, subsidies, or other financial support that may be available under the Act. These guidelines also authorize FCIC and the Board to monitor the submission to ensure continued compliance with the requirements of the Act, this subpart, and required changes in the case of noncompliance.

(b) These regulations apply to all applicants.

(c) An applicant may submit for consideration by the Board:

(1) Crop insurance policies that are not currently reinsured or subsidized by FCIC;

(2) Provisions of policies that may amend existing crop insurance policies that are approved by FCIC; or

(3) Rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn, or any other crop authorized by the Secretary of Agriculture.

(d) A policy or other material submitted to the Board under section 508(h) of the Act may be prepared without regard to limitations contained in the Act including the requirements concerning the level of coverage, rates of premium, or the requirement that a price level for each commodity insured must equal the expected market price for the commodity as established by the Board.

(e) Any FCIC payment of a portion of the premium may not exceed the amount authorized under section 508(e) of the Act, and payment of administrative and operating expense subsidy may not exceed the amount authorized under section 508(d).

§ 400.701 Definitions.

Act. The Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

A&O subsidy. The subsidy for the administrative and operating expenses authorized by the Act and paid by FCIC on behalf of the producer to the Company.

Applicant. Any person who submits a policy, provisions of a policy, or premium rates to the Board for approval under section 508(h) of the Act.

Board. The Board of Directors of the Federal Crop Insurance Corporation.

FCIC. The Federal Crop Insurance Corporation, a wholly owned government corporation within the United States Department of Agriculture.

Insurance provider. A private insurance company that has been approved by FCIC to provide crop insurance coverage under the Act.

Manager. The Manager of FCIC.

MPCI. The multiple peril crop insurance policies authorized under the Act and 7 CFR chapter IV.

NASS. National Agriculture Statistics Service, an agency of the United States Department of Agriculture, or a successor agency.

Person. An individual, partnership, association, corporation, or other legal entity.

Policy. A crop insurance contract between a person and an insurance provider consisting of the accepted application, the Basic Provisions, the Crop Provisions, the Special Provisions, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable actuarial material for the insured crop.

Premium or rate of premium. The dollar amount per insured unit or percentage rate per dollar of liability that is needed to pay expected losses and provide for a reasonable reserve.

Replacement program. A crop insurance program that provides coverage at least equal to that provided under the MPCI program or an existing crop insurance program with similar terms, conditions, and covered causes of loss.

Revenue insurance. Plans of insurance providing protection against loss of income which are designated as such by FCIC.

Risk subsidy. That portion of the FCIC approved insurance premium for the risk of loss paid by FCIC on behalf of the policyholders.

RMA. Risk Management Agency, an agency of the United States Department of Agriculture which administers the crop insurance program for FCIC.

Secretary. The Secretary of the United States Department of Agriculture.

Submission. Any policy provisions, rates of premium, and related material that differ from an MPCI or existing replacement program or that request a material change in an approved insurance program.

Supplemental program. A submission requesting reinsurance only that provides coverage in addition to, and is written concurrently with, an MPCI policy or an approved replacement program.

§ 400.702 Confidentiality of submission.

(a) A submission made to the Board under section 508(h) of the Act will be considered as confidential commercial or financial information for purposes of 5 U.S.C. 552(b)(4) until approved by the Board. An applicant may waive such confidentiality by advising RMA in writing, or by releasing such information outside the applicant.

(b) Once a submission is approved, all information provided by the applicant to the Board will be made public.

(c) Any submission disapproved by the Board will remain confidential commercial or financial information in accordance with 5 U.S.C. 552(b)(4).

§ 400.703 Timing of submission.

(a) Any submission for Board review must be received not later than 240 days prior to the first sales closing date for which sales are requested for a crop to provide adequate time for review, approval, and marketing of the program. If the submission applies to more than one crop, the earliest applicable crop sales closing date controls. Any untimely submission will be considered for the subsequent crop year. Since policies vary in complexity and availability of required data, neither FCIC nor RMA make any assurance that approval will be given in time for sales in any crop year.

(b) Six copies of the submission under this section must be sent to the Deputy Administrator, Research and Development, Federal Crop Insurance Corporation, 9435 Holmes Road, Kansas City, MO 64131.

§ 400.704 Type of submission.

An applicant may submit to the Board:

(a) Policies and related material identified as one of the following types:

(1) A supplemental program;

(2) A replacement program; or

(3) Any other submission under section 508(h) of the Act not classified by paragraphs (a) and (b) of this section.

(b) One or more proposed revisions of any MPCI policy, revenue insurance policy, or any other policy approved by the Board under section 508(h) of the Act; and

(c) Provisions or rates of premiums for MPCI policies.

§ 400.705 Contents of submission.

Each submission may contain any information that the applicant wishes to provide but, at a minimum, it must include the following identified material:

(a) All submissions must contain at a minimum:

(1) The applicant's name;

(2) The type of submission;

(3) The proposed crops, types, varieties, or practices, as applicable, to be covered by the submission;

(4) The geographical areas where the submission will be applicable;

(5) The percentage of the crop production and acreage that potentially could be affected by the submission and the estimated total liability (by state and crop);

(6) The percentage of the crop production and acreage that is expected to be affected by the submission (estimated participation by crop and state) and the estimated liability (by state and crop);

(7) The crop year in which the proposed submission will be effective;

(8) The proposed duration of the program, if applicable;

(9) A statement of whether the applicant intends to expand the program in future crop years to different geographical areas or crops, types, varieties, or practices, as applicable;

(10) A statement of whether the applicant is requesting reinsurance, risk subsidy, or A&O subsidy for the submission, and if so, the proposed methods of calculating the risk subsidy or A&O subsidy. In the event that circumstances change, procedures also must be included to show how to recompute the risk subsidy or A&O subsidy so that the amounts of subsidy do not exceed the amount authorized by law;

(11) A schedule of the tasks to be completed for the implementation of the submission including;

(i) A list of the tasks that must be completed, including, as applicable;

(A) Premium rates;

(B) Actuarial data;

(C) Crop prices;

(D) Application and related policy forms;

(E) Training materials;

(F) Loss adjustment procedures;

(G) Procedures for compliance reviews;

(H) Examination of insurance experience;

(I) A determination if:

(*1*) The submission will be filed with the applicable Commissioner of Insurance for each state proposed for sales, and if not, the basis of why such submission will not be forwarded for review by the Commissioner; and

(*2*) The submission complies in all material respects with the standards established by FCIC for processing and acceptance of data as specified in its Manual 13 ''Data Acceptance System Handbook'', unless FCIC has agreed otherwise as part of the development process. This handbook is available from the Actuarial Division, PO Box 419293, Kansas City, Mo 64141;

(J) Identification of:

(*1*) Parties and responsibilities for addressing the policy and procedural issues and questions that arise in administering the approved program; and

(*2*) Party responsible for the product liability and the basis for such responsibility including liability for flaws in product design if such results in litigation against the applicant or FCIC; and

(K) Procedures for annual reviews to ensure compliance with all requirements of the Act, this subpart and any agreements executed between the applicant and FCIC;

(*1*) The name and title of the person responsible for completing each task;

(*2*) The date by which each task will be completed; and

(*3*) The date by which the information or documents will be made available to RMA, the policyholder, other insurance providers, or the Commissioner of Insurance, if applicable (Policy information, forms and other related documents must be made available to the producer not later than 30 days before the earliest crop sales closing date for the crops to which the submission applies.);

(12) A description of the benefits of the submission:

(i) To producers, that demonstrate how the submission offers coverages or costs that are significantly different from existing programs and that such coverage is generally not available from the private sector. Such descriptions should be supported by sample survey

results from producers, producer groups, agents, lending institutions, and other interested parties; and

(ii) To taxpayers, that demonstrate how the submission meets the public policy goals and objectives as stated in the Act, the statements of the Secretary, or similar officials and laws. This must include the rationale and data supporting the request for FCIC's financial commitment to the submission;

(13) Any accumulated insurance experience from all years and in all states in which the submission has been offered for sale and a comparison of the submission's performance with other competing crop insurance programs; and

(14) An explanation of those provisions not authorized under the Act and the premium apportioned to those provisions.

(b) With respect to any submission that impacts the amount of premium charged to the producer, the applicant must provide with the submission:

(1) A detailed description of the rating methodology, including all mathematical formulae and equations used in determining all unsubsidized and subsidized premiums or rates of premium;

(2) A list of the assumptions used in the formulation of the premiums or rates of premium;

(3) Simulations of the performance of the proposed premiums or rates of premium based on one or more of the following:

(i) By determining the total premiums and anticipated losses that would be paid under the submission and comparing these totals to a comparable insurance plan offered under the authority of the Act. Such simulations must use all experience available to the applicant and must include at least one year in which indemnities for the submission and the comparable crop exceed total premiums;

(ii) By means of a stochastic simulation of the submission that is based on the same assumptions as those used to develop the premiums or rates of premium, including sensitivity tests with regard to each assumption that demonstrates the probable impact of an erroneous assumption; or

(iii) By means of any simulation that can be proven to provide results comparable to those described in paragraphs (b)(3)(i) and (ii) of this section;

(4) Worksheets that provide the calculations in sequential order and in sufficient detail to allow verification that the premiums charged for the coverage are consistent with policy provisions. Any unique premium component must be explained in sufficient detail to determine whether the existence or amount of the premium or premium rate is appropriate; and

(5) A certification that includes, but is not limited to, an evaluation of all supporting documentation and analysis, from an accredited associate or fellow of the Casualty Actuarial Society or a similar uninterested third party or peer review panel or both. The evaluation must demonstrate that the submission is consistent with sound insurance principles, practices, and requirements of the Act.

(c) With respect to those submissions that involve new crop insurance programs or revisions of the provisions of an existing crop insurance program, the applicant must provide with the submission:

(1) Copies of the application and related policy forms together with the instructions for completing and processing such forms;

(2) Copies of the insurance policy provisions;

(3) The underwriting rules, including but not limited to:

(i) The procedures for accepting the application;

(ii) The rules for determining program eligibility, including but not limited to, minimum acreage, premium requirements, sales closing dates, production reporting requirements, inception or termination dates of the policy;

(iii) The application of administrative fees as required by the Act;

(iv) The description of available options that are different from any existing crop insurance program;

(v) Any information needed to establish coverage and determine claims, including prices that must be made available during the insurance period (This information must specify how and when such determination is made and that the process is in compliance with policy provisions.); and

(vi) Any other applicable underwriting requirements that may be required by RMA;

(4) Statements from at least three commercial reinsurers or reinsurance brokers regarding the availability of commercial reinsurance, the amount of commercial reinsurance available, the proposed terms of reinsurance and, if applicable, any past insurance experience of the submission or similar crop insurance program;

(5) The loss adjustment procedures and calculations that include, but are not limited to:

(i) Procedures that clearly specify the methods for determining the existence of and the amount of any payable loss under the submission and that demonstrate that such determinations are consistent with policy provisions; and

(ii) Examples and worksheets that provide for the steps for calculating the amounts of any payment for indemnity (loss in yield or price), prevented planting payment or replant payment in sequential order and in sufficient detail to allow review and verification that the indemnity calculations are consistent with policy provisions. Any unique component must be explained in sufficient detail to determine whether the existence or amount of the claim is appropriate;

(6) A detailed calculation for determining commodity prices, coverage levels, the amounts of insurance, and production guarantees; and

(7) A detailed description of the causes of loss covered and excluded under the submission.

§ 400.706 RMA review.

Each submission will be reviewed by RMA to determine if all necessary and appropriate documentation is included. RMA will provide the Board with the result of its review and recommendation with respect to whether the submission complies with the Act and this subpart. The submission may be returned to the applicant if it does not comply in all material respects with these requirements. To be considered, any returned submission must be resubmitted in its entirety unless otherwise agreed to by RMA.

§ 400.707 Presentation to and review by the board for approval or disapproval.

(a) Upon completion of RMA's review, RMA's recommendations will be forwarded to the Board.

(b) The Manager shall schedule the submission to be presented to the Board and inform the applicant of the date, time, and place of such meeting.

(c) The applicant will be given the option of presenting the submission to the Board. The applicant must notify FCIC in writing in advance of the Board meeting as to whether the applicant or a representative of FCIC will present the submission to the Board. If the applicant plans to present the submission and fails to appear, an FCIC representative will present the submission to the Board.

(d) The Board may consider for approval the submission for sale to producers as an additional risk management tool if:

(1) Producers interests are being adequately protected;

(2) Premiums charged are actuarially appropriate with regard to the frequency and severity of anticipated losses;

(3) A memorandum of understanding or other such agreement has been executed between the applicant and FCIC, which specifies the responsibilities of each with respect to the implementation, delivery and oversight of the submission at least 60 days prior to the sales closing date of the crop with the earliest sales closing date;

(4) The sponsoring company agrees to make any adjustment FCIC may suggest in any terms and conditions of the policy, procedures, or other related materials as needed to protect the interests of producers and the integrity of the program;

(5) Company resources, procedures, and internal controls are adequate to make the product available to producers in a timely manner in the proposed market areas; and

(6) The applicant provides RMA all material and information necessary to administer the program including but not limited to:

(i) An agreement between FCIC and the applicant which specifies the amount of reinsurance coverage, risk subsidy, and A&O subsidy, as applicable, to be paid by FCIC. The agreement shall be completed at least 60 days before the sales closing date for the crop with the earliest sales closing date; and

(ii) Rates, forms, guidelines, standards, actuarial, rating procedures, indemnity procedures, and related documents in an electronic format that can be used by all interested parties.

(e) The Board may disapprove the submission for financial assistance if all the requirements in § 400.707(d) are not met. When the Board indicates its intention to disapprove, the Board will:

(1) Notify the applicant in writing of its intent to disapprove the submission not later than 30 days prior to taking such action. Such notice will contain the basis for disapproval, and may include recommended changes necessary for Board approval;

(2) Consider any resubmission as a new proposal and complete the review process at a later time; and

(3) Reserve the right to act upon an applicant's revised submission or defer action to a later time or subsequent crop year.

§ 400.708 Approved submission.

(a) A submission approved by the Board under this subpart shall be published as a notice of availability in the **Federal Register**, and be made available to all persons contracting with or reinsured by FCIC under the same terms and conditions as required of the submitting company.

(b) Any solicitation, sales, marketing, or advertising of the program made by any party before FCIC has made the submission and related materials available to all interested parties through its official issuance system will result in the denial of reinsurance, risk subsidy and A&O subsidy for the first approved crop year.

§ 400.709 Review of an approved program.

(a) Responses to procedural issues, questions, problems or needed clarification regarding an approved submission shall be jointly addressed by the applicant and RMA. All such resolutions shall be communicated to all insurance providers through FCIC's official issuance system. Any corrected material must be presented to RMA in a format specified in § 400.707(d)(6)(ii).

(b) Any change causing a material impact upon a submission previously approved by the Board must be resubmitted for Board consideration and approval.

(c) The approved submission shall be administered in accordance with all terms of the reinsurance agreement, any applicable memorandum of understanding, or any other requirement deemed appropriate by the Board.

§ 400.710 Preemption and premium taxation.

A policy that is approved by the Board for FCIC reinsurance only, or FCIC reinsurance and full subsidy, and published in the **Federal Register** as a notice of availability is preempted from state and local taxation, and any policy provision changes requested under other state and local laws and regulations must be submitted to RMA for review and Board approval.

§ 400.711 Right of review, modification, amendment.

At any time after approval, if sufficient material, documentation or cause arises, the Board may review any approved program, request additional information, and require appropriate amendments, revisions or program changes for purposes of actuarial soundness, program integrity or protection of the interests of producers.

Signed in Washington, DC., on September 4, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–23904 Filed 9–10–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–38]

Proposed Modification of the Legal Description of Class E Airspace; Dickinson, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the legal description of Class E airspace, Dickinson, ND. The current legal description indicates less than continuous times of operation for the Class E airspace for Dickinson Municipal Airport. Actual times of operation for the airspace are continuous. The legal description must reflect the actual times of operation. This proposal would accurately reflect the times of operation for the Class E airspace at Dickinson, ND.

DATES: Comments must be received on or before October 27, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 97–AGL–38, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic,

environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AGL–38.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the legal description of the Class E airspace at Dickinson, ND, by removing the statement which indicates less than continuous times of operation for the airspace. The legal description no longer reflects the actual times of operation, which are continuous. This action would correct the legal description for Class E airspace at Dickinson, ND. Class E airspace designations for airspace areas designated as a surface area for an airport are published in paragraph 6002 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AGL ND E2 Dickinson, ND [Revised]

Dickinson Municipal Airport, ND
(Lat. 46°47′51″ N, long. 102°48′03″ W)

Within a 4.4-mile radius of Dickinson Municipal Airport and within 1.4 miles each side of the 150° bearing from the airport extending from the 4.4-mile radius to 7 miles southeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on August 26, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–24106 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–41]

Proposed Modification of the Legal Description of Class E Airspace; Hancock, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the legal description of Class E airspace at Hancock, MI. The current legal description indicates less than continuous times of operation for the Class E airspace for Houghton County Memorial Airport. Actual times of operation for the airspace are continuous. The legal description must reflect the actual times of operation. This proposal would accurately reflect the times of operation for the Class E airspace at Hancock, MI.

DATES: Comments must be received on or before October 27, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 97–AGL–41, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views,

or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AGL–41.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the legal description of the Class E airspace at Hancock, MI, by removing the statement which indicates less than continuous times of operation for the airspace. The legal description no longer reflects the actual times of operation, which are continuous. This action would correct the legal description for Class E airspace at Hancock, MI. Class E airspace designations for airspace areas designated as a surface area for an airport are published in paragraph 6002 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airpsace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AGL MI E2 Hancock, MI [Revised]

Houghton County Memorial Airport, MI
(Lat. 47°10′07″ N, long. 88°29′20″ W)

Within a 5.3-mile radius of the Houghton County Memorial Airport.

* * * * *

Issued in Des Plaines, Illinois on August 26, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–24105 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–36]

Proposed modification of Class E Airspace; Coshocton, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Coshocton, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway 22 has been developed for Richard Downing Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This proposal would add a northeast extension to the existing controlled airspace for the airport. The intended effect of this proposal would be to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before October 14, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 97–AGL–36, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East

Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AGL–36.'' The Postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Available of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace at Coshocton, OH. This proposal would provide adequate Class E airspace for operators executing the GPS Runway 22 SIAP at Richard Downing Airport by adding an extension to the northeast to the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The intended effect of this action would be to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 The Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Coshocton, OH [Revised]

Richard Downing Airport, OH
(Lat. 40°18′33″ N, long, 81°51′12″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Richard Downing Airport and within 4.0 miles either side of the 037° bearing from the airport extending from the 6.3-mile radius to 10.0 miles northeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on August 8, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–24104 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–39]

Proposed Modification of the Legal Description of Class E Airspace; Akron, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the legal description of Class E airspace at Akron, OH. The current legal description indicates less than continuous times of operation for the Class E airspace for Akron Fulton International Airport. Actual times of operation for the airspace are continuous. The legal description must reflect the actual times of operation. This proposal would accurately reflect the times of operation for the Class E airspace at Akron, OH.

DATES: Comments must be received on or before October 27, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 97–AGL–39, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AGL–39.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the legal description of Class E airspace at Akron, OH, by removing the statement which indicates less than continuous times of operation for the airspace. The legal description no longer reflects the actual times of operation, which are continuous. This action would correct the legal description for Class E airspace at Akron, OH. Class E airspace designations for airspace areas designated as a surface area for an airport are published in paragraph 6002 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996 is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AGL OH E2 Akron, OH [Revised]

Akron Fulton International Airport, OH
(Lat. 41°02′15″ N, long. 81°28′01″ W)

Within a 4.1-mile radius of Akron Fulton International Airport, excluding that airspace within the Akron-Canton Regional Airport, OH, Class C airspace area.

* * * * *

Issued in Des Plaines, Illinois on August 26, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–24101 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–37]

Proposed Modification of the Legal Description of Class E Airspace; Aberdeen, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the legal description of Class E airspace at Aberdeen, SD. The current legal description indicates less than continuous times of operation for the Class E airspace for Aberdeen Regional Airport. Actual times of operation for the airspace are continuous. The legal description must reflect the actual times of operation. This proposal would accurately reflect the times of operation for the Class E airspace at Aberdeen, SD.

DATES: Comments must be received on or before October 27, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules

Docket No. 97–AGL–37, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Operations Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AGL–37.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the legal description of the Class E airspace at Aberdeen, SD, by removing the statement which indicates less than continuous times of operation for the airspace. The legal description no longer reflects the actual times of operation, which are continuous. This action would correct the legal description for Class E airspace at Aberdeen, SD. Class E airspace designations for airspace areas designated as a surface area for an airport are published in paragraph 6002 of FAA Order, 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air aviation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AGL SD E2 Aberdeen, SD [Revised]

Aberdeen Regional Airport, SD
(Lat. 45°26′56″ N, long. 98°25′19″ W)
Aberdeen VOR/DME
(Lat. 45°25′02″ N, long. 98°22′07″ W)

Within a 4.2-mile radius of Aberdeen Regional Airport, and within 2.6 miles each side of the Aberdeen VOR/DME 131° radial, extending from the 4.2-mile radius to 7 miles southeast of the VOR/DME, and within 1.7 miles each side of the Aberdeen VOR/DME 312° radial, extending from the 4.2-mile radius to 7.8 miles northwest of the VOR/DME.

* * * * *

Issued in Des Plaines, Illinois, on August 26, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–24100 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASW–30]

Proposed Modification to the Gulf of Mexico High Offshore Airspace Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend the Gulf of Mexico High Offshore Airspace Area. The proposed action would extend the present airspace area west and south to the boundary of the Houston Air Route Traffic Control

Center (ARTCC) Flight Information Region/Control Area (FIR/CTA). Additionally, this action proposes to establish the vertical limits of the proposed airspace area expansion from Flight Level (FL) 280 up to and including FL 600. This proposed action would provide additional airspace in which domestic air traffic procedures would be used to separate and manage aircraft. This change would result in the enhanced utilization of that airspace.

DATES: Comments must be received on or before October 27, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW–500, Docket No. 96–ASW–30, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193–0001.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, TX 76193–0001.

FOR FURTHER INFORMATION CONTACT: Patricia Crawford, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–ASW–30.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267-9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On March 2, 1993, the Federal Aviation Administration published a final rule (58 FR 12128) which, in part, redesignated certain control areas over international waters as offshore airspace areas. The redesignations were necessary to comply with the Airspace Reclassification final rule (56 FR 65638; December 17, 1991).

One of the areas affected by the March 2, 1993, final rule was the Gulf of Mexico Control Area. This area was divided vertically into two areas, one of which was redesignated as the Gulf of Mexico High Offshore Airspace Area.

In June 1996 the Federal Aviation Administration completed phase II of an evaluation of the airspace over the Gulf of Mexico. The evaluation was a combined effort with representatives from the FAA, Servicios a la Navegacion en El Espacio Aereo Mexicano, and other airspace users. The objective of the evaluation was, in part, to identify areas where air traffic services, air traffic operations, and utilization of airspace could be improved. One of the outcomes of this evaluation was the determination that system capacity would be enhanced by modifying air traffic control (ATC) procedures used to control aircraft operations in the airspace over the Gulf of Mexico. Currently, International Civil Aviation Organization (ICAO) oceanic ATC procedures are used to separate and manage aircraft operations that extend beyond the lateral boundary of the existing Gulf of Mexico High Offshore Airspace Area. Modifying the Gulf of Mexico High Offshore Airspace Area by extending the boundaries further west and south of the current location to the Houston ARTCC FIR/CTA, would allow the application of domestic ATC separation procedures over a larger area. This proposal to modify the offshore airspace area would enhance system capacity and allow for more efficient utilization of that airspace.

The Proposal

The FAA is proposing an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Gulf of Mexico High Offshore Airspace Area, by extending the present airspace area west and south to the Houston ARTCC FIR/CTA. This proposed modification would allow the application of domestic ATC separation procedures, in lieu of ICAO separation procedures, enhancing system capacity, and allowing for more efficient use of the airspace. Offshore airspace area designations are published in paragraph 2003 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The offshore airspace area designation listed in this document would be published subsequently in the Order. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in accordance with the ICAO International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of Air Traffic

Airspace Management, in areas outside U.S. domestic airspace is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of the document is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E, AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 2003—Offshore Airspace Areas

* * * * *

Gulf of Mexico High [Revised]

That airspace extending upward from 18,000 feet MSL to and including FL 600 bounded on the west, north, and east by a line 12 miles offshore and parallel to the Texas, Louisiana, Mississippi, Alabama, and Florida shorelines, and bounded on the south from east to west by the southern boundary of the Jacksonville ARTCC, Miami Oceanic CTA/FIR, Houston CTA/FIR and lat. 26°00′006″ N.; and that airspace extending upward from FL 280 to and including FL 600 beginning at lat. 28°12′20″ N., long. 95°24′20″ W.; then clockwise to lat. 28°15′00″ N., long. 94°00′00″ W.; to lat. 28°15′00″ N., long. 89°53′00″ W.; to lat. 26°55′00″ N., long. 89°35′00″ W.; to lat. 26°21′00″ N., long. 89°30′00″ W.; to lat. 24°58′00″ N., long. 89°17′30″ W.; to lat. 24°30′00″ N., long. 89°14′00″ W.; to lat. 24°30′00″ N., long. 93°00′00″ W.; to lat. 25°23′00″ N., long. 94°42′00″ W.; to lat. 26°00′00″ N., long. 95°55′00″ W.; to lat. 26°00′00″ N., long. 95°59′00″ W.; to lat. 26°04′45″ N., long. 95°56′49″ W.; to lat. 26°52′00″ N., long. 95°35′00″ W.; to lat. 27°38′00″ N., long. 95°35′00″ W.; to lat. 28°00′00″ N., long. 95°27′00″ W. to point of beginning.

* * * * *

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

John S. Walker,

Program Director for Air Traffic Airspace Management.

[FR Doc. 97–24102 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 1000, 1003, and 1005

[Docket No. FR–4170–N–13]

Native American Housing Assistance and Self-Determination Negotiated Rulemaking Committee; Meetings

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Negotiated Rulemaking Committee meetings.

SUMMARY: This document announces a series of negotiated rulemaking meetings sponsored by HUD to develop the final regulations necessary to carry out the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (Pub. L. 104–330, approved October 30, 1996).

DATES: The meetings will be held on: September 22, 23, 24, 25, and 26, 1997.

The meetings will begin at approximately 9:00 am and end at approximately 5:00 pm on each day, local time.

ADDRESSES: The meetings will be held at the Sheraton National Hotel, 900 Orne Street, Arlington, VA 22204; telephone (703) 521–1900 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Karen Garner-Wing, Acting Deputy Assistant Secretary for Native American Programs, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, Co; telephone (303) 675–1600 (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: The Secretary of HUD established the Native American Housing Assistance and Self-Determination Negotiated Rulemaking Committee (Committee) to negotiate and develop a proposed rule implementing NAHASDA. The proposed rule was published on July 2, 1997 (62 FR 35718) and provided for a 45-day public comment period. The public comment deadline was August 18, 1997.

The Committee met from August 22–29, 1997 in Denver Colorado to consider the public comments submitted on the July 2, 1997 proposed rule. This notice announces an additional series of negotiated rulemaking meetings. The Committee is meeting to further consider the public comments and to approve the draft regulatory language developed by the individual Committee workgroups at the August 22–29, 1997 meetings.

The meeting dates are: September 22, 23, 24, 25, and 26, 1997.

The agenda planned for the meetings includes: (1) Discussion of the significant issues raised by the public commenters; (2) development of responses to the comments; and (3) review of the draft regulatory language developed by the individual Committee workgroups at the August 22–29, 1997 Denver meetings.

The meetings will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the Committee for its consideration. Written

statements should be submitted to the address listed in the **FOR FURTHER INFORMATION** section of this notice. Summaries of Committee meetings will be available for public inspection and copying at the address in the same section.

Dated: September 5, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–24107 Filed 9–10–97; 8:45 am]

BILLING CODE 4210–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC 31–1–9646b: FRL–5875–1]

Approval and Promulgation of State Implementation Plan, South Carolina: Listing of Exempt Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On May 6, 1996, the South Carolina Department of Health and Environmental Control submitted revisions to the South Carolina State Implementation Plan (SIP) involving the addition of several compounds to the list of compounds exempt from regulation as Volatile Organic Compounds (VOC). In the final rules section of this **Federal Register**, the EPA is approving the revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by October 14, 1997.

ADDRESSEES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, Atlanta, Georgia 30303.

South Carolina Department of Health and Environmental Control, 600 Bull Street, Columbia, South Carolina 29201–1708.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Terry, Regulatory Planning Section, Air Planning Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 61 Forsyth Street, Atlanta, Georgia 30303. The telephone number is 404/562–9032.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: May 22, 1997.

R.F. McGhee,

Acting Regional Administrator.

[FR Doc. 97–24148 Filed 9–10–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5889–9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Northern Engraving Corporation site from the national priorities list; request for comments.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) Region V announces its intent to delete the Northern Engraving Corporation Site (the Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is being taken by U.S. EPA, because it has been determined that all responses under CERCLA have been implemented by the responsible party and U.S. EPA, in consultation with the State of Wisconsin, has determined that no further response is appropriate. Moreover, U.S. EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before October 14, 1997.

ADDRESSES: Comments may be mailed to Gladys Beard, Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd. (SR–6J), Chicago, IL 60604. Comprehensive information on the site is available at U.S. EPA's Region V office and at the local information repository located at: Sparta Free Library, W. Main & Court Sts., Sparta, WI 54656.

Requests for comprehensive copies of documents should be directed formally to the Region V Docket Office. The address and phone number for the Regional Docket Officer is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

FOR FURTHER INFORMATION CONTACT: Gladys Beard (SR–6J), Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–7253 or Briana Bill (P–19J), Office of Public Affairs, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–6646.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The U.S. Environmental Protection Agency (EPA) Region V announces its intent to delete the Northern Engraving Corporation Site from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on the proposed deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of those

sites. Sites on the NPL may be the subject of remedial actions financed by the Potentially Responsible Parties or the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if the conditions at the Site warrant such action.

The U.S. EPA will accept comments on this proposal for thirty (30) days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and explains how the Site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter U.S. EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, U.S. EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(I) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) The Remedial Investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

III. Deletion Procedures

Upon determination that at least one of the criteria described in 300.425(e) has been met, U.S. EPA may formally begin deletion procedures once the State has concurred. This **Federal Register** notice, and a concurrent notice in the local newspaper in the vicinity of the Site, announce the initiation of a 30-day comment period. The public is asked to comment on U.S. EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate U.S. EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, if necessary, the U.S. EPA Regional Office will prepare a Responsiveness Summary to evaluate and address comments that were received. The public is welcome to contact the U.S. EPA Region V Office to obtain a copy of this responsiveness summary, if one is prepared. If U.S. EPA then determines the deletion from the NPL is appropriate, final notice of deletion will be published in the **Federal Register**.

IV. Basis for Intended Site Deletion

The Northern Engraving Corporation (NEC) Site (Site) is located in Sparta, Wisconsin. Sparta is a rural community with a population of 6,800 approximately 25 miles east of LaCrosse. The NEC facility is adjacent to residential and business areas and abuts the LaCrosse River which forms the southern boundary of the Site. Domestic water is supplied to most residences in the city through a public distribution system. Production wells for this system are about 3/4 mile from the Site and draw water from bedrock aquifer at depths from 105 to 260 feet. The closest private well is located approximately 1/4 mile from the NEC facility. Private wells are completed in the bedrock aquifer.

The Site is presently the location of NEC manufacturing activities. NEC produces metal name plates, dials, and decorative trim for the automotive industry utilizing anodizing, chemical etching, and chromate conversion coating processes. The Site was proposed for the Federal National Priorities List (NPL) on September 8, 1983. The listing was finalized on September 21, 1984.

Four areas on the NEC facility were identified as potential sources of contamination. These areas include a sludge lagoon, a seepage pit, a sludge dump site, and a lagoon drainage ditch. From 1968 to 1976 rinse water from the plant, after treatment with sodium hydroxide, was discharged to the lagoon where metal hydroxide solids were allowed to settle before discharge of the effluent via the drainage ditch to a storm runoff ditch. The treated effluent was then combined with the City of Sparta's wastewater effluent prior to discharge into the Lacrosse River. Accumulated sludge in the lagoon was on two occasions excavated and disposed of on-site at what is referred to as the sludge dump. The seepage pit was used to neutralize spent acid waste by reaction with limestone.

A waste water treatment system was installed in 1976 which uses above ground steel settling tanks. Waste previously treated in the settling lagoon and in the seepage pit were combined and routed to the treatment system. The lagoon was used for emergency storage of untreated waste water until 1980 when a lined emergency holding lagoon was put into service. In 1981 the seepage pit was filled, graded, and revegetated.

A Remedial Investigation (RI) Report, that was dated May 1986 identified areas within the NEC facility where hazardous constituents posed a potential threat to public health, welfare, and the environment. Analysis of on-site groundwater showed elevated levels of copper, fluoride, nickel, zinc, 1,1-dichloroethylene, trichloroethylene, and vinyl chloride. Data indicated that the contaminants moved with the groundwater toward the LaCrosse River where the groundwater discharges to the river at the southern boundary of the Site. Highest levels of these indicator parameters were detected down gradient from and adjacent to the sludge lagoon and the seepage pit. Surface soils were not contaminated except in the immediate vicinity of the drainage ditch.

The Health and Endangerment Assessment (EA) dated February 1987, analyzed a variety of exposure scenarios to quantify the risk to public health, welfare and the environment. Exposures were based on potential contact with contaminated sludge, soil and ingestion of groundwater. Upper bound cancer risk for groundwater exceeds 10–E06. The upper bound scenario represented consumption from the most highly contaminated monitoring well. Risk was also established which exceeded acceptable levels for exposure to sludge and soils through the worst case scenarios.

A Feasibility Study (FS) was released for comment on August 27, 1987. The FS identified remedial alternatives which provide minimization of long-term contact with contaminated soil and sludge and prevent ingestion of contaminated groundwater. The remedial objectives in the FS are listed below:

1. The remedial objectives to minimize contact with the sludge and prevent contact with and use of groundwater downgradient to the LaCrosse River are achieved by stabilizing the sludge, capping the lagoon and monitoring the groundwater. The institutional control was achievable because there are no downgradient

groundwater users, no surface water impact attributable to the discharge and the site is wholly owned by NEC.

2. The remedial objective to eliminate the potential for contact with contaminated soil was achieved by placement of the excavated drainage ditch soil in the sludge lagoon. The excavated area was filled, graded, and vegetated.

3. The remedial objective to eliminate the potential for exposure to buried contaminated soil was met by access restriction by NEC ownership, since the area is already capped preventing casual exposure. A restriction in the property deed prevents future development in the seepage pit area.

4. The remedial objective to eliminate contact with buried sludge and contaminated soil was achieved by excavation of the contaminated materials and stabilization in the sludge lagoon. The dump site would be backfilled with native soil following excavation to its former grade.

No comments were received during the 30 day public comment period beginning August 27, 1987. Although an opportunity for a public meeting to discuss the remedy selection was provided, no interest in such a meeting was expressed by the public.

On September 30, 1987, the Regional Administrator approved a Record of Decision (ROD) which selected the following remedies:

A. Source Control. 1. Excavate and place contaminated materials from the drainage ditch and sludge dump site in the sludge lagoon for solidification.

2. All contaminated materials in the sludge lagoon would be solidified, and the lagoon would be provided a RCRA soil waste cover and monitored for proper closure.

3. Restrict access and apply deed restrictions to the seepage pit property.

B. Management of Migration. Ground water contamination would be regulated and monitored through the use of alternate concentration limits (ACLs) to be applied downgradient of the sludge lagoon and the seepage pit.

C. Operation and Maintenance. The cover over the sludge lagoon and the seepage pit would be routinely inspected and monitored. Semi-annual groundwater sampling and analyses at compliance monitoring wells would be conducted.

Construction activities at the Site were performed by NEC in accordance with the remedy selected in the September 30, 1987 ROD. The Remedial Construction Activities started at the Site on June 6, 1988. A Closeout Report was signed September 29, 1989, confirmatory sampling verified that the ROD cleanup objectives have been achieved and all cleanup actions specified in the ROD have been implemented.

In June, 1994, a Five-Year Review was conducted. The Five-Year Review provided a basis for the Site deletion from the NPL. The report states that remedial actions implemented at the Site continuously remain protective of the public and the environment. Based on the reported groundwater monitoring results, all the Site related chemicals of concern are below the alternate concentration limits (ACLs).

EPA, with concurrence from the State of Wisconsin, has determined that all appropriate responses under CERCLA at the Northern Engraving Corporation Site have been completed by the responsible party, and no further CERCLA response actions are appropriate in order to provide protection of human health and environment. Therefore, EPA proposes to delete the Site from the NPL.

Dated: August 29, 1997.

Michelle D. Jordan,

Acting Regional Administrator, U.S. EPA, Region V.

[FR Doc. 97–23840 Filed 9–10–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–195; RM–9126]

Radio Broadcasting Services; Haiku, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Native Hawaiian Broadcasting seeking the allotment of Channel 293C to Haiku, Hawaii, as that community's first local FM service. Coordinates utilized for this proposal are 20–55–03 and 156–19–33.

DATES: Comments must be filed on or before October 27, 1997, and reply comments on or before November 12, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Dan J. Alpert, Esq., The Law Office of Dan J. Alpert, 2120 N. 21st Rd., Suite 400, Arlington, VA 22201.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–195, adopted August 27, 1997, and released September 5, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of ProposedRule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–24006 Filed 9–10–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–197, RM–9154]

Radio Broadcasting Services; Goldsmith, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Wild West Broadcasting Company, Inc., proposing the allotment of Channel 234A at Goldsmith, Texas, as the community's first local aural transmission service. Channel 234A can be allotted to Goldsmith in compliance

with the Commission's minimum distance separation requirements with a site restriction of 11.9 kilometers (7.4 miles) southwest. The coordinates for Channel 234A at Goldsmith are 31–54–26 NL and 102–42–14 WL.

DATES: Comments must be filed on or before October 27, 1997, and reply comments on or before November 12, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gerald K. Reid, President, Wild West Broadcasting Company, Inc., P.O. Box 663, 505 NW 10th Street, Andrews, Texas 79714 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–197, adopted August 27, 1997, and released September 5, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–24002 Filed 9–10–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–196, RM–9151]

Radio Broadcasting Services; La Fayette, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to delete Channel 298A from La Fayette, Georgia. In its Petition for Rule Making, Tennessee Instructional Radio contends that this allotment cannot be implemented because of FAA restrictions. The deletion would require the concurrent dismissal of a construction permit application for this allotment by Radix Broadcasting, Inc. (File No. BPH–920304MH).

DATES: Comments must be filed on or before October 27, 1997, and reply comments filed on or before November 12, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making in MM Docket No.97–196 adopted August 27, 1997, and released September 5, 1997. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3805, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–24001 Filed 9–10–97; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 62, No. 176
Thursday, September 11, 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

Submission for OMB Review; Comment Request

September 5, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of 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; (d) ways to 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 *and* to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) May be obtained by calling (202) 720–6746.

An agency May not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs 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.

- **Farm and Consumer Service**

Title: Implementation of SMI for Healthy Children Study.
OMB Control Number: 0584–New.
Summary of Collection: The study will collect data from a nationally representative sample of School Food Authorities and all child nutrition State Directors to address current policy needs including an assessment of how the School Meals Initiative has been implemented in School Food Authorities.
Need and Use of the Information: The information will be used to make program improvements and determine the need for technical assistance.
Description of Respondents: State, Local, or Tribal Government; Not-for-profit institutions.
Number of Respondents: 1,620.
Frequency of Responses: Reporting: One-time.
Total Burden Hours: 2,858.

- **Agricultural Marketing Service**

Title: Regulating Governing Inspection, Certification, and Standards for Fresh Fruits, Vegetables and Other Products—7 CFR 51.
OMB Control Number: 0581—0125.
Summary of Collection: Inforamtion is collected from respondents who request inspection services.
Need and Use of the Information: The information is used to identify those respondents requesting inspection and the food products requiring inspection.
Description of Respondents: State, Local or Tribal Government; Business or other for-profit.
Number of Respondents: 51,800.
Frequency of Responses: Reporting: On occasion.
Total Burden Hours: 6,416.

- **Foreign Agricultural Service**

Title: Certificate of Quota Eligibility.
OMB Control Number: 0551–0014.
Summary of Collection: Those persons wishing to import sugar into the United States must fill out a certificate of quota eligibility and provide information including quantity of sugar, name of shipper, name of vessel and port of loading.
Need and Use of the Information: The information is used to monitor and control the imports of sugar.
Description of Respondents: Business or other for-profit.
Number of Respondents: 40.
Frequency of Responses: Reporting: On occasion.
Total Burden Hours: 333.

- **Farm Service Agency**

Title: Sugar Program.
OMB Control Number: 0560–0138.
Summary of Collection: Information is collected on sugar production, importation, distribution and stocks.
Need and Use of the Information: The information is used to administer the sugar program.
Description of Respondents: Business or other for-profit.
Number of Respondents: 51.
Frequency of Responses: Recordkeeping; Reporting: Monthly; Annually.
Total Burden Hours: 18,698.

- **Agricultural Research Service**

Title: USDA Record of Shipment/Release of Exotic Microorganisms for Biological Control.
OMB Control Number: 0518–0017.
Summary of Collection: Information is collected concerning shipments and release of exotic microorganisms for biological control.
Need and Use of the Information: The information is entered into a database and contributes to biological control and taxonomic research programs.
Description of Respondents: Federal Government; Not-for-profit institutions; State, Local or Tribal Government.
Number of Respondents: 20.
Frequency of Responses: Reporting: On occasion.
Total Burden Hours: 5.

- **Agricultural Research Service**

Title: Grant Application Kit.
OMB Control Number: 0518–New.
Summary of Collection: Information collected will include an application for funding and a research proposal.
Need and Use of the Information: The information will be used to review applicants' qualifications and to facilitate merit review of research proposals.
Description of Respondents: Not-for-profit institutions; Individuals or households; Business or other for-profit; Farms; Federal Government; State, Local or Tribal Government.
Number of Respondents: 200.
Frequency of Responses: Reporting: On occasion.
Total Burden Hours: 800.

- **Agricultural Marketing Service**

Title: Papayas Grown in Hawaii, Marketing Order No. 928.

OMB Control Number: 0581–0102.

Summary of Collection: Information is collected from papaya growers and handlers concerning referendum ballots and information related to papaya supplies, shipments and disposition.

Need and Use of the Information: The information is used to regulate the provisions of Marketing Order No. 928.

Description of Respondents: Business or other for-profit.

Number of Respondents: 75.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Weekly; Monthly; Annually.

Total Burden Hours: 1041.

- **Agricultural Research Service**

Title: Supplemental Children's Survey to the Continuing Survey of Food Intakes by Individuals (CSFII) 1994–96.

OMB Control Number: 0518–0020.

Summary of Collection: The survey collects information on the kinds and amounts of foods eaten by American children.

Need and Use of the Information: The information will be used to assess pesticide residue exposure in the diets of infants and children.

Description of Respondents: Individuals or households.

Number of Respondents: 5200.

Frequency of Responses: Reporting: One time.

Total Burden Hours: 6500.

- **Rural Housing Service**

Title: 7 CFR 1956–B, Debt Settlement—Farm Programs and Multi-Family Housing.

OMB Control Number: 0575–0118.

Summary of Collection: Respondents apply for settlement of indebtedness and provide current financial condition including income, expenses and assets and liabilities.

Need and Use of the Information: The information is used to determine the acceptability of settlement offers on debts owed to the Government.

Description of Respondents: Farms; Individuals or households; Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 5,375.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 4,017.

Donald Hulcher,

Departmental Clearance Officer.

[FR Doc. 97–24128 Filed 9–10–97; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Western Washington Cascades Province Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Western Washington Cascades PIEC Advisory Committee will meet on September 26, 1997 in North Bend, Washington (specific location yet to be determined). The meeting will begin about 12:45 p.m. and continue until about 3:30 p.m. Agenda items to be covered include: (1) Discussion of the Finney Adaptive Management Area planning process and the level of involvement in that process desired by the Advisory Committee; (2) update on the Mt. Baker-Snoqualmie National Forest monitoring and evaluation strategy revision process; (3) tentative agenda and topics for November meeting; (4) other topics as appropriate; and, (5) open public forum. (To find out the specific location of the meeting, call the information contact listed at the end of this notice after Wednesday, September 17, 1997.)

A field trip for Advisory Committee members will take place on Thursday, September 25, 1997, and Friday morning, September 26, 1997. Members will tour portions of the Middle Fork Snoqualmie River watershed, and areas along the Interstate 90 corridor to the top of Snoqualmie Pass. The focus of the field trip will be recreation management issues under the 1990 Mt. Baker-Snoqualmie National Forest Plan, as amended by the 1994 Northwest Forest Plan Record of Decision. The trip will commence about 9:00 a.m. on Thursday, September 25, 1997, at the North Bend Ranger District Office, 42404 S.E. North Bend Way, in North Bend, Washington, and end on Friday, September 26, 1997, at the (yet to be determined) meeting location noted above about 11:45 a.m.

All Western Washington Cascades Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. Interested citizens are also welcome to join the September 25–26 field trip; however, they must provide their own transportation.

FOR FURTHER INFORMATION CONTACT:

Direct questions regarding this meeting to Chris Hansen-Murray, Province Liaison, USDA, Mt. Baker-Snoqualmie National Forest, 21905 64th Avenue West, Mountlake Terrace, Washington 98043, 425–744–3276.

Dated: September 5, 1997.

Mary E. Wells,

Acting Forest Supervisor.

[FR Doc. 97–24113 Filed 9–10–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Posting of Stockyards

Pursuant to the authority provided under Section 302 of the Packers and Stockyards Act (7 U.S.C. 202), it was ascertained that the livestock markets named below were stockyards as defined by Section 302(a). Notice was given to the stockyard owners and to the public as required by Section 302(b), by posting notices at the stockyards on the dates specified below, that the stockyards were subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

Facility No.	Name and location of stockyard	Date of posting
AZ–115	Tucson Livestock Auction, Inc., Marana, Arizona	October 30, 1996.
AZ–116	Arizona Livestock Auction, Inc., Phoenix, Arizona	May 13, 1997.
GA–219	Gray Bell Auction Company and, Gray Bell Animal Auction, Royston, Georgia	April 28, 1997.
GA–220	Henderson Event Center, Inc., College Park, Georgia	April 25, 1997.
GA–221	Ranger Horse Auction, Ranger, Georgia	June 13, 1997.
SC–155	David Stegall Auction Co., Ridgeville, South Carolina	February 20, 1997.

Done at Washington, D.C. this 28th day of August 1997.

Daniel L. Van Ackeren,

Director, Livestock Marketing Division, Packers and Stockyards Programs.

[FR Doc. 97–24016 Filed 9–10–97; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service's (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by November 10, 1997.

FOR FURTHER INFORMATION CONTACT: Carolyn W. Dotson, Program Support and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1524, Room 0227 South Building, Washington, D.C. 20250–1524. Telephone: (202) 720–1928. FAX: (202) 690–2268.

SUPPLEMENTARY INFORMATION:

Title: Financial Requirements and Expenditure Statement, Electric.

OMB Control Number: 0572–0015.

Type of Request: Revision of a currently approved information collection.

Abstract: This collection is necessary to comply with the applicable provisions of the RUS loan contract. Borrowers submit requisitions to RUS for funds for projects costs incurred. Insured loan funds will be advanced only for projects which are included in the RUS approved borrower's construction workplan or approved amendment and in an approved loan, as amended. The process of loan advances establishes the beginning of the audit trail of the use of loan funds which is required for subsequent RUS compliance audits.

The Form 595 is used as a requisition for advances of funds. The form helps to assure that loan funds are advanced only for the budget purposes and amounts approved by RUS. According to the applicable provisions of the RUS loan contract, borrowers must certify with each request for funds to be approved for advance, that such funds are for projects previously approved.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 11 hours per response.

Respondents: Small business or organizations.

Estimated Number of Respondents: 880.

Estimated Number of Responses per Respondent: 3.

Estimated Total Annual Burden on Respondents: 29,040.

Copies of this information collection, and related form and instructions, can be obtained from Carolyn W. Dotson, Program Support and Regulatory Analysis, at (202) 720–1928.

Comments are invited on: (a) Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of 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.

Comments may be sent to F. Lamont Heppe, Jr., Director, Program Support and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522. FAX: (202) 720–4120.

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

Dated: August 28, 1997.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 97–24162 Filed 9–10–97; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090297C]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting of its Vessel Monitoring Systems (VMS) Committee.

DATES: The meeting will be held on September 30, 1997, from 9:00 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at the Council office, Conference Room, 1164 Bishop Street, Suite 1400, Honolulu, HI; telephone: (808) 522–8220.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The VMS Committee will hold a meeting to discuss and formulate recommendations for the Council to consider at its 94th meeting to be held in November 1997. The VMS committee plans to discuss Hawaii longline VMS Data confidentiality, VMS data for fisheries research, future direction of the VMS program, and consider other business as required.

Although other issues not contained in this agenda may come before this Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Committee action during this meeting. Committee action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: September 5, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–24066 Filed 9–10–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080697B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for scientific research permits (1079, 1080).

SUMMARY: Notice is hereby given that Notice is hereby given that Georgia-Pacific West, Inc. (GPWI) in Fort Bragg, CA, and Dr. Jerry J. Smith, San Jose State University in San Jose, CA, have applied in due form for permits authorizing takes of a threatened species for scientific research purposes.

DATES: Written comments or requests for a public hearing on any of these applications must be received on or before October 14, 1997.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707 575–6066).

Written comments or requests for a public hearing should be submitted to the Protected Species Division in Santa Rosa, CA.

SUPPLEMENTARY INFORMATION: GPWI and Dr. Jerry J. Smith request permits under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

GPWI (1079) requests a five-year permit for takes of juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population studies on GPWI properties in Mendocino County Drainages of the Big, Ten-Mile, and Noyo Rivers, Salmon, Pudding and Usal Creeks and other small coastal streams between the Navarro River and Usal Creek within the Evolutionarily Significant Unit (ESU). The studies consist of coho salmon distibution and abundance surveys for which ESA-listed fish are proposed to be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released.

Dr. Jerry J. Smith (1080) requests a five-year permit for takes of juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population studies in defined drainages of Marin, San Mateo and Santa Cruz Counties within the Evolutionarily Significant Unit (ESU). The studies consist of five assessment tasks for which ESA-listed fish are proposed to be taken: 1) Presence/absence, 2) population estimates, 3) spawner surveys, 4) tissue/scale sampling for genetic studies, and 5) microhabitat utilization. ESA-listed adult and juvenile fish will be observed or captured, anesthetized, handled (weighed, measured, fin-clipped), allowed to recover from the anesthetic, and released. Indirect mortalities are also requested.

Those individuals requesting a hearing on these requests for permits should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: September 4, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–24067 Filed 9–10–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090297A]

Endangered Species; Permits

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

ACTION: Issuance of permit 1056 (P770#73) and modification 1 to scientific research/enhancement permit 1010 (P503S).

SUMMARY: Notice is hereby given that NMFS has issued a permit to the Coastal Zone and Estuarine Studies Division, Northwest Fisheries Science Center, NMFS at Seattle, WA (CZESD) and a modification to a permit to the Idaho Department of Fish and Game at Boise, ID (IDFG) that authorize takes of Endangered Species Act-listed species for the purpose of scientific research, subject to certain conditions set forth therein.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

SUPPLEMENTARY INFORMATION: The permit and the modification to a permit were issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

Notice was published on June 9, 1997 (62 FR 31410) that an application had been filed by CZESD for a scientific research permit (P770#73). Permit 1056 was issued to CZESD on August 11, 1997. Permit 1056 authorizes CZESD takes of juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with two scientific research studies. The objective of Study 1 is to characterize the run-timing of wild fish over a period of years to determine if consistent patterns are apparent, and to use this information for real-time management decisions regarding water allocation during the smolt outmigrations. The long-term objectives of Study 2 are to monitor the nature and extent of genetic change over time in supplemented and unsupplemented populations and to correlate the genetic changes with measures of productivity. The results of this study would also provide information on population structure and effective population size. Permit 1056 expires on December 31, 2001.

Notice was published on June 9, 1997 (62 FR 31410) that an application had been filed by IDFG for modification 1 to scientific research/enhancement permit 1010 (P503S). Modification 1 to permit 1010 was issued to IDFG on August 22, 1997. Permit 1010 authorizes IDFG takes of juvenile, ESA-listed, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with a captive rearing program. For modification 1, IDFG is authorized to release a small number of mature spring chinook salmon from its captive rearing program to obtain information on the spawning behavior and success of outplanted fish as well as to examine the efficacy of all procedures associated with the program. Experimental outplanting will allow IDFG to refine transport, acclimation, release, segregation, and monitoring methods for future releases. In addition, excess hatchery-produced jacks will be sacrificed for cryopreservation of sperm,

dissection for disease or physiological analysis, and genetic sampling. The release and/or disposition of maturing fish are for experimental purposes. The release of mature ESA-listed fish is valid in 1997 only. The sacrifice of excess hatchery-produced jacks is valid for the duration of permit 1010. Permit 1010 expires on December 31, 2000.

Issuance of the permit and the modification to a permit, as required by the ESA, was based on a finding that such actions: (1) Were requested/proposed in good faith, (2) will not operate to the disadvantage of the ESA-listed species that is the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: September 5, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–24127 Filed 9–10–97; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Performance of Certain Functions by National Futures Association With Respect to Non-U.S. Firms and Non-U.S. Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice and order.

SUMMARY: The Commodity Futures Trading Commission (Commission) is authorizing National Futures Association (NFA) to perform fitness checks with respect to (1) foreign firms acting in the capacity of futures commission merchants (FCMs) seeking relief under Rule 30.10 and (2) any applicant for registration or registrant having or seeking to add a foreign principal, subject to any limitations by individual offshore jurisdictions that fitness information solely be communicated to and among regulators. In addition, the Commission is authorizing NFA (1) to receive filings from foreign firms acting in the capacities of commodity pool operators (CPOs) and commodity trading advisors (CTAs) filing for exemption from registration under Rule 30.5, (2) to monitor compliance with Rule 30.10, Rule 30.5, and the provisions of Deutsche Terminborse (DTB) terminal placement relief, (3) to receive filings from FCMs with respect to order transmittal procedure relief for foreign futures and options orders, (4) to receive documentation pertaining to Globex and New York Mercantile Exchange (NYMEX) ACCESS ''pass-the-book'' relief, and (5) to maintain and serve as the official custodian of certain Commission records.

EFFECTIVE DATE: September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418–5430.

United States of America

Before the Commodity Futures Trading Commission Order Authorizing the Performance of Certain Functions With Respect to Non-U.S. Firms and Non-U.S. Markets

I. Authority and Background

Section 8a(10) of the Commodity Exchange Act [1] (Act) provides that the Commission may authorize any person to perform any portion of the registration functions under the Act, notwithstanding any other provision of law, in accordance with rules adopted by such person and submitted to the Commission for approval or, if applicable, for review pursuant to Section 17(j) of the Act [2] and subject to the provisions of the Act applicable to registrations granted by the Commission. Section 17(o)(1) of the Act [3] provides that the Commission may require NFA to perform Commission registration functions, in accordance with the Act and NFA rules. The Commission's Division of Trading and Markets (Division) received a letter from NFA expressing NFA's willingness to perform certain functions now performed by the Commission, to undertake to protect the confidentiality, security and integrity of information received and to abide by any additional use requirements or limitations regarding the receipt and handling of information from foreign jurisdictions, as discussed below.[4]

Upon consideration, the Commission has determined to authorize NFA, effective September 11, 1997, to perform the following functions, subject to any limitations by individual offshore jurisdictions that fitness information solely be communicated to and among governmental regulators: (1) For foreign firms acting in the capacity of an FCM, fitness checks and monitoring of compliance with Rule 30.10 [5] relief granted to the firm's regulator or self-regulatory organization (SRO); (2) for foreign firms acting in the capacities of CPOs and CTAs, accepting filings that comply with Rule 30.5; (3) conducting fitness inquiries directed to foreign regulatory and self-regulatory bodies with respect to any firm applying for registration under the Act or any registrant having or adding a foreign principal; (4) receiving documentation pertaining to Globex and NYMEX ACCESS ''pass-the-book'' relief; (5) receiving filings from FCMs with respect to order transmittal procedure relief for foreign futures and options orders; (6) monitoring DTB terminal placement relief; and (7) maintaining and serving as the official custodian of records for the filings and acknowledgment requirements submitted by (a) exchange member firms seeking ''pass-the-book'' relief, (b) FCMs seeking order transmittal procedure relief, or (c) firms intending to operate DTB computer terminals in the U.S., and maintaining requests and related materials submitted pursuant to Rules 30.10 and 30.5 or obtained in the course of conducting foreign fitness inquiries. As discussed below, each of these functions involves the registration or exemption from registration of non-U.S. persons or is related to trading by U.S. persons on non-U.S. markets. In the future, the Commission may delegate other similar administrative and processing functions by letter and Commission Advisory.

A. Foreign FCM Fitness and Compliance With Rule 30.10

Rule 30.10 allows the Commission to exempt a foreign firm acting in the capacity of an FCM from compliance with certain Commission rules and regulations based upon the firm's compliance with comparable regulatory requirements imposed by the firm's home-country regulator. The Commission has established a process whereby a foreign regulator or SRO can petition on behalf of its regulatees or members, respectively, for such an exemption based upon the comparability of the regulatory structure in the foreign jurisdiction to that under the Act.[6] This petition process requires

[1] 7 U.S.C. § 12a(10) (1994).

[2] 7 U.S.C. § 21(j) (1994).

[3] 7 U.S.C. § 21(o)(1) (1994).

[4] The Division received the letter from NFA on August 27, 1997.

[5] Commission rules referred to herein can be found at 17 CFR Ch. I (1997).

[6] The specific elements examined in evaluating whether the particular foreign regulatory program provides a basis for permitting substituted compliance for purposes of exemptive relief pursuant to Commission Rule 30.10 are set forth in Appendix A to part 30, ''Interpretative Statement with Respect to Commission's Exemptive Authority

that the Commission issue an Order granting general relief subject to certain conditions [7] and that individual firms then be granted confirmation of such relief. Firms seeking confirmation of Rule 30.10 relief must make the required representations [8] set forth in the Rule 30.10 Order issued to the regulator or SRO from the firm's home country. The regulator or SRO forwards to the Commission the firm's representations along with a request for confirmation of Rule 30.10 relief as to the particular firm. The Commission grants a particular firm Rule 30.10 relief after verifying the firm's fitness [9] and compliance with the conditions of the appropriate Rule 30.10 Order and with Division of Trading and Markets Advisory 41–93, if applicable.[10]

The Commission believes that, once it has examined the foreign jurisdiction's regulatory structure and issued an Order under Rule 30.10 granting general relief based upon the comparability of that structure to the structure under the Act, the steps needed to determine if relief is appropriate for particular firms are similar to those undertaken in the course of fitness checks performed by NFA with respect to applicants for registration under the Act. The Commission further believes that it is appropriate for NFA to undertake the performance of these steps to the extent the appropriate foreign regulator and/or other market authority can share information directly with NFA, since it has previously been authorized to perform similar steps for applicants. Accordingly, by this Order, NFA is authorized to receive requests for Rule 30.10 relief on behalf of firms which are acting in the capacity of an FCM for purposes of handling orders for foreign futures or futures options products for U.S. persons and which are regulatees of a foreign regulator or members of a foreign SRO to which the Commission has issued an order pursuant to Rule 30.10, to verify such firms' fitness and compliance with the conditions of the appropriate Rule 30.10 Order and Division of Trading and Markets Advisory 41–93, and to exempt qualifying firms from registration pursuant to Rule 30.10.

B. Foreign CPO and CTA Compliance With Rule 30.5

Rule 30.5 provides an exemption from registration as a CPO, CTA or introducing broker (IB) to any qualifying non-domestic person, other than a person required to be registered as an FCM, who solicits U.S. residents to trade foreign futures or options. To qualify for the exemption from registration under Rule 30.5, the non-domestic person must enter into a written agency agreement with one of the following: (1) The FCM carrying the foreign futures or options account that the non-domestic person solicited in the U.S.; (2) any futures association registered under the Act; [11] or (3) any other person located in the U.S. in the business of acting as an agent for service of process. The agreement must provide that the FCM, registered futures association or other designated person is authorized to serve as the agent of the non-domestic person for purposes of accepting delivery and service of communications from the Commission, U.S. Department of Justice, any SRO or any foreign futures or foreign options customer.[12] Qualifying persons who act in the capacities of IBs, CPOs and CTAs and who are located outside of the U.S. may be eligible to use the procedure provided by Rule 30.5. By this Order, NFA is authorized to accept filings for exemption from registration under Rule 30.5 and supporting agreements from qualifying persons acting as CPOs or CTAs [13] provided such persons offer their products and services solely to qualified eligible participants (QEPs) or qualified eligible clients (QECs) as described in Rule 4.7.[14] Under Rule

Under Section 30.10 of its Rules'' and include the following: (1) Registration, authorization or other form of licensing, fitness review or qualification of persons (both individuals and firms) through which customer orders are solicited and accepted; (2) minimum financial requirements for these persons who accept customer funds; (3) protection of customer funds from misapplication; (4) minimum sales practice standards, including the disclosure of the risks of futures transactions; (5) recordkeeping and reporting requirements; (6) procedures to audit for compliance with, and to take action against those persons who violate, the requirements of the program; and (7) the existence of appropriate information-sharing arrangements.

[7] These conditions usually require the regulator or SRO responsible for monitoring the compliance of the firm with the regulatory requirements described in the Rule 30.10 petition to represent in writing to the Commission the following: (1) Each firm for which relief is sought is registered, licensed or authorized, as appropriate, and is otherwise in good standing under the standards of its place of domicile; such firm is engaged in business with customers located in the location of the regulator or SRO as well as in the U.S.; and, such firm would not statutorily disqualified from registration under Section 8a(2) of the Act; (2) it will monitor firms to which relief is granted for compliance with the regulatory requirements for which substituted compliance is accepted and will promptly notify the Commission or NFA of any change in status of a firm which would affect its continued eligibility for the exemption granted hereunder, including the termination of its activities in the U.S.; (3) all transactions on the exchanges under the jurisdiction of the regulator or SRO with respect to customers resident in the U.S. will be made on or subject to the rules of each respective exchange and the Commission will receive prompt notice of all material changes in such exchanges' codes and regulations; (4) customers resident in the U.S. will be provided no less stringent regulatory protection than customers in the country where the regulator or SRO is located under all relevant provisions of law; and (5) it will cooperative with the Commission with respect to any inquires concerning any activity subject to regulation under the Part 30 rules, including sharing the information specified in Appendix A to the Part 30 rules on an ''as needed'' basis, and becomes aware of any information which in its judgment affects the financial or operational viability of a firm doing business in the U.S. pursuant to an exemption granted under Rule 30.10.

[8] These representations generally require the firm to: (1) Consent to jurisdiction in the U.S. and designate an agent for service of process in the U.S. in accordance with the requirements set forth in Rule 30.5; (2) agree to make its books and records available upon the request of any representative of the Commission or the U.S. Department of Justice; (3) agree that all futures or regulated option transactions with respect to U.S. customers will be made on or subject to the rules of the applicable exchange and will be undertaken consistent with rules and codes under which such firm operates; (4) represent that no principal of the firm would be disqualified under Section 8a(2) of the Act from registering to do business in the U.S. and notify the Commission promptly of any change in that representation; (5) disclose the identify of each U.S. affiliate or subsdiary; (6) agree to be subject to NFA arbitration; (7) consent to the release of certain financial information; (8) refuse U.S. customers the option of not having their funds segregated from the firm's proprietary funds, even if that option is generally available under local law; (9) consent to report the value of funds required to be segregated on behalf of U.S. customers; and (10) undertake to comply with the provisions of law and rules which form the basis for granting the exemption. These representations may vary from order to order depending upon the regulatory structure of the firm's home country. To date, eleven orders have been issued for the following regulators and self-regulatory organizations; Sydney Futures Exchange, 53 FR 44856 (November 7, 1988); Singagpore International Monetary Exchange Limited, 54 FR 806 (January 10, 1989); Montreal Exchange, 54 FR 11179 (March 17, 1989); United Kingdom regulators and/or SROs (Securities and Investments Board, Securities and Futures Association, and Investment Management Regulatory Organization), 54 FR 21599, 21604, 21609, and 21614 (May 19, 1989), 56 FR 14017 (April 5, 1991); Toronto Futures Exchange, 55 FR 10611 (March 22, 1990); Tokyo Grain Exchange, 58 FR 10953 (February 23, 1993); MEFF Renta Fija, 60 FR 30462 (June 9, 1995); New Zealand Futures and Options Exchange, 61 FR 64985 (December 10, 1996); and MEFF Renta Variable, 62 FR 16687 (April 8, 1997).

[9] The firm's fitness is verified by checking the following sources for any information on the firm: (1) The Office of Proceedings for reparations cases; (2) the Division of Trading and Markets for contract market exchange actions; and (3) NFA's Clearinghouse of Disciplinary Information (CDI) for NFA actions.

[10] Division of Trading and Markets Advisory 41–93 outlines procedures for firms applying for confirmation of exemptive relief under Rule 30.10 that have affiliates or subsidiaries in the U.S. It is reprinted as CFTC Interpretative Letter No. 93–65, (1992–1994 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶25,784 (July 26, 1993).

[11] NFA is currently the only futures association so regulated.

[12] 52 FR 28980, 28990 (August 5, 1987).

[13] NFA already accepts filings for exemption from registration under Rule 30.5 and supporting agreements from qualifying persons acting as IBs.

[14] Such persons are generally, FCMs, CPOs, CTAs, broker-dealers, investment companies, banks, insurance companies, employee benefit

Continued

30.5(d), any person exempt from registration with the Commission in accordance with the provisions of Rule 30.5 must, upon the request of any representative of the Commission or the U.S. Department of Justice, provide the records such person is required to maintain under Rule 30.5 at the place in the U.S. designated by the representative within 72 hours after the person receives the request.

C. Foreign Fitness Inquiries of Any Applicant for CFTC Registration or Registrant Having a Foreign Principal

As part of the registration process, NFA reviews the fitness of any foreign principal of an applicant for registration and any foreign principal subsequently listed with a registrant by means of a criminal background check through INTERPOL.[15] In addition, in cases of a foreign-domiciled applicant firm with a foreign principal, NFA's fitness review encompasses a check with a foreign regulator or SRO. Under current practice, NFA must forward the request for fitness information to the Division, which then requests the information from the foreign regulator and/or SRO in the jurisdiction of the principal's residence. Information received from the foreign regulator and/or SRO by the Commission's staff is subsequently forwarded to NFA. NFA evaluates this information based on the standards set forth in its Registration Investigation Procedures Manual in making its determination as to whether to grant registration. These standards were reviewed by the Commission in February 1996.[16] The Division has recommended that NFA consider expanding foreign fitness inquiries to include previous employment locations within the prior five years in addition to requesting information from authorities in the foreign jurisdiction where the applicant resides.[17] The Division also recommended that NFA consider enhancing foreign fitness inquiries to include any principal with a U.S. residence who has worked abroad for a period of at least six months during the prior five years. By this Order, NFA is authorized to request fitness information directly from the relevant foreign regulator(s) and/or SRO(s) of any applicant for registration or registrant having a foreign principal to the extent the Commission has advised NFA such regulator is willing to transfer such information directly to NFA. The relevant foreign regulator(s) and/or SRO(s) of any applicant for registration includes foreign regulators and/or SROs in all employment locations of the applicant for the five years prior to the date of the application. NFA is further authorized to request fitness information on any principal who has worked outside of the U.S. for at least six months during the five years preceding the filing of Form 8–R to the same extent.[18]

D. Globex and NYMEX ACCESS ''Pass-the-Book'' Relief

The Chicago Mercantile Exchange's (CME's) Globex trading system and NYMEX's ACCESS trading system permit the trading of contracts of those respective exchanges, and those of certain foreign exchanges, via electronic media outside of regular U.S. trading hours. In response to a request for relief on behalf of FCM member firms of the CME and the Chicago Board of Trade (CBT),[19] the Division adopted a no-action position with respect to certain Commission registration requirements that would apply to the member firms and their foreign affiliates in France and the United Kingdom that ''pass the book''[20] of customer orders for entry into the Globex[21] electronic trading system and to personnel involved in that process.[22] The Division required the exchanges to notify the Commission to confirm the applicability of the no-action relief with respect to the placement of Globex terminals in other jurisdictions, and such notice has been received with respect to Hong Kong[23] and Japan.[24] The Division also granted similar relief to FCM member firms of the NYMEX and their foreign affiliates in the United Kingdom who ''pass the book'' of customer orders and engage in certain order acceptance activities involving the NYMEX ACCESS trading system.[25] The Division also has received a notice from NYMEX as to the placement of Sydney Computerized Overnight Market (SYCOM) terminals in Australia that would permit Sydney Futures Exchange member firms to execute NYMEX transactions for NYMEX member firms and their foreign affiliates.[26]

Exchange member FCMs seeking to avail themselves of the Globex and NYMEX no-action relief must comply with filing, acknowledgment, and other requirements described in CFTC Interpretative Letter No. 93–83.[27] Currently, the Commission receives a

plans, business development companies, certain business entities with total assets in excess of $5,000,000, natural persons with net worth in excess of $1,000,000 (or with individual income in each of the two most recent years in excess of $200,000 or joint income of $300,000), certain governmental entities and non-U.S. persons.

[15] For these purposes, NFA considers a foreign principal to be any person with a current address outside of the U.S. It does not include a foreign national who has recently moved to the U.S. but would include a U.S. citizen who has moved abroad.

[16] *Review of the Registration Fitness Program of National Futures Association,* Commodity Futures Trading Commission, Division of Trading and Markets (February 1996) (hereinafter, the Review).

[17] Review, Recommendation No. 3b at 7–8.

[18] Each firm applying for registration must file a Form 8–R for each principal, and registrants must file a Form 8–R for each new principal. Rules 3.10(a)(2), 3.32.

[19] CBT was a participant in Globex from June 1992 through May 1994.

[20] The term ''pass the book'' refers to the process which orders for exchange contracts received for or on behalf of customers of an exchange member firm are transferred for entry into Globex terminals located in a non-U.S. office of a foreign affiliate of that exchange member firm outside normal U.S. business hours.

[21] The June 20, 1988 agreement between the Chicago Mercantile Exchange and Reuters Holdings PLC which established certain rights and responsibilities of the parties related to Globex is set to expire in 1998. CME intends to continue to provide an electronic execution system that will retain the Globex name.

[22] CFTC Interpretative Letter No. 92–11, [1990–1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,325 (June 25, 1992), *superseded in part by* CFTC Interpretative Letter No. 93–83, [1992–1994 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,849 (August 9, 1993).

[23] The Division received the notice with respect to Hong Kong on August 15, 1993.

[24] The Division received the notice with respect to Japan on December 16, 1993.

[25] The Division issued the letter granting relief to NYMEX members that ''pass the book'' to their foreign affiliates in the United Kingdom utilizing NYMEX ACCESS terminals in the United Kingdom on October 29, 1993 and expanded it to Hong Kong on June 10, 1997.

[26] The Division received the notice with respect to Australia on September 28, 1995.

[27] CFTC Interpretative Letter No. 93–83, [1992–1994 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,849 (August 9, 1993). For example, each exchange member FCM intending to operate pursuant to pass-the-book relief must, among other undertakings: (1) Identify itself, its foreign affiliates, and ''designated persons'' at such affiliates authorized to solicit, accept or enter orders from customers on behalf of the exchange member firm in writing to appropriate exchanges, NFA and the Commission; (2) carry all customer accounts on the books of the exchange member firm as customer accounts of that firm, including for purposes of computing net capital; (3) ensure that all written communication with customers is by the exchange member firm on its own stationery; (4) maintain all monies, securities, and property of customer accounts in accordance with appropriate statutory and regulatory requirements as segregated or secured amount funds, depending upon whether the transaction is effected on or subject to the rules of a contract market or a foreign exchange, respectively; (5) have the right to terminate the authority of any designated person at the foreign affiliate to solicit, accept, or enter orders on behalf of customers; and (6) be liable under the Act, the Commission's regulations and exchange rules for all solicitations, acceptances or entries of orders for exchange contracts on Globex by the foreign affiliate through its designated persons for or on behalf of customers of the exchange member firm. Generally, the filing and acknowledgment requirements are intended to give exchanges the ability to monitor and to investigate trading on Globex involving passing the book equivalent to their ability to do so in connection with orders placed directly at the exchange member firm.

letter from each firm intending to operate pursuant to pass-the-book relief setting forth these filings, acknowledgments and representations, and the Division verifies the completeness of the letter. By this Order, NFA is authorized to serve as the repository for the filings, acknowledgments and representations submitted by exchange member FCMs seeking to avail themselves of Globex and NYMEX pass-the-book relief and is authorized to verify that the filings, acknowledgments and representations made by the firms are complete as described in CFTC Interpretative Letter No. 93–83.

E. FCM Order Transmittal Procedure Relief

The Division permits certain customers[28] of FCMs to transmit foreign futures and options orders directly to qualified foreign firms that: (1) Are affiliated with the customer's FCM through a parent/subsidiary relationship or through common ownership; and (2) carry such FCM's omnibus account. When the order transmittal procedure relief was granted initially, the foreign firm receiving these orders must already have been granted relief under Rule 30.10.[29] The Division subsequently expanded the order transmittal procedure relief to allow U.S. FCMs to implement the order transmittal procedures with their foreign affiliates which had not received Rule 30.10 relief, provided that certain additional conditions were met and representations were given.[30] When a U.S. FCM and its foreign affiliate wish to operate pursuant to the order transmittal procedure relief, they write a letter to the Commission representing that they will comply with the conditions outlined in Letter No. 93–115 and, if applicable, with the conditions outlined in Letters No. 95–8 and No. 95–83.[31] The Division then verifies that the U.S. FCM and its foreign affiliate have made the appropriate representations. By this Order, NFA is authorized to receive filings for order transmittal procedure relief and to verify the completeness of the representations contained therein.

F. DTB Terminal Placement Relief

By letter dated February 29, 1996, the Division stated that it would not recommend that the Commission commence an enforcement action against DTB[32] in connection with the placement of DTB computer terminals in the U.S. in order to permit DTB members to execute transactions involving DTB futures and option products which are otherwise approved for trading by U.S. persons without the DTB being deemed a U.S.-based board of trade required to be designated as a contract market pursuant to Section 5 of the Act.[33] Relief was conditioned upon, among other conditions, the filing of materials identifying all DTB members that intend to operate pursuant to the relief. The Division has also established a procedure that requires firms to submit an acknowledgment of jurisdiction and compliance with the terms of the relief as outlined in the February 29, 1996 letter (the Acknowledgment).

By this Order, the NFA is authorized to receive and to review identification filings and Acknowledgments from firms intending to operate DTB terminals in the U.S. NFA is authorized to verify that the identification filings accurately identify the firms and that the Acknowledgments include the terms and conditions required for relief.[34]

[28] Such customers are identified in Interpretative Letter No. 93–115 and are similar in description to persons that qualify as QEPs under Commission Rule 4.7. *See* CFTC Interpretative Letter No. 93–115, [1992–1994 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,932 (December 23, 1993).

[29] In order to assure that the order transmittal procedure is structured in a manner that facilitates an FCM's ability to supervise its financial condition, the Division conditioned relief on the following: (1) The FCM's establishment of and adherence to written procedures that make explicit the internal control procedures that apply to any direct contacts between the FCM's customers and the foreign affiliate, including authorization, identification, and supervision of orders; (2) identification by the FCM to the foreign affiliate of the FCM's customers authorized to transmit orders directly to the foreign affiliate; (3) the foreign affiliate's identification of the customer on the order ticket at the time it is created; (4) written confirmation of receipt and execution of the customer's order by the foreign affiliate, along with an audit trail and designated personnel with authority to reconcile certain trades; (5) the FCM's establishment of and adherence to procedures to monitor customer positions aggregated across all markets, including the ability to assess whether a customer is assuming too high a degree of financial risk with respect to these and any other positions the customer may have with the FCM that is greater than the FCM, in its business judgment, based on reasonable reviews, believes is appropriate for that customer; (6) a written agreement between the FCM and its affiliate specifying that the FCM is directly liable to the foreign affiliate for margin payments related to the omnibus accounts; and (7) documentation provided to the customer from the FCM advising customers that (a) orders delivered pursuant to the direct order transmittal procedure are for their FCM's omnibus account with the foreign affiliate, (b) such customers are customers of the FCM only and are not customers of the foreign affiliate, and (c) the customer has five days to object to the conditions imposed on the direct order transmittal procedure. CFTC Interpretative Letter No. 93–115.

[30] CFTC Interpretative Letter No. 95–8, [1994–1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,300 (January 25, 1995). In addition to compliance with all the terms and conditions set forth in Interpretative Letter No. 93–115, foreign affiliates of U.S. FCMs which do not have Rule 30.10 relief and the U.S. FCMs are required to comply with the terms and conditions summarized as follows: (1) The U.S. FCM must accept liability under the Act and the Commission's rules for all acts of the foreign affiliate undertaken by certain persons; (2) the designated persons of the foreign affiliate authorized to solicit, accept and enter orders must be listed and procedures must be established to ensure that customers deal only with such designated persons; (3) at least one designated person must be registered with the Commission as an associated person (AP) and all designated persons must be supervised by an AP; (4) all designated persons who accept or enter orders must be registered with the Commission as an AP; (5) all designated persons not registered as APs must acknowledge that they are subject to the Act and the Commission's rules, and must not be subject to statutory disqualification from registration under Section 8a(2) of the Act; (6) the Commission must be assured access to original books and records related to the solicitation, acceptance or entry of U.S. institutional customer orders on behalf of the U.S. FCM at the foreign affiliate; and (7) the foreign affiliate must appoint the U.S. FCM as its agent for service of process with respect to any materials arising out of its activities concerning these orders.

[31] As Japanese and Hong Kong laws require that original books and records of the U.S. FCM's foreign affiliate be maintained within the local jurisdiction, U.S. FCMs with foreign affiliates in Japan or Hong Kong may comply with the following terms and conditions in satisfaction of the requirement that an FCM and its foreign affiliate assure the Commission access to the foreign affiliate's original books and records: (1) The U.S. FCM and its Japanese or Hong Kong affiliate will provide authenticated copies of the foreign affiliate's original books and records upon request of a Commission representative; (2) the U.S. FCM and its affiliate will provide access to original books and records in the foreign jurisdiction; (3) to the U.S. FCM and its affiliate waive objection to the admissibility of the copies as evidence in a Commission action against the FCM or its affiliate; and (4) the U.S. FCM and its affiliate agree in the event of a proceeding to provide a witness to authenticate copies of books and records given to the Commission. CFTC Interpretative Letter 95–83, [1994–1996 Transfer Binder]) Comm. Fut. L. Rep. (CCH) ¶ 26,559 (September 29, 1995).

[32] The DTB, located in Frankfurt, Germany, is a fully automated international options and futures exchange on which all trades are executed and cleared electronically. Trading is conducted via computer terminals. The market participants' computers and terminals are linked to the DTB computer center by means of a wide-ranging telecommunications network.

[33] CFTC Interpretative Letter No. 96–28, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,669 (February 29, 1996).

[34] These terms and conditions are listed in the February 29, 1996 letter, as supplemented by a May 9, 1997 letter, from the Division to DTB granting relief to DTB and are as follows: (1) DTB terminals will be located only in U.S. offices of DTB members or on the floor of the CME; (2) all DTB members that intend to operate pursuant to the relief will be identified to the Commission and the NFA; (3) pursuant to the DTB's rules, DTB members must apply to the DTB for DTB terminal placement and identify the location and connection of user devices to DTB's electronic trading system and, upon request, DTB shall provide information received from its members and in its possession to the Commission regarding the location of all such terminals in the U.S., and shall update such information on a periodic basis upon reasonable request; (4) all orders executed pursuant to the relief will be for ''principal'' accounts if executed by a non-FCM DTB member firm and the Division will be notified promptly in the event that there is

Continued

NFA is further authorized to conduct a fitness review of the firm such as is performed in connection with registration with the Commission.

G. Recordkeeping Requirements

By prior orders, the Commission has authorized NFA to maintain various other Commission registration records and certified NFA as the official custodian of such records for this agency.[35] The Commission has now determined, in accordance with its authority under Section 8a(10) of the Act, to authorize NFA to maintain and to serve as the official custodian of records for the filings and acknowledgment requirements submitted by: (1) Exchange member FCMs in connection with ''pass-the-book'' relief; (2) FCMs and their foreign affiliates in connection with order transmittal procedure relief; and (3) firms intending to operate DTB computer terminals in the U.S. In this connection, NFA has undertaken to abide by any special use restrictions applicable to information received from a foreign market authority to the full extent permitted by law. The Division also has determined to authorize NFA to maintain requests and related materials submitted pursuant to Rules 30.10 and 30.5 or obtained in the course of conducting foreign fitness inquiries. These determinations are based upon NFA's representations regarding the implementation of rules and procedures for maintaining and safeguarding all such records, as well as the need to facilitate NFA's preparations for assuming responsibility for the above-mentioned activities.

In maintaining the Commission's records pursuant to this Order, NFA shall be subject to all other requirements and obligations imposed upon it by the Commission in existing or future orders or regulations. In this regard, NFA shall also implement such additional procedures (or modify existing procedures) as are necessary to ensure the security and integrity of the records in NFA's custody and acceptable to the Commission; to facilitate prompt access to those records by the Commission and its staff, particularly as described in other Commission orders or rules; to facilitate disclosure of public or nonpublic information in those records when permitted by Commission orders or rules and to keep logs as required by the Commission concerning disclosure of nonpublic information; and otherwise to safeguard the confidentiality of the records.

II. Conclusion and Order

The Commission has determined, in accordance with the provisions of Sections 8a(10) and 17(o)(1) of the Act and NFA's letter dated August 27, 1997, subject to any restriction by a given jurisdiction that information must pass directly between regulatory authorities, to authorize NFA to perform the following functions:

(1) To grant, either with or without conditions, exemptive relief to firms acting in the capacity of FCMs which are members of regulatory or self-regulatory bodies to which an order under Commission Rule 30.10 has been issued from the registration requirements of part 30;

(2) To maintain filings for exemption from the registration requirements of part 30 and supporting agreements submitted pursuant to the provisions of Commission Rule 30.5 by qualifying persons acting as CPOs or CTAs who offer their products and services solely to ''qualified eligible participants'' or ''qualified eligible clients,'' as those terms are defined in Commission Rule 4.7;

(3) To grant, either with or without conditions, the registration of any applicant for registration with a foreign principal and the addition by a registrant of a foreign principal after NFA verifies the fitness of the foreign principal[36] with the relevant foreign regulatory authority,[37] where NFA previously would have forwarded the request for fitness information to the Commission in order for the Commission to request the fitness information from the appropriate foreign regulatory body;

(4) To maintain the filings and acknowledgments submitted by exchange member FCMs in connection with Globex and NYMEX Access ''pass-the-book'' relief;

(5) To maintain filings of FCMs and their foreign affiliates made in connection with order transmittal relief where the filings contain the required representations for claiming such relief;

(6) To maintain identification filings and acknowledgments from firms intending to operate DTB terminals in the U.S. where such identification filings and acknowledgments contain the required representations and information for claiming relief; and

(7) To maintain filings, acknowledgments, and records pertaining to the functions previously delegated in this Order and to serve as the official custodian of those Commission records.[38]

The Commission is in the process of preparing an update to its systems of records (with respect to CFTC–12 and CFTC–20) to make permissible under the Privacy Act of 1974 the concomitant disclosure to NFA of personal information on individuals that may be contained in these filings, acknowledgments, and records.

NFA shall perform these functions in accordance with the standards established by the Act and the regulations and orders promulgated thereunder, particularly Rule 30.10 and Commission orders issued thereunder, and shall provide the Commission with such summaries and periodic reports as the Commission may determine are necessary for effective oversight of this program.

These determinations are based upon the Congressional intent expressed in Sections 8a(10) and 17(o) of the Act that the Commission have the authority to delegate to NFA any portion of the Commission's registration responsibilities under the Act for purposes of carrying out these responsibilities in the most efficient and cost-effective manner and NFA's representations concerning the standards and procedures to be followed and the reports to be generated in administering these functions.

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a change under applicable German laws or rules of the DTB concerning the definition of the word ''principal''; (5) participating DTB members will provide, upon the request of the Commission or NFA, prompt access to original books and records and the premises where DTB terminals are installed in the U.S., and will consent to Commission jurisdiction for purposes of ensuring compliance with the conditions of the no-action relief; (6) DTB will continue to adhere to the ''Principles for Oversight of Screen Based Trading Systems for Derivative Products,'' a statement of regulatory policy recommended by the International Organization of Securities Commissions and adopted by the Commission on November 21, 1990; (7) DTB will submit to the Commission, on at least a quarterly basis, information reflecting the volume of trades originated from U.S.-based computer terminals compared to DTB's overall trading volume; and (8) DTB will undertake to provide the Division with prompt notice of all material changes to DTB rules, the German Exchange Act, the German Securities Act, and other German laws relevant to futures and options which may impact on the issuance of DTB Terminal Placement relief.

[35] 49 FR 39593 (October 9, 1984); 50 FR 34885 (August 28, 1985); 51 FR 25929 (July 17, 1986); 54 FR 19594 (May 8, 1989); 54 FR 41133 (October 5, 1989); 58 FR 19657 (April 15, 1993).

[36] This should include a person residing in the U.S. who has resided outside of the U.S. for at least six months during the five years immediately prior to the filing of Form 8–R.

[37] The relevant foreign regulatory authority can include an authority in any jurisdiction where the principal has worked during the prior five eyars as well as the authority for the principal's current residence.

[38] The Commission may delegate other similar administrative and processing functions by letter and Commission Advisory. The Commission also will furnish to NFA existing Commission records that it identifies as pertaining to the matters discussed in this Order.

This Order does not, however, authorize NFA to render ''no-action'' opinions or interpretations with respect to applicable registration requirements.

Nothing in this Order or in Sections 8a(10) or 17(o) of the Act shall affect the Commission's authority to review the granting of a registration application by NFA in the performance of Commission registration functions, or to review the maintenance of registration by NFA.

NFA is authorized to perform all functions specified herein until such time as the Commission orders otherwise. Nothing in this Order shall prevent the Commission from exercising the authority delegated herein. NFA may submit to the Commission for decision any specific matters that have been delegated to it and Commission staff will be available to discuss with NFA staff issues relating to the implementation of this Order. Nothing in this Order affects the applicability of any previous orders issued by the Commission under Part 30.

Issued in Washington, D.C. on September 5, 1997 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–24015 Filed 9–10–97; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Membership of the Commission's Performance Review Board

AGENCY: Commodity Futures Trading Commission.

ACTION: Membership Change of Performance Review Board.

SUMMARY: In accordance with the Office of Personnel Management guidance under the Civil Service Reform Act of 1978, notice is hereby given that the following employees will serve as members of the Commission's Performance Review Board.

Chairman: Donald Tendick, Acting Executive Director. *Members:* Susan Lee, Executive Assistant to the Chairperson, Office of the Chairperson; Daniel Waldman, General Counsel, Office of General Counsel; Geoffrey Aronow, Director, Division of Enforcement; John Mielke, Acting Director, Division of Economic Analysis.

DATES: This action was effective September 5, 1997.

ADDRESSES: Commodity Futures Trading Commission, Office of Human Resources, Suite 7200, 1155 21st Street N.W., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Jayne Seidman, Director, Office of Human Resources, Commodity Futures Trading Commission, Suite 7200, 1155 21st Street N.W., Washington, D.C. 20581, (202) 418–5010.

SUPPLEMENTAL INFORMATION: This action which changes the membership of the Board supersedes the previously published **Federal Register** Notice, July 26, 1996.

Issued in Washington, D.C. on September 5, 1997.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 97–24036 Filed 9–10–97; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM), U.S. Army; DOD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by November 10, 1997.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to U.S. Army Research Institute for the Behavioral and Social Sciences, 5001 Eisenhower Avenue, Alexandria, VA 22333–5600 Attn: (Dr. Peter J. Legree). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain to copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports clearance officer at (703) 614–0454.

Title: Modeling the Individual Enlistment Decision.

Needs and Uses: The career decision survey captures the attitudes of 16–21 year old youth toward service, as well as other available career options. It also addresses qualification for service, primarily in terms of aptitude, and their availability. This administration will be used to identify the items that best predict enlistment propensity, and to segment the population by quality and availability factors.

Affected Public: Individual or Households.

Annual Burden Hours: 2000.

Number of Respondents: 4000.

Responses Per Respondent: 1.

Average Burden Per Response: 30 minutes.

Frequency: One time.

SUPPLEMENTARY INFORMATION: The new data collected will be used by analyst within the Army Research Institute and its prime contractor, the (HumRRO), to investigate the viability of alternative means of indirectly assessing cognitive ability and enlistment propensity. If the collection were not conducted, the Army would not have the information of improved relevance and validity needed to fulfill and improve upon its recruiting mission.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–24144 Filed 9–10–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Closed Meeting of the Chief of Naval Operations (CNO) Executive Panel

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel will meet September 26, 1997, from 3:00 p.m. to 4:00 p.m. at the office of the Chief of Naval Operations, 2000 Navy Pentagon, Washington, D.C. 20350–2000. This session will be closed to the public.

The purpose of this meeting is to conduct the final briefing of the Business Simulation Task Force to the Chief of Naval Operations. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the

interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Under Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

FOR FURTHER INFORMATION CONCERNING THIS MEETING CONTACT: Janice Graham, Assistant for CNO Executive Panel Management, 4401 Ford Avenue, Suite 601, Alexandria, Virginia 22302–0268, telephone number (703) 681–6205.

Dated: September 4, 1997.

M.D. Sutton,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–24142 Filed 9–10–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 10, 1997.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 5, 1997.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Postsecondary Education

Title: Guaranty Agency Quarterly/Annual Report.

Frequency: Extension.

Affected Public: Business or other for-profit.

Annual Reporting and Recordkeeping Hour Burden: Responses: 37; Burden Hours—2,941.

Abstract: The Guaranty Agency Quarterly/Annual Report is submitted by 37 agencies operating a student loan insurance Program under agreement with the Department of Education. These reports are used to evaluate agency operations, make payments to agencies as authorized by law, and to make reports to Congress.

Office of the Under Secretary

Type of Review: New.

Title: Study of School Violence Prevention.

Frequency: Two one-time reportings.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden: Responses:—56,400; Burden Hours:—35,850.

Abstract: The purpose of this study is to increase understanding of school violence and violence prevention efforts, especially efforts funded by the Safe and Drug-Free Schools and Community Act programs, as required by § 4117 of Title IV of the Elementary and Secondary Education Act.

[FR Doc. 97–24049 Filed 9–10–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.129B]

Rehabilitation Training: Rehabilitation Long-Term Training—Vocational Rehabilitation Counseling

Notice inviting applications for new awards for fiscal year (FY) 1998.

Purpose of Program: The Rehabilitation Long-Term Training program provides financial assistance for—

(1) Projects that provide basic or advanced training leading to an academic degree in areas of personnel shortages in rehabilitation as identified by the Secretary;

(2) Projects that provide a specified series of courses or program of study leading to award of a certificate in areas of personnel shortages in rehabilitation as identified by the Secretary; and

(3) Projects that provide support for medical residents enrolled in residency training programs in the specialty of physical medicine and rehabilitation.

Eligible Applicants: State agencies and other public or nonprofit agencies and organizations, including Indian Tribes and institutions of higher education, are eligible for assistance under the Rehabilitation Long-Term Training program.

Deadline for Transmittal of Applications: October 31, 1997.

Deadline for Intergovernmental Review: December 30, 1997.

Applications Available: September 11, 1997.

Available Funds: $1,700,000.

Estimated Range of Awards: $90,000 to $100,000.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards: 17.

Note: The Department is not bound by any estimates in this notice.

Maximum Award: In no case does the Secretary make an award greater than

$100,000 for a single budget period of 12 months. The Secretary rejects and does not consider an application that proposes a budget exceeding this maximum amount.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 386.

Priorities

Absolute Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 386.1(b) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects that would provide training in vocational rehabilitation counseling, which the Secretary has identified as an area of personnel shortage.

Invitational Priorities: Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet one of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Master's Program

Projects that would offer training at the master's level through established graduate rehabilitation counseling programs that are accredited by the Council on Rehabilitation Education.

Invitational Priority 2—Doctoral Program

Projects that would offer training at the doctoral level through established graduate rehabilitation counseling programs that are accredited by the Council on Rehabilitation Education.

For Applications Contact: The Grants and Contracts Service Team (GCST), U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3317, Switzer Building), Washington, D.C. 20202–2649; or call (202) 205–8351. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. The preferred method for requesting applications is to FAX your request to (202) 205–8717.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

For Information Contact: Mary C. Lynch, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3322, Switzer Building), Washington, D.C. 20202–2649. Telephone (202) 205–8291.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Note: The official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

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To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletin and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 774.

Dated: September 5, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–24045 Filed 9–10–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3788–000]

Anker Power Services, Inc.; Notice of Filing

August 29, 1997.

Take notice that on August 11, 1997, Anker Power Services, Inc., tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24094 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–719–000]

ANR Pipeline Company; Notice of Application

September 5, 1997.

Take notice that on August 29, 1997, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP97–719–000, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a natural gas storage and transportation service for Proliance Energy LLC (Proliance), formerly Central Indiana Gas Company and Indiana Gas Company, all as more fully set forth in the application on file with the Commission and open to public inspection.

ANR asserts that by mutual agreement ANR and Proliance have agreed to replace the service authorized under ANR's Rate Schedule X–22 with a mix

of services provided for under ANR's FERC Gas Tariff, Second Revised Volume No. 2. ANR states that no facilities are proposed to be abandoned.

Any person desiring to be heard or to make protest with reference to said application should on or before September 26, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 18 CFR 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be unnecessary for ANR to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24069 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–84–000]

Caprock Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1997.

Take notice that on September 3, 1997, Caprock Pipeline Company (Caprock) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, to be effective October 1, 1997:

Sixth Revised Sheet No. 4
Sixth Revised Sheet No. 5

Caprock states that these revised tariff sheets are filed to revise Caprock's tariff to reflect the Commission approved Annual Charge Adjustment (ACA) factor to be effective on October 1, 1997. The effect of this change is to increase the applicable ACA surcharge to $.0022 per Dth.

Caprock states that copies of this filing were served upon KNI's mainline jurisdictional customers, interested public bodies, and all parties to the proceedings.

Any person desiring to be heard or to make any protest with reference to this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24087 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–217–001]

Colorado Interstate Gas Company; Notice of Tariff Filing

September 5, 1997.

Take notice that on September 2, 1997, Colorado Interstate Gas Company (CIG), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets identified below to be effective December 31, 1996:

Substitute Original Sheet No. 406
Substitute Original Sheet No. 412
Substitute Original Sheet No. 426

CIG states it has discovered an error in its tariff and is filing to make a correction. On November 26, 1996, CIG filed a compliance filing pursuant to an order that issued November 14, 1996, in Docket No. RP97–27–000. In the compliance filing CIG submitted Substitute Second Revised Sheet No. 97, Substitute Third Revised Sheet No. 123, and Substitute First Revised Sheet No. 157. These tariff sheets were filed to specify Shipper's Maximum Daily Injection Quantity and Maximum Daily Withdrawal Quantity in CIG's Rates Schedules NNT–1, NNT–2 and FS–1 Form of Service Agreements. Additionally, the Agreements were modified to state that each Shipper's Available Daily withdrawal Quantity will be stated in CIG's Xpress system. A Letter Order issued December 16, 1996, accepting these sheets.

CIG further states on December 31, 1996, it filed in Docket No. RP97–217–000 a tariff filing to comply with the Commission's Order No. 582 requirements. Pursuant to Section 154.103(a) CIG moved its Form of Service Agreements to a location after the General Terms and Conditions. When CIG filed these tariff sheets it inadvertently omitted the language approved in the December 16, 1996 Order. An Order issued January 27, 1997, approving the Docket No. PR97–217–000 tariff sheets with the omitted language. CIG is filing herein to correct this error.

CIG states that copies of the filing were served upon CIG's jurisdictional customers and public bodies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protest must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Copies of the filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24077 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–127–000]

Cove Point LNG Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1997.

Take notice that on September 2, 1997, Cove Point LNG Limited Partnership (Cove Point LNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following proposed changes to be effective October 1, 1997.

Second Revised Sheet No. 5
Second Revised Sheet No. 6
Third Revised Sheet No. 7

Cove Point LNG states that the listed tariff sheets set forth the adjustment to its rates applicable to the Annual Charge Adjustment (ACA), pursuant to the Commission's Regulations and Section 23 of the General Term and Conditions of its FERC Gas Tariff, First Revised Volume No. 1.

Cove Point LNG states further that the Commission's revised ACA rate per Dth for 1997 is $0.0022. The adjusted ACA Unit Surcharge will be billed for the fiscal year commencing on October 1, 1997.

Cove Point states that the copies of the filing were served upon Cove Point LNG's affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Cove Point LNG's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24092 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. TA98–1–23–000 and TM98–3–23–000]

Eastern Short Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1997.

Take notice that on September 2, 1997, Eastern Shore Natural Gas Company (ESNG) tendered for filing as party of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with a proposed effective date of November 1, 1997.

ESNG states that the subject filing is ESNG's Annual PGA filing as required by Section 21 of the General Terms and Conditions of ESNG's FERC Gas Tariff and consists of the calculation of a current adjustment for the commodity purchased gas cost component of ESNG's jurisdictional sales rates and calculations of ESNG's annual demand and commodity surcharges to amortize its Account 191 Unrecovered Purchased Gas Cost.

In addition, pursuant to Section 23 of the General Terms and Conditions of ESNG's FERC Gas Tariff, ESNG has calculated current adjustments for the demand and commodity transportation cost component of its jurisdictional sales rates and the annual demand and commodity surcharges to amortize its Account No. 191 Unrecovered Transportation Cost.

ENSG states that the sales rates set forth on the revised tariff sheets reflect an increase of $0.1738 per dt in the Demand Charge and an increase of $0.3416 per dt in the Commodity Charge, as measured against ESNG's corresponding sales rates in Docket No. TQ97–6–23–000 as filed on June 27, 1997, and approved by the Commission's order dated July 23, 1997.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 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 as provided in Section 154.210 of the Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 97–24093 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–509–000]

El Paso Natural Gas Company; Notice of Proposed Changes In FERC Gas Tariff

September 5, 1997.

Take notice that on September 2, 1997, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, Third Revised Sheet No. 290, pursuant to Subpart C of Part 154 of the Federal Energy Regulatory Commission's Regulations under the Natural Gas Act and Order No. 636–C issued February 27, 1997 at Docket Nos. RM91–11–006 and RM87–34–072. The tariff sheet is proposed to become effective October 2, 1997.

El Paso states that this tariff sheet revises the Right-of-First Refusal provision to provide for a five year maximum term for bid evaluations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, 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. 97–24082 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–346–004]

Equitrans, L.P.; Notice of Proposed Changes In FERC Gas Tariff

September 5, 1997.

Take notice that on September 2, 1997, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with an effective date of August 1, 1997:

Substitute Third Revised Sheet No. 20
Substitute Second Revised Sheet No. 21
Substitute Third Revised Sheet No. 62
Substitute First Revised Sheet No. 67
Substitute Second Revised Sheet No. 68
Fifth Revised Sheet No. 203A
First Revised Sheet No. 203B
Substitute Second Revised Sheet No. 262
Substitute Second Revised Sheet No. 263
Substitute Third Revised Sheet No. 264
Substitute Second Revised Sheet No. 266
Substitute Third Revised Sheet No. 267

Equitrans states that its filing is made in compliance with the Commission's Order Accepting and Suspending Tariff Sheets and Establishing Hearing issued on July 31, 1997.

Equitrans states that it includes with its filing primary and alternate sets of workpapers supporting the rate levels proposed in this docket. Equitrans states that the primary and alternate schedules correspond to the primary and alternate tariff sheets included in its motion rate filing made with the Commission on August 11, 1997. Equitrans states that the primary schedules reflect the recalculation of rates based on the return on equity level mandated in the Commission's July 31 Order, and that the alternate schedules reflect the recalculation of the rates based on the return on equity proposed in Equitrans' April 30, 1997 rate filing. Both the primary and alternate rate schedules reflect the elimination of Equitrans' proposed refunctionalization of facilities in accordance with the July 31 Order.

Equitrans states that copies of this rate filing were served on Equitrans' jurisdictional customers and interested State Commission.

Any person desiring to protest the filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20046, in accordance with Section 385.211 of the Commission's 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 appropriate action, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24078 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–510–000]

Gas Transport, Inc.; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1997.

Take notice that on September 2, 1997, Gas Transport, Inc. (GTI) tendered for filing as part of its FERC Gas Tariff Second Revised Volume No. 1, the following revised tariff sheet, with an effective date of October 2, 1997:

First Revised Sheet No. 125

GTI states that this tariff sheet is being filed to comply with the Order on Remand issued by the Federal Energy Regulatory Commission on February 27, 1997, in Docket Nos. RM 91–11–006 and RM87–34–072. Order No. 636–C, 78 FERC ¶ 61,186 (1997). GTI has revised Section 11.5 entitled ''Right to Match Best Bid'' of the General Terms and Conditions of its FERC Gas Tariff to incorporate the Commission's requirement in Ordering Paragraph (B) that any pipeline with a right of first refusal tariff provision containing a contract term cap longer than five years file tariff revisions to reduce the cap to five years.

GTI further states that copies of this filing were served upon its jurisdictional customers and the Regulatory Commissions of the states of Ohio and West Virginia.

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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 18 CFR 385.214). All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24083 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG97–15–001]

Kern River Gas Transmission Company; Notice of Filing

September 5, 1997.

Take notice that on September 2, 1997, Kern River Gas Transmission Company (Kern River) filed revised standards of conduct in response to the Commission's August 6, 1997, Order on Standards of Conduct. 80 FERC ¶ 61,209 (1997).

Kern River states that it served a copy of the filing to all parties on the service list in this proceeding.

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 or 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 or 18 CFR 385.214. All such motions to intervene or protest should be filed on or before September 22, 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. 97–24073 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–53–000]

K N Interstate Gas Transmission Company; Notice of Proposed Change in FERC Gas Tariff

September 5, 1997.

Take notice that on September 3, 1997, K N Interstate Gas Transmission

Company (KNI) tendered for filing as part of its FERC Gas Tariff, the following revised tariff sheets, to be effective October 1, 1997:

Third Revised Volume No. 1–A
Fourth Revised Sheet No. 4–D
First Revised Volume No. 1–C
Ninth Revised Sheet No. 4

KNI states that these revised tariff sheets are filed to revise KNI's tariff to reflect the Commission approved Annual Charge Adjustment (ACA) factor to be effective on October 1, 1997. The effect of this change is to increase the applicable ACA surcharge to $0.0022 per Dth. In addition, Fourth Revised Sheet No. 4–D reflects the elimination of language concerning Account No. 858 component transportation rates which was rendered moot by the Commission's letter order issued October 30, 1996 in Docket No. RP97–25–000.

KNI states that copies of this filing were served upon KNI's jurisdictional customers, interested public bodies, and all parties to the proceedings.

Any person desiring to be heard or to make any protest with reference to this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24085 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–117–000]

K N Wattenberg Transmission Limited Liability Company; Notice of Proposed Change in FERC Gas Tariff

September 5, 1997.

Take notice that on September 3, 1997, K N Wattenberg Transmission Limited Liability Company (Wattenberg) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, to be effective October 1, 1997:

Seventh Revised Sheet No. 6

Wattenberg states that the revised tariff sheet are filed to revise Wattenberg's tariff to reflect the Commission approved Annual Charge Adjustment (ACA) factor to be effective on October 1, 1997. The effect of this change is to increase the applicable ACA surcharge to $0.0022 per Dth.

Wattenberg states that copies of this filing were served upon Wattenberg's jurisdictional customers, interested public bodies, and all parties to the proceedings.

Any person desiring to be heard or to make any protest with reference to this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24089 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–114–000]

Mobile Bay Pipeline Company; Notice of Proposed Change in FERC Gas Tariff

September 5, 1997.

Take notice that on September 2, 1997, Mobile Bay Pipeline Company (Mobile Bay) tendered for filing in its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet to be effective October 1, 1997:

Sixth Revised Sheet No. 4

Mobile Bay Pipeline states that the above listed tariff sheet is being filed to reflect the increase in the Annual Charge Adjustment (ACA) reflected in Mobile Bay's FERC Gas Tariff.

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 Regulations. All such motions or protest must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24088 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–45–005]

Northern Border Pipeline Company; Notice of Compliance Filing

September 5, 1997.

Take notice that on September 2, 1997, Northern Border Pipeline Company (Northern Border) submitted for filing the revised estimated Target Cost for the Project Cost Containment Mechanism (PCCM) to comply with paragraph (B) of the Federal Energy Regulatory Commission's order issued

August 1, 1997, in Docket No. RP96–45–004.

Northern Border states that copies of this filing have been sent to all parties of record in this proceeding.

Any person desiring to protest said filing should file protests with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be filed on or before September 12, 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. 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. 97–24076 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–709–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

September 5, 1997.

Take notice that on August 25, 1997, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP97–709–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon certain small volume measurement (farm taps) facilities located in Nebraska and Iowa, under Northern's blanket certificate issued in Docket No. CP82–401–000 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.

Northern states it is in the process of replacing certain dresser coupled pipelines installed in the 1930's in Jefferson, Gage and Platte counties, Nebraska and in Polk county, Iowa. This involves Northern's Fairbury Branchline and segments of its Columbus Branchline, Des Moines ''A'' branchline, and A-line. Northern states it has been in negotiations with landowners along the route of the original pipelines regarding service line reconnections for their farm tap facilities and those electing reconnection to Northern will continue to receive service from local distribution companies. Northern states that eleven farm tap users will disconnect from Northern while others will convert to alternate sources of fuel or they no longer require natural gas services. Northern states it will restore the farm tap sites to their original condition by leveling the site and reseeding with native vegetation or as specified by landowner and the farm tap facilities will be abandoned and removed.

Northern states that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the proposed changes without detriment or disadvantage to Northern's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24070 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4242–000]

Ohio Edison Company; Pennsylvania Power Company; Notice of Filing

September 5, 1997.

Take notice that on August 18, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, Service Agreements with e prime, Inc., CMS Marketing Services and Trading Co., Ohio Valley Electric Corporation, PacifiCorp Power Marketing, Inc., and Strategic Energy Ltd., under Ohio Edison's Power Sales Tariff. This filing is made pursuant to § 205 of the Federal Power Act.

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 September 18, 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. 97–24091 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–507–000]

Overthrust Pipeline Company; Notice of Tariff Filing

September 4, 1997.

Take notice that on September 2, 1997, Overthrust Pipeline Company (Overthrust), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, First Revised Sheet No. 56, to be effective October 1, 1997. Overthrust states that the filing is being filed in compliance with Ordering Paragraph (B) of Order No. 636–C issued February 27, 1997. Overthrust states that the proposed tariff sheet revises § 9.4 of the General Terms and Conditions of its tariff by establishing a five-year contract matching-term cap for shippers exercising their right of first refusal.

Overthrust states that a copy of this filing has been served upon its customers and the Wyoming Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with § 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24080 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–505–000]

Questar Pipeline Company; Notice of Tariff Filing

September 5, 1997.

Take notice that on September 2, 1997, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Fourth Revised Sheet No. 68, to be effective October 1, 1997.

Questar states that the tariff sheet is being filed in compliance with Ordering Paragraph (B) of Order No. 636–C issued February 27, 1997. Questar states that the proposed tariff sheet revises § 7.4 of the General Terms and Conditions of Part 1 of its tariff by establishing a five-year contract matching-term cap for shippers exercising their right of first refusal.

Questar states that a copy of this filing has been served upon its customers and the Public Service Commission of Utah and the Wyoming Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with § 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24079 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–55–000]

Questar Pipeline Company; Notice of Tariff Filing

September 5, 1997.

Take notice that on September 2, 1997, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, to be effective October 1, 1997:

First Revised Volume No. 1

Seventh Revised Sheet No. 5
Eighth Revised Sheet No. 5A
Seventh Revised Sheet No. 6
Sixth Revised Sheet No. 6A

Original Volume No. 3

Eighteenth Revised Sheet No. 8

Questar states that this filing incorporates into its storage and transportation rates the annual charge unit rate of $0.00224 per Dth.

Questar states that copies of this filing were served upon Questar's customers, the Public Service Commission of Utah and the Wyoming Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 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 in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24086 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL97–56–000 and QF94–84–003]

Tenaska IV Texas Partners, Ltd.; Notice of Filing

September 4, 1997.

Take notice that on August 22, 1997, Brazos Electric Power Cooperative, Inc. filed a Motion to Intervene and Request for Revocation of Qualifying Facility Status for plant operated by Tenaska IV Texas Partners, Ltd. in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 3, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24130 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP91–203–066]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1997.

Take notice that on August 29, 1997, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following Revised Tariff Sheets to its FERC Gas Tariff, Fifth Revised Volume No. 1, to become effective September 1, 1997:

Twenty-Third Revised Sheet No. 22
Twentieth Revised Sheet No. 24

Tennessee states that the purpose of the filing is to implement a 100% load factor rate design for its Interruptible Transportation (IT) rates in compliance

with Commission Opinion Nos. 406 and 406–A and the Stipulation and Agreement filed June 2, 1993, in Docket No. RP91–203, *et al.*

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24074 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–66–000]

Texas Eastern Transmission Corporation; Notice of Compliance Report

September 5, 1997.

Take notice that on September 2, 1997, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing pursuant to Section 9.1 of the General Terms and Conditions of its FERC Gas Tariff, Sixth Revised Volume No. 1, its report of recalculated Operational Segment Capacity Entitlements to become effective November 1, 1997.

Texas Eastern states that the purpose of the filing is to make its report pursuant to Section 9.1 of the General Terms and Conditions of its FERC Gas Tariff, Sixth Revised Volume No. 1 of recalculated Operational Segment Capacity Entitlements to be effective November 1, 1997, along with supporting documentation explaining the basis for changes.

Texas Eastern states that copies of the filing were served on firm customers of Texas Eastern and interested State Commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 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. 97–24072 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–508–000]

TransColorado Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 1997.

Take notice that on September 2, 1997, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 229, pursuant to Subpart C of Part 154 of the Federal Energy Regulatory Commission's Regulations Under the Natural Gas Act and Order No. 636–C issued February 27, 1997 at Docket Nos. RM91–11–006 and RM87–34–072.

TransColorado states that this tariff sheet revises the Right-of-First Refusal provision to provide for a five year maximum term for bid evaluations. The tariff sheet is proposed to become effective October 2, 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 in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24081 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–721–000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

September 5, 1997.

Take notice that on September 2, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP97–721–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 18 CFR 157.216) for authorization to abandon four farm taps, located in Burleigh and Morton Counties, North Dakota, under Williston Basin's certificate issued in Docket No. CP82–487–000, pursuant to Section 7(c) 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.

Williston Basin proposed to abandon four farm taps:

—Farm tap at Station 9399+37 located on the Cabin Creek-Bismarch transmission line in Burleigh County, North Dakota;

—Farm tap at Station 5439+92 located on the Minot-Bismarch transmission line in Burleigh County, North Dakota;

—Farm tap at Station 651+58 located on the Cabin Creek-Bismarck transmission line in Morton County, North Dakota;

—Farm tap at Station 9061+27 located on the Cabin Creek-Bismarck transmission line in Morton County, North Dakota.

Williston Basin states that Montana-Dakota Utilities Company, a local distribution company, now serves the customers previously served by these farm taps through its distribution system and consents to the proposed abandonment.

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. 97–24071 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7513–002]

Rockfish Corporation, Inc., Notice of Availability of Environmental Assessment

September 5, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order 486, 52 F.R. 47897), the Commission's Office of Hydropower Licensing has reviewed an exemption surrender application for the Old Mill Hydroelectric Project, No. 7513–002. The Old Mill Project is located on the North River in Rockingham County, Virginia. The EA finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Commission's Reference and Information Center, Room 1C–1, 888 First Street, N.E., Washington, D.C. 20426. For further information, please contact the project manager, Ms. Hillary Berlin, at (202) 219–0038.

Lois D. Cashell,

Secretary.

[FR Doc. 97–24090 Filed 9–10–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5891–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Small Business Compliance Assistance Centers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Small Business Compliance Assistance Centers (EPA ICR #1815.01). The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 14, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1815.01.

SUPPLEMENTARY INFORMATION:

Title: Small Business Compliance Assistance Centers (EPA ICR #1815.01). This is a new collection.

Abstract: This request is for a consolidated clearance for a series of evaluations of the Environmental Protection Agency's (EPA's) Small Business Compliance Assistance Centers Regulatory Reinvention Initiative. The purpose of the evaluation is to assess the impact of the information that this program provides. The Small Business Compliance Assistance Centers program, a Presidential Regulatory Reinvention Initiative, provides small businesses with easy access to sector-specific and readily understandable information on their federal environmental regulatory requirements. There are currently four operating Centers for the printing, metal finishing, auto service and repair and agriculture sectors. Over the next year, EPA's Office of Compliance (OC) will open four new Centers for the printed wiring board manufacturing, chemical manufacturing, local government and transportation sectors. The Centers are operated through cooperative agreements with industry associations, universities, state agencies and other partners that are trusted sources of information by the small business sectors. The Centers also serve the needs of the state and local technical assistance community by providing them with sector-specific compliance and technical information.

The Centers are ''communications'' Centers rather than physical locations. Via the Internet, toll-free numbers, e-mail discussion groups and other communications methods they distribute compliance and technical information to the small business community and their assistance providers.

Four types of evaluations are proposed: (1) Phone-surveys of a random sample of the small business populations to determine the reach of the Centers; (2) & (3) on-line surveys and fax-back surveys of the users of the Center web sites and toll-free numbers to determine users' satisfaction with the Centers' services and to determine what users do as a next step with the information they get from the Centers.; and (4) phone interviews to follow-up with on-line and fax-back survey respondents to collect anecdotal information on the behavioral/operation changes that users undertake to improve their compliance and environmental performance as a result of Center usage. In each instance, responses to requests for information are voluntary. In addition, the names of the respondents will not be disclosed to EPA. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on June 25th, 1997 and no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 45 minutes per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of

information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Small businesses, regulatory agency staff, technical assistance program staff, consultants, university-staff.

Estimated Number of Respondents: 26,220 annually.

Frequency of Response: phone-survey: annual; on-line surveys: bi-annual; fax-back surveys: bi-annual; phone interviews: annual.

Estimated Total Annual Hour Burden: 2,760 hours.

Estimated Total Annualized Cost Burden: $30,360.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No.1815.01 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460 and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503

Dated: September 8, 1997.

Rick Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 97–24149 Filed 9–10–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00501; FRL–5741–8]

Reduced Risk Initiative for Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is announcing a final Pesticide Registration (PR) Notice entitled ''Guidelines for Expedited Review of Conventional Pesticides under the Reduced-Risk Initiative and for Biological Pesticides.'' EPA proposed this policy for 30 days of public comment on June 18, 1997 (62 FR 33078). Interested parties may request a copy of the Agency's final policy as set forth in the ADDRESSES unit of this notice.

ADDRESSES: The PR Notice is available by contacting the person whose name appears under FOR FURTHER INFORMATION CONTACT.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Keigwin, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 713A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5447, e-mail: keigwin.richard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability:

Internet

Electronic copies of this document and the PR Notice are available from the EPA home page at the Environmental Sub-Set entry for this document under ''Regulations'' (http://www.epa.gov/fedrgstr/).

Fax on Demand

Using a faxphone call 202–401–0527 and select item 6101 for a copy of the PR notice.

I. Background

This **Federal Register** notice announces the availability of the PR Notice entitled ''Guidelines for Expedited Review of Conventional Pesticides under the Reduced-Risk Initiative and for Biological Pesticides.'' This PR Notice responds to the Food Quality Protection Act of 1996 (FQPA) which requires that EPA expedite the review of applications for registration of pesticides which:

1. Reduce the risks of pesticides to human health.
2. Reduce the risks of pesticides to nontarget organisms.
3. Reduce the potential for contamination of groundwater surface water or other valued environmental resources.
4. Broaden the adoption of integrated pest management strategies, or make such strategies more available or more effective.

The purpose of the PR Notice is to provide the process and criteria to guide applicants in developing their reduced-risk submissions. The PR Notice supersedes the criteria published in **Federal Register** Notices of, July 20, 1992 (57 FR 32140), and January 22, 1993 (58 FR 5854), and PR Notice 93-9, July 21, 1993. The goal of the Reduced-Risked Pesticide Initiative and of the Biopesticides and Pollution Prevention Division is to encourage the development, registration, and use of lower-risk pesticide products which would result in reduced risks to human health and the environment when compared to existing alternatives.

II. Public Comments

Public comments submitted concerning the draft PR Notice and the issues listed in the previous FR Notice of Availability were fully considered before this notice was made final. All public comments, as well as a summary of the Agency's responses to those comments, are filed in the Office of Pesticides Programs' Docket Office under docket number ''OPP–00485.'' The public record is located in Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5805.

List of Subjects

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

Dated: September 4, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 97–24145 Filed 9–10–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

September 5, 1997.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0704.

Expiration Date: 02/28/98.

Title: Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96–61.

Form No.: N/A.

Respondents: Business or other for profit.

Estimated Annual Burden: 519 respondents; 146 hours per response (avg.); 75,895 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $435,000.

Frequency of Response: On occasion, annual, one-time requirement.

Description: In the Order on Reconsideration issued in CC Docket

96–61 (released 8/20/97), the Commission amended the collections adopted in the Second Report and Order in this proceeding.

a. Tariff cancellation requirement: In the Order on Reconsideration, the Commission concludes that, with two exceptions, the statutory forbearance criteria in Section 10 of the Communications Act, as amended, are met for the Commission no longer to require or allow nondominant interexchange carriers to file tariffs pursuant to Section 203 for their interstate, domestic, interexchange services. The Commission further concludes that nondominant interexchange carriers are allowed to file tariffs for (1) their interstate, domestic, interexchange direct-dial services to which end-users obtain access by dialing a carrier's carrier access code (dial-around 1+ services) and (2) interstate, domestic, interexchange services provided by a nondominant interexchange carrier for the lesser period of the initial 45 days of service or until there is a written contract between the carrier and the customer, in those limited circumstances in which a prospective customer contacts the LEC to select an interexchange carrier or to initiate a change in his or her primary carrier. See 47 CFR § 61.20.

In order to implement the Commission's detariffing policy, the *Second Report and Order* requires nondominant interexchange carriers to cancel their tariffs for interstate, domestic, interexchange services on file with the Commission within nine months of the effective date of that Order. That requirement, however, was not implemented by the carriers in light of the stay of the Second Report and Order, pending judicial review, entered by the United States Court of Appeals for the District of Columbia Circuit on February 13, 1997. The Order on Reconsideration provides that the Common Carrier Bureau will determine the appropriate transition period when the detariffing rules become effective. Nondominant interexchange carriers that have on file with the Commission tariff offerings that contain services subject to different tariffing requirements (*e.g.*, tariff offerings that include dial-around 1+ services and service to new customers that contact the LEC to select an interexchange carrier or to initiate a change in their primary interexchange carrier, for which carriers are permitted to file tariffs, and tariff offerings that combine international services, which still must be tariffed, with interstate, domestic, interexchange services, which are detariffed), may comply with the Order on Reconsideration either by: (1) Cancelling the entire tariff and refiling a new tariff for only those services for which tariffs are required or permitted (519 respondents × 2 hours per page = 2504 annual burden hours); or (2) issuing revised pages cancelling the material in the tariffs that pertain to those services subject to forbearance (519 respondents × 2 hours per page = 72,094 burden hours).

b. *Information disclosure requirement:* The attached Order on Reconsideration eliminates the requirement that nondominant interexchange carriers make information on current rates, terms, and conditions for all of their interstate, domestic, interexchange services available to any member of the public in an easy to understand format and in a timely manner, for purposes of enforcing Section 254(g) of the Communications Act, as amended.

c. Recordkeeping requirement: In the Order on Reconsideration, the Commission affirms its conclusion in the *Second Report and Order* to require nondominant interexchange carriers to maintain at their premises price and service information regarding all of their interstate, domestic,interexchange service offerings that they can submit to the Commission upon request. The Commission clarifies in the Order on Reconsideration that nondominant interexchange carriers should retain the documents supporting the rates, terms, and conditions of the carriers' interstate, domestic, interexchange offerings. Nondominant interexchange carriers are required to retain the foregoing records for a period of at least two years and six months following the date the carrier ceases to provide services on such rates, terms and conditions, in order to afford the Commission sufficient time to notify a carrier of the filing of a complaint, which generally must be filed within two years from the time the cause of action accrues (in the event a complaint is filed against a carrier, the carrier will be required to retain documents relating to the complaint until the complaint is resolved). See 47 CFR § 42.11. Nondominant interexchange carriers are required to maintain the foregoing records in a manner that allows them to produce such records within ten business days of receipt of a Commission request, and to file with the Commission, and update as necessary, the name, address, and telephone number of the individual, or individuals, designated by the carrier to respond to Commission inquiries and requests for documents. The availability of such records will enable the Commission to meet its statutory duty of ensuring that such carriers' rates, terms, and conditions for service are just, reasonable, and not unreasonably discriminatory, and that these carriers comply with the geographic rate averaging and rate integration requirements of the 1996 Act. In addition, maintenance of such records will enable the Commission to investigate and resolve complaints. (519 respondents × 2 hours per response = 1038 annual burden hours).

d. Certification Requirement: In the Second Report and Order, the Commission adopted its proposal to require nondominant interexchange carriers to file certifications with the Commission stating that they are in compliance with their statutory geographic rate averaging obligations under Section 254(g) of the Communications Act, as amended. These providers must also file certifications with the Commission stating that they are in compliance with their statutory rate integration obligations under Section 254(g). See 47 CFR 64.1900. This requirement is reaffirmed in the Order on Reconsideration. (519 respondents x .05 hours per response = 259.5 annual burden hours).

The information collected under the tariff cancellation requirement must be disclosed to the Commission, and will be used to implement the Commission's detariffing policy. The information collected under the recordkeeping and other requirements will be used by the Commission to ensure that affected interexchange carriers fulfill their obligations under the Communications Act, as amended. Your response is mandatory.

OMB Control No.: 3060–0536.

Expiration Date: 09/30/2000.

Title: Rules and Requirements for Telecommunications Relay Services (TRS) Interstate Cost Recovery.

Form No.: FCC Form 431.

Respondents: Business or other for profit.

Estimated Annual Burden: 5000 respondents; 3.1 hours per response (avg.); 15,593 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; annual.

Description: Title IV of the Americans with Disabilities Act of 1990 (ADA) requires the Commission to ensure that telecommunications relay services are available, to the extent possible, to individuals with hearing and speech disabilities in the United States. To fulfill this mandate, the Commission

adopted rules that require the provision of TRS service beginning July 26, 1993. The Commission set minimum standards for TRS providers and established a shared-funding mechanism (TRS Fund) for recovering the costs of providing interstate TRS. The Commission also appointed the National Exchange Carrier Association (NECA) the TRS Fund administrator, and directed NECA to establish a non-paid, voluntary advisory committee to monitor cost recovery matters.

a. FCC Form 431: The Commission's rules require all carriers providing interstate telecommunications services to contribute to the TRS Fund. The amount contributed is the product of the carrier's gross interstate revenues for the previous year and a contribution factor determined annually by the Commission. Contributions are calculated in accordance with a TRS Fund Worksheet which is prepared each year by the Commission and published in the **Federal Register**. Payments from the fund are made to eligible TRS providers and are designed to cover the reasonable costs incurred in providing interstate TRS service. The TRS Fund administrator files a proposed payment formula and estimated fund requirements with the Commission each year, and this payment formula is subject to Commission approval. See 47 CFR 64.601–64.608 for rules and requirements governing telecommunications relay services. Pursuant to § 64.604(c)(4)(iii)(A), every carrier providing interstate telecommunications services must contribute to the TRS Fund on the basis of its relative share of gross interstate revenues. Section 64.604(c)(4)(iii)(A) contains a partial listing of the types of interstate services for which contributions must be made. Carriers who provide interstate services, including but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service, interstate private line, telex, telegraph, video, satellite, intraLATA international and resale services must contribute to the TRS Fund. Contributions to the TRS Fund will be based on each interstate service provider's relative share of gross interstate revenues for the prior calendar year and a contribution factor determined by the Commission. Contributors must use the TRS Fund Worksheet, FCC Form 431, to calculate their contributions to the TRS Fund. The worksheet must be filed with the FCC TRS Fund Administrator. See § 64.604(c)(4)(iii)(B) and FCC Form 431, TRS Fund Worksheet. (5000 respondents × 2 hours per response = 10,000 annual burden hours).

b. True and Accurate Data: TRS providers must provide the administrator with true and accurate data to be used to compute payments. According to § 64.604(c)(4)(iii)(C), the providers must submit the following: total TRS minutes of use, total interstate TRS minutes of use, total TRS operating expenses and total TRS investment in general accordance with 47 CFR Part 32, and other historical or projected information reasonably requested by the administrator for purposes of computing payments and revenue requirements. (13 respondents × 3 hours per response = 39 annual burden hours).

c. Reports of Interstate TRS Minutes: TRS providers, including providers who are not interexchange carriers, local exchange carriers, or certified state relay providers, must submit reports of interstate TRS minutes of use to the administrator in order to receive payments. TRS providers receiving payments shall file a form prescribed by the administrator. The administrator is directed to fashion a form that is consistent with Parts 32 and 36. (See 47 CFR § 64.604(c)(4)(iii)(E)). (13 respondents × 4 hours per response = 52 annual burden hours).

d. Notification to TRS Administrator: Section 64.604(c)(4)(iii)(F) lists TRS providers who are eligible for receiving payments from the TRS Fund. These providers must notify the administrator of their intent to participate in the TRS Fund thirty days prior to submitting reports of TRS interstate minutes of use in order to receive payment settlements for interstate TRS. Failure to file may exclude the TRS provider from eligibility for the year. (See 47 CFR 64.604(c)(4)(iii)(G)). Payments will only be made to eligible TRS providers operating in compliance with the mandatory minimum standards set forth in § 64.604. (13 respondents x 10 minutes per response = 2.16 annual burden hours).

e. TRS Administrator Annual Report: The TRS Fund is subject to a yearly audit performed by an independent certified accounting firm or by the Commission, or both. Pursuant to § 64.604(c)(4)(iii)(H), the TRS Fund administrator must report annually to the Commission its administrative costs associated with the administration of the TRS Fund, and must file a cost allocation manual. TRS payment formulas and revenue requirements must be filed with the Commission on October 1 of each year. The administrator must establish a non-paid, voluntary advisory committee of persons from the hearing and speech disability communities, TRS users, interstate service providers, state representatives, and TRS providers which will meet at reasonable intervals in order to monitor TRS cost recovery matters. The annual report to the Commission must include a discussion of advisory committee deliberations. (1 respondent ×500 hours per response = 500 annual burden hours).

Information submitted in response to the foregoing requirements is used to administer the TRS Fund. Information is used to calculate the required carrier contributions to the TRS Fund and to determine the appropriate payment due to the TRS providers participating in the shared funding plan. Your response is required to obtain or retain benefits.

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, D.C. 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–24123 Filed 9–10–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

September 4, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility;

(b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 14, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–XXXX.

Title: Section 68.110(c)—Availability of Inside Wiring Information.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 200.

Estimated Time Per Response: 6 hours.

Cost to Respondents: The Commission estimates that the annual cost to all respondents to maintain existing records for future disclosure upon request is $5,000. Based on 200 carriers within the 50 states, this represents only $25 per carrier in additional storage and retrieval costs.

Total Annual Burden: 1,200 hours.

Needs and Uses: The Commission amended the rule defining the demarcation point to: (1) clarify the location, within 12 inches at the point at which it enters the customer's premises; (2) indicate only major additions or rearrangements of existing wire are to be treated as new installations; (3) allow owners of multiunit buildings to restrict their customers access to only that wiring within a tenant's individual unit; and (4) require telephone companies to provide building owners with all available information regarding carrier installed wiring on the customer's side of the demarcation point.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–24008 Filed 9–10–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE AND TIME: Tuesday, September 16, 1997 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, September 18, 1997 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Report of the Audit Division on Lugar for President Committee, Inc., Lugar for President Legal and Accounting and Compliance Fund, and Lugar for President Committee Audit Fund.

Advisory Opinion 1997–17: Jay Nixon by counsel, Kevin F. O'Malley.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 97–24251 Filed 9–9–97; 1:03 pm]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Changes to the Hotel and Motel Fire Safety Act National Master List

AGENCY: United States Fire Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA or Agency) gives notice of additions and corrections/changes to, and deletions from, the national master list of places of public accommodations which meet the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act.

EFFECTIVE DATE: October 14, 1997.

ADDRESSES: Comments on the master list are invited and may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, D.C. 20472, (fax) (202) 646–4536. To be added to the National Master List, or to make any other change to the list, please see Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: John Ottoson, Fire Management Programs Branch, United States Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1272.

SUPPLEMENTARY INFORMATION: Acting under the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2201 note, the United States Fire Administration has worked with each State to compile a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines under the Act. FEMA published the national master list in the **Federal Register** on Friday, August 1, 1997, 62 FR 41492–41727.

Parties wishing to be added to the National Master List, or to make any other change, should contact the State office or official responsible for compiling listings of properties which comply with the Hotel and Motel Fire Safety Act. A list of State contacts was published in 61 FR 32032, also on June 21, 1996. If the published list is unavailable to you, the State Fire Marshal's office can direct you to the appropriate office. The Hotel and Motel Fire Safety Act of 1990 National Master List is now accessible electronically. The National Master List Web Site is located at: http://www.usfa/fema.gov/hotel/index.htm

Visitors to this web site will be able to search, view, download and print all or part of the National Master List by State, city, or hotel chain. The site also provides visitors with other information related to the Hotel and Motel Fire Safety Act. Instructions on gaining access to this information are available as the visitor enters the site.

Periodically FEMA will update and redistribute the national master list to incorporate additions and corrections/changes to the list, and deletions from

the list, that are received from the State offices. Each update contains or may contain three categories: ''Additions;'' ''Corrections/changes;'' and ''Deletions.'' For the purposes of the updates, the three categories mean and include the following:

''Additions'' are either names of properties submitted by a State but inadvertently omitted from the initial master list or names of properties submitted by a State after publication of the initial master list;

''Corrections/changes'' are corrections to property names, addresses or telephone numbers previously published or changes to previously published information directed by the State, such as changes of address or telephone numbers, or spelling corrections; and

''Deletions'' are entries previously submitted by a State and published in the national master list or an update to the national master list, but subsequently removed from the list at the direction of the State.

Copies of the national master list and its updates may be obtained by writing to the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325. When requesting copies please refer to stock number 069–001–00049–1.

Ernest B. Abbott,

General Counsel.

The update to the national master list for the month of August 1997 follows:

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 8/27/97 UPDATE

Index and property name	PO box/rt No. and street address	City, state/Zip	Phone
ADDITIONS			
AK:			
AK0054 EXECUTIVE SUITE HOTEL	4360 SPENAKEL RD	ANCHORAGE, AK 99517	(907) 243–6366
CA:			
CA1511 EXTENDED STAY AMERICA, BAKERSFIELD #919.	3318 CALIFORNIA AVE	BAKERSFIELD, CA 93304	(805) 322–6888
CA1515 HOLIDAY INN EXPRESS	2532 CASTRO VALLEY BLVD	CASTRO VALLEY, CA 94546	(510) 538–9501
CA1516 BEST WESTERN ROYAL HOST INN.	710 S. CHEROKEE LN	LODI, CA 95240	(209) 369–8484
CA1510 EXTENDED STAY AMERICA, ONTARIO #911.	3990 E. INLAND EMPIRE BLVD	ONTARIO, CA 91764	(909) 944–8900
CA1514 EXTENDED STAY AMERICA, RANCHO CORDOVA #903.	10721 WHITE ROCK RD	RANCHO CORDOVA, CA 95670	(916) 635–2363
CA1512 EXTENDED STAY AMERICA, SACRAMENTO #936.	3825 ROSIN CT	SACRAMENTO, CA 95834	(916) 920–8199
CA1513 EXTENDED STAY AMERICA, SANTA ROSA #976.	2600 CORBY AVE.	SANTA ROSA, CA 95407	(707) 546–4808
CO:			
CO0312 HOLTZE EXECUTIVE VILLAGE—SOUTHEAST.	15196 E LOUISIANA DR	AURORA, CO 80012	(333) 446–5893
CO0317 APOLLO PARK EXECUTIVE SUITES.	805 S. CIRCLE DR. #2B	COLORADO SPRINGS, CO 80910.	(800) 279–3620
CO0322 COMFORT INN—NORTH	6450 CORPORATE DR	COLORADO SPRINGS, CO 80919.	(800) 228–5150
CO0311 LA QUINTA INN & SUITES	7077 SOUTH CLINTON STREET	DENVER, CO 80231	(303) 649–9969
CO0318 TAMARRON HILTON RESORT	40292 HWY. 550	DURANGO, CO 81301	(970) 259–2000
CO0314 HOLTZE EXECUTIVE VILLAGE-DENVER TECH CENTER.	6380 SOUTH BOSTON STREET	ENGLEWOOD, CO 80111	(888) 446–5893
CO0319 INVERNESS HOTEL & GOLF CLUB.	200 INVERNESS DR. W	ENGLEWOOD, CO 80112	(303) 397–6400
CO0323 ECONOLODGE	1409 BARLOW	FORT MORGAN, CO 80701	(970) 867–9481
CO0315 EXTENDED STAY AMERICA LAKEWOOD #901.	7393 W. JEFFERSON AVE	LAKEWOOD, CO 80235	(303) 986–8300
CO0316 EXTENDED STAY AMERICA LAKEWOOD #994.	715 KIPLING ST	LAKEWOOD, CO 80215	(303) 275–0840
CO0321 COMFORT INN	2255 9TH ST	LIMON, CO 80828	(719) 775–2752
CO0310 LA QUINTA INN & SUITES	902 DILLON ROAD	LOUISVILLE, CO 80027	(303) 664–0100
CO0313 HOLIDAY INN—NORTHGLENN	10 EAST 120TH AVE	NORTHGLENN, CO 80233	(303) 452–4100
CO0320 SLEEP INN PUEBLO	3626 N. FREEWAY	PUEBLO, CO 81008	(719) 583–4000
HI:			
HI0245 VOLCANO HOUSE	PO BOX 53, HAWAII VOLCANOS NATIONAL PARK.	HILO, HI 96718	(808) 967–7321
HI0199 ALA MOANA HOTEL	410 ATKINSON DRIVE	HONOLULU, HI 96814	(808) 955–4811
HI0200 ASTON AT THE WAIKIKI BANYAN	201 OHUA AVENUE #406–2	HONOLULU, HI 96815	(808) 922–0555
HI0201 ASTON HONOLULU PRINCE HOTEL.	415 NAHUA STREET	HONOLULU, HI 96815	(808) 922–1616
HI0202 ASTON ISLAND COLONY HOTEL	445 SEASIDE AVENUE	HONOLULU, HI 96815	(808) 923–2345
HI0204 ASTON WAIKIKI CIRCLE HOTEL	2464 KALAKAUA AVENUE	HONOLULU, HI 96815	(808) 923–1571
HI0205 ASTON WAIKIKI SUNSET RESORT.	229 PAOAKALANI AVENUE	HONOLULU, HI 96815	(808) 922–0511
HI0206 BEST WESTERN PLAZA HOTEL	3253 N. NIMITZ HWY	HONOLULU, HI 96819	(808) 836–3636
HI0207 COCONUT PLAZA HOTEL	450 LEWERS STREET	HONOLULU, HI 96815	(808) 923–8828
HI0208 COLONY'S PACIFIC MANARCH	142 ULUNIU AVENUE	HONOLULU, HI 96815	(808) 923–9805
HI0209 COLONY'S POIPU KAI RESORT	1941 POIPU ROAD	HONOLULU, HI 96746	(808) 742–2229
HI0210 CORAL REEF HOTEL	2299 KUHIO AVENUE	HONOLULU, HI 96816	(808) 932–1262
HI0211 EWA KAI APARTMENT HOTEL	61–161 KUHINA STREET	HONOLULU, HI 96706	(808) 689–7946

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 8/27/97 UPDATE—Continued

Index and property name	PO box/rt No. and street address	City, state/Zip	Phone
HI0212 HALE KOA HOTEL	2055 KALIA ROAD	HONOLULU, HI 96815	(808) 955–0555
HI0213 HALEKULANI HOTEL	2199 KALIA ROAD	HONOLULU, HI 96822	(808) 923–2311
HI0214 HANALEI BAY RESORT	5380 HONOIKI ROAD	HONOLULU, HI 96714	(808) 826–6522
HI0215 HAWAII DYNASTY HOTEL	1830 ALA MOANA BOULEVARD	HONOLULU, HI 96815	(808) 955–1111
HI0223 HILTON HAWAIIAN VILLAGE-ALII TOWER.	2005 KALIA ROAD	HONOLULU, HI 96815	(808) 949–4321
HI0222 HILTON HAWAIIAN VILLAGE-DIAMOND HEAD TOWER.	2005 KALIA ROAD	HONOLULU, HI 96815	(808) 949–4321
HI0224 HILTON HAWAIIAN VILLAGE-RAINBOW TOWER.	2005 KALIA ROAD	HONOLULU, HI 96815	(808) 949–4321
HI0221 HILTON HAWAIIAN VILLAGE-TAPA TOWER.	2005 KALIA ROAD	HONOLULU, HI 96815	(808) 949–4321
HI0217 HYATT REGENCY WAIKIKI	2424 KALAKAUA AVENUE	HONOLULU, HI 96815	( ) –
HI0230 KUHIO VILLAGE RESORT HOTEL	2463 KUHIO AVENUE	HONOLULU, HI 96815	(808) 591–2235
HI0234 OUTRIGGER ALA WAI TERRACE	1684 ALA MOANA BLVD	HONOLULU, HI 96815	(808) 949–7384
HI0235 OUTRIGGER SURF	2280 KUHIO AVENUE	HONOLULU, HI 96815	(808) 922–5777
HI0236 OUTRIGGER WAIKIKI SURF-WEST.	412 LEWERS STREET	HONOLULU, HI 96815	(808) 923–7671
HI0238 PLEASANT HOLIDAY ISLE HOTEL.	270 LEWERS STREET	HONOLULU, HI 96815	(808) 923–0777
HI0239 PRINCEVILLE AN ITT SHERATON LUXURY HOTEL.	PO BOX 3069, PRINCEVILLE	HONOLULU, HI 967223069	(808) 826–9644
HI0242 SHERATON MOANA SURFRIDER	2365 KALAKAUA AVENUE	HONOLULU, HI 96815	(808) 922–3111
HI0241 SHERATON WAIKIKI HOTEL	2255 KALAKAUA AVENUE	HONOLULU, HI 968152579	(808) 922–4422
HI0243 THE WESTIN KAUAI	KAUAI KALAPAKI BEACH	HONOLULU, HI 96766	(808) 245–5050
HI0246 WAIKIKI PARC HOTEL	2233 HELUMOA ROAD	HONOLULU, HI 96815	(808) 921–7272
HI0247 WAIKIKI ROYAL SUITES	255 BEACHWALK STREET	HONOLULU, HI 96815	(808) 926–5641
HI0248 WAIKIKI TERRACE HOTEL	2045 KALAKAUA AVENUE	HONOLULU, HI 96815	(808) 955–6000
HI0229 KONA COAST RESORT II	78–6842 ALII DRIVE	KAILUA-KONA, HI 96740	(808) 324–1721
HI0240 SCHRADERS WINDWARD MARINE RESORT.	47–039 LIHIKAI DRIVE	KANEOHE, HI 96744	(808) 239–5711
HI0216 HOTEL CORAL REEF	1516 KUHIO HIGHWAY	KAPAA HI 96746	(808) 822–4481
HI0227 KAPAA SHORE	4–0900 KUHIO HIGHWAY	KAPAA, HI 96746	(808) 245–4552
HI0232 MAUI LU RESORT	575 SOUTH KIHEI ROAD	KIHEI, HI 96753	(808) 879–5881
HI0233 MAUI SUN HOTEL	175 EAST LIPOA STREET	KIHEI, HI 96753	(808) 875–9000
HI0249 WHALERS COVE	2640 PUUHOLO ROAD	KOLOA, HI 96756	(808) 742–7571
HI0226 KANALOA AT KONA	78–261 MANU KAI STREET	KONA, HI 96740	(808) 822–9025
HI0203 ASTON MAUI PARK	3626 LOWER HONOAPIILANI HWY.	LAHAINA, HI 96761	(808) 669–6622
HI0219 KAANAPALI ALII	50 NOHEA KAI DRIVE	LAHAINA, HI 96761	(808) 667–1400
HI0220 KAHANA FALLS RESORT	4260 LOWER HONOAPIILANI ROAD.	LAHAINA, HI	(808) 669–1050
HI0244 THE WESTING MAUI	2365 KAANAPALI BEACH	LAHAINA, HI 96761	(808) 667–2525
HI0225 KALUAKOI HOTEL AND GOLF CLUB.	PO BOX 1977	MAUNALOA, HI 96770	(808) 552–2555
HI0218 HYATT REGENCY WAIKOLOA	HC02 BOX 5500	WAIKOLOA, HI 96743	(808) 885–1234
HI0231 MAUI INTERCONTINENTAL RESORT.	3700 WAILEA ALANUI	WAILEA, HI 96753	(808) 879–1922
HI0237 PALMS AT WAILEA RESORT	3200 WAILEA ALANUI	WAILEA, HI 96753	(808) 879–5800
HI0228 KAUAI RESORT HOTEL	3–5920 KUHIO HIGHWAY	WAILUA, HI 96746	(808) 245–3931
IL:			
IL0558 EXTENDED STAY AMERICA BURR RIDGE #532.	15 W. 122 S. FRONTAGE RD	BURR RIDGE, IL 60521	(630) 323–6630
IL0557 EXTENDED STAY AMERICA DOWNERS GROVE #510.	3150 FINLEY ROAD	DOWNERS GROVE, IL 60515	(630) 810–4124
IL0559 EXTENDED STAY AMERICA GURNEE #640.	5742 N. RIDGE DR.	GURNEE, IL 60031	(847) 662–3060
IL0555 EXTENDED STAY AMERICA HASCA #525.	1181 N. ROHLWING RD	HASCA, IL 60143	(630) 250–1111
IL0556 EXTENDED STAY AMERICA NAPERVILLE #660.	1575 BOND ST.	NAPERVILLE, IL 60563	(630) 983–0000
IL0560 EXTENDED STAY AMERICA ROLLING MEADOWS #530.	2400 GOLF RD	ROLLING MEADOWS, IL 60008	(847) 357–1000
IL0561 BUDGETEL INN CHICAGO TINLEY PARK.	7255 W. 183RD ST	TINLEY PARK, IL 60477	(800) 428–3438
KY:			
KY0441 EXTENDED STAY AMERICA	2650 WILHITE DRIVE	LEXINGTON, KY 40503	(606) 278–9600
KY0442 EXTENDED STAY AMERICA	610 DUTCHMAN LANE	LOUISVILLE, KY 40205	(502) 895–7707
KY0440 COMFORT SUITES	21 HAL ROGERS BLVD	PRESTONBURG, KY 41653	(606) 263–0106
MD:			
MD0294 EXTENDED STAY AMERICA LINTHICUM #658.	1500 AERO DRIVE	LINTHICUM, MD 21090	(410) 850–0400

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 8/27/97 UPDATE—Continued

Index and property name	PO box/rt No. and street address	City, state/Zip	Phone
MN:			
MN0313 BUDGETEL INN	6415 JAMES CIRCLE NORTH	BROOKLYN CENTER, MN 55430	(800) 428–3438
NC:			
NC0381 COUNTRY INN & SUITES	2541 LITTLE ROCK ROAD	CHARLOTTE, NC 28214	(800) 456–4000
NC0380 FAIRFIELD INN	1860 REMOUNT ROAD	GASTONIA, NC 28054	(800) 228–2800
NC0379 RAMADA INN	808 W. GRANTHAM STREET	GOLDSBORO, NC 27530	(919) 736–4590
NC0383 EXTENDED STAY AMERICA GREENSBORO #280.	4317 BIG TREE WAY	GREENSBORO, NC 27409	(910) 299–0200
NC0382 EXTENDED STAY AMERICA WINSTON-SALEM #370.	1995 HAMPTON INN COURT	WINSTON-SALEM, NC 27103	(910) 768–0075
NM:			
NM0185 COMFORT INN WEST	5212 ILIFE RD. NW.	ALBUQUERQUE, NM 87105	(505) 836–0011
NM0180 COORS/ILIFF JOINT VENTURE D.B.A. DAYS INN WES.	6031 ILIFF RD. NW	ALBUQUERQUE, NM 87121	(505) 271–2100
NM0181 QUALITY HOTEL FOUR SEASONS.	2500 CARLISLE NE	ALBUQUERQUE, NM 87110	(505) 888–3311
NM0182 COMFORT INN	3208 W.HIGHWAY 66	GALLUP, NM 87301	(505) 722–0982
NM0183 RADISSON PICACHO PLAZA	750 N. ST. FRANCIS DRIVE	SANTA FE, NM 87501	(505) 982–5591
NM0184 HOLIDAY INN EXPRESS	1100 CALIFORNIA NE	SOCORRO, NM 87801	(505) 838–0556
NY:			
NY0647 EXTENDED STAY AMERICA ALBANY #501.	1395 WASHINGTON AVE	ALBANY, NY 12206	(518) 446–0680
NY0649 EXTENDED STAY AMERICA DEWITT #504.	6634 OLD COLLAMER ROAD	DEWITT, NY 13057	(315) 463–1958
NY0650 EXTENDED STAY AMERICA GREECE #765.	600 CENTER PLACE DRIVE	GREECE, NY 14615	(716) 663–5558
NY0648 EXTENDED STAY AMERICA HENRIETTA #503.	700 COMMONS WAY	HENRIETTA, NY 14467	(716) 427–7580
NY0651 RAMADA INN	8–12 SARANAC AVE	LAKE PLACID, NY 12946	(800) 741–7841
TX:			
TX0741 BUDGETEL INN ARLINGTON	2401 DIPLOMACH DRIVE	ARLINGTON, TX 76011	(800) 428–3438
TX0742 BUDGETEL INN EL PASO	7944 GATEWAY BLVD. EAST	EL PASO, TX 79915	(800) 428–3438
TX0743 BUDGETEL INN EL PASO WEST	7620 N. MESA ST	EL PASO, TX 79912	(800) 428–3438
TX0740 EXTENDED STAY AMERICA-EL PASO #886.	6580 MONTANA AVENUE	EL PASO, TX 79925	(915) 772–5754
TX0734 THE TEXAS WHITE HOUSE	1417 EIGHTH AVENUE	FORT WORTH, TX 76104	(817) 923–3597
TX0744 BUDGETEL INN HOUSTON NORTH.	12701 NORTH FREEWAY	HOUSTON, TX 77060	(800) 428–3438
TX0745 BUDGETEL INN HOUSTON NW	11130 NORTHWEST FREEWAY	HOUSTON, TX 77902	(800) 428–3438
TX0746 BUDGETEL INN HOUSTON SW	6790 SOUTHWEST FREEWAY	HOUSTON, TX 77074	(800) 428–3438
TX0739 LA QUINTA INN & SUITES-HOUSTON GALLERIA.	1625 WEST LOOP SOUTH	HOUSTON, TX 71027	(800) 531–5900
TX0737 BEST WESTERN INN OF ORANGE.	2630 I–10 WEST	ORANGE, TX 77632	(409) 883–6616
TX0736 RAMADA INN OF ORANGE, TEXAS.	2610 I–10 WEST	ORANGE, TX 77632	(409) 883–0231
TX0738 LA QUINTA INN & SUITES-PLANO WEST.	4800 WEST PLANO PARKWAY	PLANO, TX 75240	(800) 531–5900
TX0735 FOUR POINTS HOTEL SAN ANTONIO.	110 LEXINGTON AVENUE	SAN ANTONIO, TX 78205	(800) 288–3927
CORRECTIONS/CHANGES			
CA:			
CA1051 DAYS INN MAINGATE	1604 S. HARBOR BLVD	ANAHEIM, CA 92802	(714) 635–3630
CA1120 HILGARD HOUSE HOTEL	927 HILGARD AVE	LOS ANGELES, CA 90024	(310) 208–3945
CA1348 MOTEL 6	2124 N. FREMONT ST	MONTEREY, CA 93940	(408) 646–8585
CA1341 DAYS INN AIRPORT NORTH	1113 AIRPORT BLVD	SOUTH SAN FRANCISCO, CA 94080.	(415) 873–9300
CA1020 HOLIDAY INN SAN FRANCISCO	275 S. AIRPORT BLVD	SOUTH SAN FRANCISCO CA 94080.	(415) 873–3500
CA1040 LA QUINTA INN 3659	20 AIRPORT BLVD	SOUTH SAN FRANCISCO, CA 94080–6515.	(415) 583–2223
CA1169 MOTEL 6, #1085	72562 TWENTY NINE PALMS HWY.	TWENTY NINE PALMS, CA 92227.	(619) 367–2833
CO:			
CO0280 HOLIDAY INN BOULDER	800 28TH ST	BOULDER, CO 80303–2299	(303) 443–3322
CO0141 RAMADA INN—COLORADO SPRINGS.	3125 SINTON RD	COLORADO SPRINGS, CO 80907.	(719) 633–5541
CO0059 BEST WESTERN RIO GRANDE INN.	400 E. SECOND AVE	DURANGO, CO 81301	(970) 385–4980
CO0179 BENT'S FORT INN BEST WESTERN.	P.O. BOX 108, E. US HWY. 50	LAS ANIMAS, CO 81054	(719) 456–0011

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 8/27/97 UPDATE—Continued

Index and property name	PO box/rt No. and street address	City, state/Zip	Phone
CO0088 BEST WESTERN OAKRIDGE LODGE.	PO BOX 1200, 158 HOT SPRINGS BLVD.	PAGOSA SPRINGS, CO 81147–1200.	(970) 264–4173
CO0024 BEST WESTERN SUNDOWNER	ROUTE 1, OVERLAND TRAIL ST	STERLING, CO 80751	(970) 522–6265
CO0268 BEST WESTERN GOLDEN PRAIRIE INN.	P.O. BOX 3, 700 COLORADO AVE.	STRATTON, CO 80836	(719) 348–5311
CO0007 DOUBLETREE HOTEL DENVER/BOULDER.	8773 YATES DR	WESTMINSTER, CO 80030	(303) 427–4000
IL:			
IL0505 BUDGETEL INN GURNEE	5688 N. RIDGE RD	GURNEE, IL 60031	(708) 662–7600
KY:			
KY0364 CONTINENTAL INN	700 INTERSTATE DR	BOWLING GREEN, KY 42101	(502) 781–5200
KY0427 HOLIDAY INN EXPRESS	BLUE LICK ROAD	BROOKS, KY 40165	(502) 955–1501
KY0006 ROADWAY INN & MOTEL	656 E. DIXIE	ELIZABETHTOWN, KY 42701	(502) 769–2331
KY0431 DAYS INN	105 DAYS INN BLVD	GLASGOW, KY 42141	(502) 651–1757
KY0426 HWY 80 MOTEL	HWY 80	HINDMAN, KY 41822	(606) 785–0080
KY0435 IMPALA MOTEL	PO BOX 476	INEZ, KY 41224	(606) 289–3551
KY0009 EXECUTIVE INN	830 PHILLIPS LN	LOUISVILLE, KY 40213	(502) 367–6161
KY0424 COACHMAN MOTEL	1430 CUMBERLAND AVE	MIDDLESBORO, KY 40965	(606) 248–2830
KY0243 BEST WESTERN RACER INN	HWY. 641 S	MURRAY, KY 42071	(502) 753–5986
KY0267 MOTEL 6	5120 HINKLEVILLE	PADUCAH, KY 42001	(502) 443–3672
KY0436 DAYS INN	US 23 BY-PASS	PAINTSVILLE, KY 41240	(606) 789–3551
KY0437 STARFIRE MOTEL	US 23 BY PASS	PAINTSVILLE, KY 41240	(606) 789–5341
KY0428 COMFORT INN MOTEL	WILLABROOK DR	SHEPHERDSVILLE, KY 40165	(502) 957–6900
KY0327 SULLIVAN'S MOTEL	31 W. JCT 224	UPTON, KY 42784	(502) 369–7477
KY0434 DAYS INN RICHWOOD	11177 FRONTAGE ROAD	WALTON, KY 41094	(502) 484–4511
KY0330 WALTONIA HOTEL	10 N. MAIN ST	WALTON, KY 41094	(606) 391–1702
MN:			
MN0312 HOLIDAY INN DOWNTOWN	101 EAST MAIN STREET	MANKATO, MN 56002	(507) 345–1234
TX:			
TX0647 COMFORT INN ADDISON	14975 LANDMARK BLVD	ADDISON, TX 75240	(214) 701–0881
TX0064 AMORISVITOS AMARILLO	6800 I–40 W	AMARILLO, TX 79106	(806) 358–7943
TX0458 COMFORT INN WEST AMARILLO	2100 S. COULTER	AMARILLO, TX 79106	(806) 358–6141
TX0527 HOLIDAY INN EXPRESS AMARILLO.	3411 IH–40 WEST	WEST AMARILLO, TX 79109	(806) 356–6800
TX0158 LA QUINTA MOTOR INN #454 AMARILLO.	1708 I–40 EAST	AMARILLO, TX 79103–2114	(806) 373–7486
TX0163 LA QUINTA MOTOR INN #639 AMARILLO.	2108 COUITER	AMARILLO, TX 79106–2514	(806) 352–6311
TX0252 HAMPTON INN ARLINGTON	121 E. I–20	ARLINGTON, TX 76018	(817) 467–3535
TX0022 LEXINGTON HOTEL SUITES ARLINGTON.	1607 N. WATSON RD	ARLINGTON, TX 76006	(817) 640–4444
TX0419 COURTYARD BY MARRIOTT AUSTIN.	5660 N. IH–35	AUSTIN, TX 78751	(512) 458–2340
TX0391 FRIENDSHIP INN AUSTIN	6201 HWY. 290 E	AUSTIN, TX 78723	(512) 458–4759
TX0160 LA QUINTA #478 AUSTIN SOUTH	4200 IH–35 S	AUSTIN, TX 78745–1202	(512) 443–1774
TX0178 LA QUINTA MOTOR INN #530 AUSTIN NORTH.	5812 N. IH–35	AUSTIN, TX 78751–1502	(512) 459–4381
TX0559 BUDGETEL INN BAYTOWN	5215 IH 10 EAST	BAYTOWN, TX 77521	(713) 421–7300
TX0192 LA QUINTA MOTOR INN #4587 BAYTONW.	4911 E. I–10	BAYTOWN, TX 77521–8564	(713) 421–5566
TX0462 ECONO LODGE BEAUMONT	1155 IH–10 S	BEAUMONT, TX 77701	(409) 835–5913
TX0181 LA QUINTA INN BEAUMONT	220 I–10 N	BEAUMONT, TX 77702–2112	(409) 838–9991
TX0099 LA QUINTA MOTOR INN #4903 BEDFORD.	1450 W. AIRPORT FRWY	BEDFORD, TX 76022–6795	(904) 255–7412
TX0342 HOLIDAY INN BROWNSVILLE	1945 N. EXPRWY	BROWNSVILLE, TX 78520	(210) 546–4591
TX0055 COMFORT INN COLLEGE STATION.	104 S. TEXAS AVE	COLLEGE STATION, TX 77840	(409) 846–7333
TX0179 LA QUINTA MOTOR INN #2539 COLLEGE STATION.	607 TEXAS AVE. S	COLLEGE STATION, TX 77840–1916.	(409) 696–7777
TX0420 EMBASSY SUITES HOTEL CORPUS CHRISTI.	4337 S. PADRE ISLAND DRIVE	CORPUS CHRISTI, TX 78411	(512) 853–7899
TX0513 HOLIDAY INN AIRPORT CORPUS CHRISTI.	5549 LEOPARD ST	CORPUS CHRISTI, TX 78408	(512) 289–5100
TX0164 LA QUINTA #477 CORPUS CHRISTI.	6225 S. PADRE ISLAND DR	CORPUS CHRISTI, TX 78412–4011.	(512) 991–5736
TX0530 COMFORT INN DALHART	HWY. 54 E	DALHART, TX 79022	(806) 249–8585
TX0417 EMBASSY SUITES HOTEL DALLAS.	2727 STEMMONS FRWY	DALLAS, TX 75207	(214) 630–5332
TX0415 HAMPTON INN DALLAS	4154 PREFERRED PL	DALLAS, TX 75237	(214) 298–4747
TX0630 HAWTHORN SUITES HOTEL DALLAS.	7900 BROOKRIVER DRIVE	DALLAS, TX 75247	(214) 688–1010

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 8/27/97 UPDATE—Continued

Index and property name	PO box/rt No. and street address	City, state/Zip	Phone
TX0175 LA QUINTA MOTOR INN #524 DALLAS.	1625 REGAL ROW (I–35)	DALLAS, TX 75247	(214) 630–5701
TX0205 LA QUINTA MOTOR INN #706 DALLAS.	10001 N. CENTRAL EXPRWY	DALLAS, TX 75231–4193	(214) 361–8200
TX0026 LA QUINTA MOTOR INN #717 DALLAS.	13685 N. CENTRAL EXPRWY	DALLAS, TX 75243–1001	(214) 234–1016
TX0547 LEXINGTON HOTEL SUITES DALLAS.	4150 INDEPENDENCE DR	DALLAS, TX 75237	(214) 298–7014
TX0236 HOLIDAY INN DESOTO	1515 N. BECKLEY	DESOTO, TX 75115	(214) 224–9100
TX0465 ECONO LODGE DUMAS	1719 S. DUMAS AVE	DUMAS, TX 79029	(806) 935–9098
TX0067 AMORISVITOS EL PASO	8250 GATEWAY E	EL PASO, TX 79907	(915) 591–9600
TX0394 COMFORT INN EL PASO	900 YARBROUGH DR	EL PASO, TX 79915	(915) 594–9111
TX0154 DAYS INN #165 EL PASO	9125 GATEWAY W	EL PASO, TX 79925–7038	(915) 593–8400
TX0008 HOLIDAY INN AIRPORT EL PASO.	6655 GATEWAY WEST	EL PASO, TX 79925	(915) 778–6411
TX0156 LA QUINTA MOTOR INN #452 EL PASO.	11033 GATEWAY	EL PASO, TX 79935–5003	(915) 591–2244
TX0195 LA QUINTA MOTOR INN #596 EL PASO.	7550 REMCON CIR	EL PASO, TX 79912–3513	(915) 833–2522
TX0131 MARRIOTT HOTEL EL PASO	1600 AIRWAY BLVD	EL PASO, TX 79925	(915) 779–3300
TX0396 COMFORT INN FORT STOCKTON.	2601 W. IH–10	FORT STOCKTON, TX 79735	(915) 336–9781
TX0467 ECONO LODGE FT. STOCKTON	800 E. DICKINSON	FORT STOCKTON, TX 79735	(915) 336–9711
TX0122 CLARION HOTEL FT. WORTH	2000 BEACH ST	FORT WORTH, TX 76103	(817) 534–4801
TX0468 COMFORT INN FREDERICKSBURG.	908 S. ADAMS ST	FREDRICKSBURG, TX 78624	(210) 997–9811
TX0538 ECONO LODGE FREDERICKSBURG.	810 S. ADAMS	FREDRICKSBURG, TX 78624	(210) 997–3437
TX0649 COMFORT INN FT. STOCKTON	3200 W. DICKINSON FT	STOCKTON, TX 79735	(915) 336–8531
TX0363 HOLIDAY INN GAINESVILLE	600 FAIR PARK BLVD	GAINESVILLE, TX 76240	(817) 665–8800
TX0200 LA QUINTA MOTOR INN #687 GALVESTON.	1402 SEAWALL BLVD	GALVESTON, TX 77550	(409) 763–1224
TX0531 COMFORT INN GEORGETOWN	1005 LEANDER RD	GEORGETOWN, TX 78628	(512) 863–7504
TX0400 ECONO LODGE GIDDINGS	HWY. 290 E	GIDDINGS, TX 78942	(409) 542–9666
TX0044 CLARION INN HOUSTON	500 N. SAM HOUSTON PKWY	HOUSTON, TX 77060	(713) 931–0101
TX0696 COURTYARD BY MARRIOTT HOUSTON.	3131 WEST LOOP SOUTH	HOUSTON, TX 77027	(713) 961–1640
TX0695 FAIRFIELD INN HOUSTON	3131 WEST LOOP SOUTH	HOUSTON, TX 77027	(713) 961–1690
TX0487 HOWARD JOHNSON HOUSTON	4225 N. FREEWAY	HOUSTON, TX 77022	(713) 695–6011
TX0197 LA QUINTA MOTOR INN #4649 HOUSTON.	13290 FM 1960 RD. W	HOUSTON, TX 77065–4005	(713) 469–4018
TX0177 LA QUINTA MOTOR INN #529 HOUSTON.	11113 KATY FRWY	HOUSTON, TX 77079–2102	(713) 932–0808
TX0030 LA QUINTA MOTOR INN #531 HOUSTON.	6 N. BELT E	HOUSTON, TX 77060–1821	(713) 447–6888
TX0066 AMORISVITOS IRVING	3950 W. AIRPORT FRWY	IRVING, TX 75062	(214) 790–1950
TX0051 DAYS INN JUNCTION PO BOX 384.	111 S. MARTINEZ	JUNCTION, TX 76849	(915) 446–3730
TX0405 ECONO LODGE KILLEEN	606 E. CENTRAL TEXAS EXPRWY.	KILLEEN, TX 76542	(817) 634–6868
TX0539 FRIENDSHIP INN KILLEEN	601 W. HWY. 190	KILLEEN, TX 76541	(817) 526–2232
TX0441 HOLIDAY INN #4166 LA MARQUE.	5201 GULF FREEWAY	LA MARQUE, TX 77568–3507	(409) 986–9777
TX0537 ECONO LODGE LIVINGSTON	117 HWY. 59 LOOP 5	LIVINGSTON, TX 77351	(409) 327–2451
TX0472 COMFORT INN LONGVIEW	203 N. SPUR 63	LONGVIEW, TX 75601	(903) 757–7858
TX0670 FOUR POINTS HOTEL LUBBOCK	505 AVE Q	LUBBOCK, TX 79401	(806) 747–0171
TX0053 HOLIDAY INN EXPRESS MARSHALL.	100 IH–20 W. HWY. 59 & IH–2	MARSHALL, TX 75670	(903) 935–7923
TX0525 HOLIDAY INN AIRPORT MCALLEN.	2000 S. 10TH ST	MCALLEN, TX 78501	(210) 686–1741
TX0532 COMFORT INN MT. PLEASANT	U.S. 271 & IH–30	MT PLEASANT, TX 75455	(903) 577–7553
TX0279 ECONO LODGE NACOGDOCHES.	2020 NW LOOP 224	NACOGDOCHES, TX 75961	(409) 569–0880
TX0473 COMFORT INN OZONA	PO BOX 28 1307 AVE. A	OZONA, TX 76943	(915) 392–3791
TX0702 BEST WESTERN PARK SUITES HOTEL.	640 PARK BLVD, EAST	PLANO, TX 75074	(972) 578–2243
TX0533 COMFORT INN PLANO	621 CENTRAL PKWY. E	PLANO, TX 75074	(214) 424–5568
TX0049 COURTYARD BY MARRIOTT PLANO.	4901 W. PLANO PKWY	PLANO, TX 75093	(214) 867–8000
TX0476 COMFORT INN PORTLAND	1703 N. HWY. 181	PORTLAND, TX 78374	(512) 643–2222
TX0625 HAWTHORN SUITES HOTEL RICHARDSON.	250 MUNICIPAL DR	RICHARDSON, TX 75080	(214) 669–1000

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 8/27/97 UPDATE—Continued

Index and property name	PO box/rt No. and street address	City, state/Zip	Phone
TX0065 AMORISVITOS SAN ANTONIO	10950 LAVRSATE DR	SAN ANTONIO, TX 78249	(512) 691–1103
TX0068 AMORISVITOS SAN ANTONIO	11221 SAN PEDRO AVE	SAN ANTONIO, TX 78216	(512) 342–4800
TX0535 COMFORT INN SAN ANTONIO	4403 IH–10 E	SAN ANTONIO, TX 78219	(210) 333–9430
TX0316 COURTYARD BY MARRIOTT SAN ANTONIO.	600 SANTA ROSA S	SAN ANTONIO, TX 78204	(210) 229–9449
TX0477 ECONO LODGE EAST SAN ANTONIO.	218 SOUTH W.W. WHITE RD	SAN ANTONIO, TX 78219	(210) 333–3346
TX0083 HOLIDAY INN SAN ANTONIO	217 N. ST. MARY'S	SAN ANTONIO, TX 78205	(512) 224–2500
TX0085 HOLIDAY INN AIRPORT SAN ANTONIO.	77 N.E. LOOP 410	SAN ANTONIO, TX 78216	(512) 349–9900
TX0208 LA QUINTA MOTOR INN #712 SAN ANTONIO.	9542 IH–10 W	SAN ANTONIO, TX 78230–2221	(210) 593–0338
TX0540 FRIENDSHIP INN SAN MARCOS	1507 IH–35 N	SAN MARCOS, TX 78666	(512) 396–6060
TX0478 ECONO LODGE SEGUIN	3013 N. HWY. 123	SEGUIN, TX 78155	(210) 372–3990
TX0035 HOLIDAY INN STEPHENVILLE	2865 W. WASHINGTON	STEPHENVILLE, TX 76401	(817) 968–5256
TX0479 ECONO LODGE TEMPLE	1001 N. GENERAL BRUCE DR	TEMPLE, TX 76504	(817) 771–1688
TX0536 COMFORT INN TERRELL	1705 HWY. 34 S	TERRELL, TX 75604	(214) 563–1511
TX0480 ECONO LODGE TEXARKANA	4505 N. STATELINE	TEXARKANA, TX 75503	(903) 793–5546
TX0007 HOLIDAY INN EXPRESS TEXARKANNA.	5401 N. STATE LINE	TEXARKANA, TX 75503	(903) 729–3366
TX0180 LA QUINTA #533 TEXAS CITY	1121 HWY. 146 N	TEXAS CITY, TX 77590–6505	(409) 948–3101
TX0038 COMFORT INN UNIVERSAL CITY	200 PALISADES	UNIVERSAL CITY, TX 78148	(512) 659–5851
TX0638 COMFORT INN VICTORIA	1906 HOUSTON HWY	VICTORIA, TX 77901	(512) 574–9393
TX0380 HAMPTON INN VICTORIA	3112 E. HOUSTON HWY	VICTORIA, TX 77901	(512) 578–2030
TX0724 HOLIDAY INN VICTORIA	2705 E. HOUSTON HWY	VICTORIA, TX 77901	(512) 575–0251
TX0406 ECONO LODGE WACO	1430 IH–35 S	WACO, TX 76706	(817) 752–1991
TX0481 COMFORT INN WAXAHACHIE	P.O. BOX 555, IH–35 & HWY. 287	WAXAHACHIE, TX 75165	(214) 937–4202
DELETIONS			
CA:			
CA0751 E Z 8 MOTELS INC	2604 PIERCE RD	BAKERSFIELD, CA 93308	(805) 322–1901
CA1070 THE PLAZA INN	7039 ORANGETHROPE AVE	BUENA PARK, CA 90620	(714) 521–9220
CA0186 CLARION HOTEL CONFERENCE CENTER.	TWO CIVIC PLAZA DR	CARSON, CA 90745	(310) 830–9200
CA0096 LA QUINTA INN #663	14972 SAND CANYON AVE	IRVINE, CA 92718	(714) 551–0909
CA0282 RODEWAY INN	55 FAIRCHILD DR	MOUNTAIN VIEW, CA 94043	(415) 967–6856
CA0532 ECONO LODGE	3880 GREENWOOD	SAN DIEGO, CA 92110	(619) 543–9944
CA0472 HOTEL NIKKO SAN FRANCISCO	222 MASON ST	SAN FRANCISCO, CA 94102	(415) 394–1111
CA0887 COMFORT INN	2804 E. GARVEY AVE. S	WEST COVINA, CA 91791	(818) 916–6077
CA0542 COMFORT INN	1562 E. MAIN ST	WOODLAND, CA 95695	(916) 666–3050
TX:			
TX0365 HOLIDAY INN	1945 N. EXPRWY	BROWNSVILLE, TX 78520	(210) 546–4591
TX0254 HOLIDAY INN	1215 I–30	GREENVILLE, TX 75401	(903) 454–7000
TX0354 HOLIDAY INN #4166 LA MARQUE.	5201 GULF FREEWAY	LA MARQUE, TX 77568–3507	(409) 986–9777
TX0357 HOLIDAY INN EXPRESS	100 IH–20 W. HWY. 59 & IH–2	MARSHALL, TX 75670	(903) 935–7923
TX0464 COMFORT INN SAN ANTONIO	4403 IH–10 E	SAN ANTONIO, TX 78219	(210) 333–9430
TX0353 HOLIDAY INN AIRPORT	77 N.E. LOOP 410	SAN ANTONIO, TX 78216	(512) 349–9900
TX0375 HOLIDAY INN SAN ANTONIO	217 N. ST. MARY'S	SAN ANTONIO, TX 78205	(512) 224–2500
TX0398 HOLIDAY INN	2705 E. HOUSTON HWY	VICTORIA, TX 77901	(512) 575–0251

[FR Doc. 97–24158 Filed 9–10–97; 8:45 am]
BILLING CODE 6718–08–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting.

Name: Board of Visitors for the National Fire Academy.

Dates of Meeting: October 2–5, 1997.

Place: Building C, National Emergency Training Center, Emmitsburg, Maryland.

Time: October 2, 1997, 8:30 a.m.–5:00 p.m.; October 3, 1997, 8:30 a.m.–9:00 p.m.; October 4, 1997, 8:30 a.m.–5:00 p.m.

Proposed Agenda: October 2–4, 1997, Review National Fire Academy Program Activities. October 5, 1997, Attend National Fallen Firefighters Memorial Ceremony.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, U.S. Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1117, on or before September 30, 1997.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Administrator, U.S. Fire Administration, Federal Emergency Management Agency, Emmitsburg, MD 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: September 4, 1997.

Carrye B. Brown,

U.S. Fire Administrator.

[FR Doc. 97–24157 Filed 9–10–97; 8:45 am]

BILLING CODE 6718–01–P–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–006190–081

Title: Venezuelan American Maritime Association

Parties:

A.P. Moller-Maersk Line
Consorcio Naviero de Occidente C.A.
Crowley American Transport, Inc.
King Ocean Services, S.A.
Sea-Land Service, Inc.
Seaboard Marine of Florida, Inc.
Venezuelan Container Line

Synopsis: The proposed amendment would authorize the parties to reach agreement with non-conference members of the Venezuelan Discussion Agreement on the terms and conditions of service contracts to be offered by each of them and to agree with such non-conference members to aggregate the volume of cargo for purposes of service contracts separately published in the Agreement essential terms publication and the essential terms publications of non-members.

Agreement No.: 203–011261–003

Title: ACL/Wallenius Space Charter and Cooperative Working Agreement

Parties:

Atlantic Container Line AB
Wallenius Lines AB

Synopsis: The proposed amendment extends the term of the Agreement through December 31, 2010. It also makes a number of non-substantive changes to the text of the Agreement.

Agreement No.: 203–011383–019

Title: Venezuelan Discussion Agreement

Parties: The parties to the Venezuelan American Maritime Association:

A.P. Moller-Maersk Line
Consorcio Naviero de Occidente C.A.
Crowley American Transport, Inc.
King Ocean Services, S.A.
Sea-Land Service, Inc.
Seaboard Marine of Florida, Inc.
Venezuelan Container Line
A/S Ivarans Rederi
Nordana Line
SeaFreight Line

Synopsis: The proposed modification would authorize the parties to aggregate the volume of cargo for purposes of service contracts separately published in their respective essential terms publications.

By Order of the Federal Maritime Commission.

Dated: September 5, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–24065 Filed 9–10–97; 8:45 am]

BILLING CODE 6730–01–M

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 September 26, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Marion P. Yaeger Trust, Grand Rapids, Michigan; to acquire 27.94 percent of the voting shares of Litchfield Bancshares Company, Litchfield, Illinois, and thereby indirectly acquire Litchfield National Bank, Litchfield, Illinois.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Johnny Bob Carruth, Lubbock, Texas; Walter Charles Cleveland, Idalou, Texas; Robert Charles Hobgood, Haskell, Texas; Kim Holder Morris, Houston, Texas; Joseph Emitt Thigpen, Haskell, Texas; Bailey Lee Toliver, Haskell, Texas; and Samuel Ray Toliver, Haskell, Texas; to acquire voting shares of First Haskell Bancorp, Inc., Haskell, Texas, and thereby indirectly acquire First National Bank, Haskell, Texas.

Board of Governors of the Federal Reserve System, September 8, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–24167 Filed 9–10–97; 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 October 6, 1997.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III,

Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. The Marine BanCorp, Inc., Chincoteague, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The Marine Bank, Chincoteague, Virginia.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Compass Bancshares, Inc., Birmingham, Alabama; to acquire 100 percent of the voting shares of GSB Investments, Inc., Gainesville, Florida, and thereby indirectly acquire Gainesville State Bank, Gainesville, Florida.

C. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. George Washington Bancorp, Inc., Oak Lawn, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of George Washington Savings Bank, Oak Lawn, Illinois.

D. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Community First Bankshares, Inc., Fargo, North Dakota; to merge with First National Summit Bankshares, Inc., Gunnison, Colorado, and therby indirectly acquire First National Summit Bank, Gunnison, Colorado.

2. Community First Bankshares, Inc., Fargo, North Dakota; to merge with Republic National Bancorp, Inc., Phoenix, Arizona, and thereby indirectly acquire Republic National Bank of Arizona, N.A., Phoenix, Arizona.

E. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Cortez Investment Co., Cortez, Colorado; to acquire 50 percent of the voting shares of The Cortez State Bank, Cortez, Colorado.

2. Vail Banks, Inc., Vail, Colorado; to acquire 100 percent of the voting shares of Cedaredge Financial Services, Inc., Cedaredge, Colorado.

Board of Governors of the Federal Reserve System, September 5, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–24009 Filed 9–10–97; 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 October 6, 1997.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. MainStreet BankGroup Incorporated, Martinsville, Virginia; to acquire 100 percent of the voting shares of Commerce Bank Corporation, College Park, Maryland.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. First National Bank of Las Animas ESOP, Las Animas, Colorado; to become a bank holding company by acquiring up to 8.03 percent; for a total of up to 29.40 percent, of the voting shares of First Bankshares of Las Animas, Inc., Las Animas, Colorado; and thereby indirectly acquire First National Bank, Las Animas, Colorado.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Citizens Bankers, Inc., Baytown, Texas; to acquire 67 percent of the voting shares of First National Bank of Bay City, Bay City, Texas.

Board of Governors of the Federal Reserve System, September 8, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–24168 Filed 9–10–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of August 19, 1997; Correction

This notice corrects a notice (FR Doc. 97-23001) published on page 45814 of the issue for Friday, August 29, 1997.

The heading is revised to read as follows:

Federal Open Market Committee; Domestic Policy Directive of July 1-2, 1997.

In paragraph one, line four, the dates should read July 1-2, 1997.

In footnote one, the dates should read July 1-2, 1997.

Board of Governors of the Federal Reserve System, September 4, 1997.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 97–24010 Filed 9–10–97; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Federal Supply Service, Sales Branch; Revision, Stocking Change and Cancellation of the Standard Forms 114C Series

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration is revising Standard Form 114C, Sale of Government Property—General Sale Terms and Conditions to eliminate all gender specific language and include as a package the following Standard Forms:

SF 114C–1, Sales of Government Property—Special Sealed Bid Conditions

SF 114C–2, Sales of Government Property—Special Sealed Bid-Term Conditions

SF 114C–3, Sales of Government Property—Special Spot Bid Conditions

SF 114C–4, Sales of Government Property—Special Auction Conditions

Because of low usage the above mentioned Standard Forms are cancelled.

SF 114C is authorized for local reproduction. You can obtain the updated camera copy in two ways:

On the internet. Address: http://www.gsa.gov/forms, or;

From CARM, Attn.: Barbara Williams, (202) 501–0581.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Goulet, Property Management Division, (703) 305–7240.

DATES: Effective September 11, 1997.

Dated: June 27, 1997.

Deidre Huber,

Director, Property Management Division.

[FR Doc. 97–24120 Filed 9–10–97; 8:45 am]

BILLING CODE 6820–89–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Proposed Information Collection; Indian Health Service, Community Health Representative Activity Reporting Sample

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed information collection projects, the Indian Health Service (IHS) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection project was previously published in the **Federal Register** (62 FR 16594, April 7, 1997) and allowed 60 days for public comment.

One public comment was received in response to the notice. The comment came from the attendees at the May 1997, Indian Health Service Aberdeen Area CHR Coordinator meeting. They commented on each point (a-f) listed in the ''Request for Comments'', section of the notice. Agency response is limited to the comments concerning these points. Overall, they support continued use of the CHR Information System (CHRIS) reporting form (IHS–826, Report of CHR Activities) and its associated manual. However, on point (e), ''Ways to enhance the quality, utility, and clarity of the information being collected''; they recommended that Arthritis, Physical Therapy, ENT, and Accidents should be added to the list of Health Area Codes and that ''non-specific'' should be defined and used on a limited basis. After discussion with other CHR managers, the Agency CHR Program Director determined that a majority of the managers do not favor adding any categories to the current list of Health Area Codes and that most believe that the current categories are adequate. The ''non-specific'' category was originally defined to be used for all administrative activities, Tribal or community functions, and when representing the Tribe or the CHR program at meetings with other local or national agencies or groups, and it was supposed to be used on a limited basis. The CHR Program shall instruct the CHR staff accordingly. Based on the above, no changes will be made to the current health area codes and the non-specific category will remain as is. The purpose of this notice is to allow 30 days for public comment to be submitted to OMB.

PROPOSED COLLECTION: *Title:* 0917–0010 ''IHS Community Health Representative Activity Reporting Sample''. *Type of Information Collection Request:* Three-year Reinstatement of 0917–0010 and associated form IHS–826, ''Report of Community Health Representative Activities'', which expired 02/28/97. *Need and Use of Information Collection:* Section 107 ''Community Health Representative Program'' of Public Law 100–713, the Indian Health Care Improvement Act Amendments authorizes the IHS to develop a system to review and evaluate the CHR program. The information collected is used to revew and evaluate contract performance (e.g., the number and types of health servicess being provided); to prepare program reports; to develop program training plans and performance and accreditation standards; to increase the efficiency and effectiveness of the program; and, to meet the management and administrative needs of the CHR program. *Affected Public:* Individuals.

See Table 1 below for Types of Data Collection Instruments, Estimated Number of Respondents, Number of Responses per Respondent, Average Burden Hour per Response, and Total Annual Burden Hour.

TABLE 1

Data collection instrument	Estimated Number of respondents	Responses per respondent	Average burden hour per response*	Total annual burden hours
IHS–826	1100	4	0.10	6,600

*Provided in decimal unit values of an hour and in actual minutes. There are no Capital Costs, Operating Costs and/or Maintenance Costs to report for this information collection.

REQUEST FOR COMMENTS: Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function and whether the IHS processes the information collected in a useful and timely fashion; (b) the accuracy of the public burden estimate (this is the amount of time needed for individual respondents to provide the requested information) and the methodology and assumptions used to determine the estimate; (c) ways to enhance the quality, utility, and clarity of the information being collected; and (d) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

DIRECT COMMENTS TO OMB: Send your written comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time, to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for IHS.

To request more information on the proposed collection or to obtain a copy of the data collection plan(s) and/or instruction(s), contact: Mr. Lance Hodahkwen, Sr., M.P.H., IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852–1601, or call non-toll free (301) 443–0461, or send via facsimile to (301) 443–1522, or send your E-mail requests, comments, and return address to: lhodahkw@ihs.gov.

COMMENT DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before October 14, 1997.

Dated: September 5, 1997.

Michael H. Trujillo,

Assistant Surgeon General, Director.

[FR Doc. 97–24118 Filed 9–10–97; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Alternative Medicine Program Advisory Council on September 22–23, 1997, Natcher Conference Center, 45 Center Drive, 9000 Rockville Pike, Conference Room D, Bethesda, Maryland 20892.

The two-day meeting will be open to the public from 7:30 a.m. to 4:30 p.m. on September 22 and 8:30 a.m. to 3:30 p.m. on September 23. Attendance by the public will be limited to space available. The purpose of the meeting will be to update and review the progress of the Office of Alternative Medicine and obtain Council's advise on research activities. Additional agenda items include: (1) Orientation and introduction of new members; (2) a presentation on ''Homeopathic Treatment of Traumatic Brain Injury''; (3) a presentation on ''Protopine from Corydalis Ternata'' has Anti-cholinesterase and Anti-Amnesic Activities; (4) discussion of the strategic plan; and (5) other activities of the Council.

Ms. Mary Plummer, Committee Management Officer, Office of Alternative Medicine, 6100 Executive Boulevard, 6100 Building, Room 5E01, National Institutes of Health, Bethesda, Maryland 20892–7510, Area Code 301–594–7232, will provide a summary of the meeting and a roster of Council members as well as substantive program information. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Plummer no later than September 15, 1997.

Dated: September 4, 1997.

LaVerne Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–24051 Filed 9–10–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: October 13–15, 1997.

Time: 7:00 p.m.

Place: Sheraton Bradley International Hotel, Hartford, CT.

Contact Person: Dr. Harish Chopra, Scientific Review Administrator, 6701 Rockledge Drive, Room 5112, Bethesda, Maryland 20892, (301) 435–1169.

Name of SEP: Biological and Physiological Sciences.

Date: November 6–7, 1997.

Time: 8:30 a.m.

Place: Holiday Inn, Bethesda, MD.

Contact Person: Dr. Syed Amir, Scientific Review Administrator, 6701 Rockledge Drive, Room 6168, Bethesda, Maryland 20892, (301) 435–1043.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Chemistry and Related Sciences.

Date: November 12–13, 1997.

Time: 8:00 a.m.

Place: Georgetown Holiday Inn, Washington, DC.

Contact Person: Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 4172, Bethesda, Maryland 20892, (301) 435–1727.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HIS.

Dated: September 4, 1997.

LaVerne Y. Springfield,

Committee Management Officer, NIH.

[FR Doc. 97–24050 Filed 9–10–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences; National Toxiology Program Request for Comments on Chemicals Nominated to the National Toxicology Program (NTP) for Toxicological Studies—Recommendations by the Interagency Committee for Chemical Evaluations and Coordination (ICCEC) for Study, No Studies, or Deferral To Obtain Further Supporting Information

Background

As part of an effort to earlier inform and obtain public input into the selection of chemicals for evaluation, the National Toxicology Program (NPT) routinely seeks public input on (1) chemicals nominated to the Program for toxicological studies, and (2) the testing recommendations made by the Interagency Committee for Chemical Evaluation and Coordination (ICCEC). Summaries of the ICCEC's recommendations and public comments received on the nominated chemicals are next presented to the NTP Board of Scientific Counselors for their review and comment in an open, public session. ICCEC recommendations, Board recommendations, and public comments are incorporated into recommendations that are then submitted to the NTP Executive Committee. The Executive Committee reviews and approves action to move forward to test, defer, or delete each of the nominated chemicals for the various types of study, and recommends priorities.

Request for Comment

Interested parties are encouraged to comment and provide information on the chemicals listed below. The Program would welcome receiving toxicology and carcinogenesis information from completed or ongoing studies, and information on planned studies, as well as current production data, human exposure information, use patterns, and environmental occurrence for any of the chemicals listed in this announcement. To provide comments or information, please contact Dr. William Eastin at the address given below within 60 days of the appearance of this announcement.

At its meeting on August 15, 1997, the ICCEC reviewed and recommended 4 chemicals or substances for toxicity and/or carcinogenicity studies, recommended that no studies be performed on 5 chemicals, and deferred 4 chemicals pending receipt of test data

from other agencies, and additional information on production, exposure, and use patterns. Chemicals with CAS numbers, nomination source, types of studies recommended, and other supporting information, are given in the following tables.

Comments may be forwarded by mail to: Dr. William Eastin, NIEHS/NTP, P.O. Box 12233, Research Triangle Park, North Carolina 27709; by telephone at (919) 541–7941; by FAX at (919) 541–4714; or by email at Eastin@NIEHS.NIH.GOV.

Dated: August 29, 1997.

Kenneth Olden,

Director, National Toxicology Program.

Chemicals Nominated to the NTP for Study and Testing; Recommendations Made by the ICCEC on August 15, 1997

Chemical	CASRIN	Nomin. by	Recommended for	Rationale; other info.
Chemicals Recommended for Testing				
Asphalt fumes	8052–42–4	NIOSH; Calif	—28-day toxicological assessment —plumonary function and irritation biomarkers of exposure	—high exposure —lack of adequate short term toxicity information —need to identify —biomarkers of exposure
Luminol (*o*-Aminophthalic hydrazide).	521–31–3	private indiv., NIOSH.	—toxicity —carcinogenicity in *vivo* genetic toxicity	—widespread use and potential for exposure
Orthanilic acid	88–21–1	NIEHS	—short-term toxicity studies	—high production —very little toxicology data available
Phenothiazine	92–84–2	NIEHS	—carciogenicity	—high production and exposure —no carcinogencity data available
Chemicals for Which No Testing is Recommended				
Dicyclopentadiene	77–73–6	NCI	—reproductive toxicity —carcinogenicity	—no adverse effects seen in teratology tests —not mutagenic in *Salmonella* —low potential for human exposure
C.I. Direct Black 80	8003–69–8	NCI	—carcingoenicity by dermal route	—dermal absorption too low (1.3%) to support a study
Ethyl cyanoacrylate	7085–85–0	NCI	—reproductive and developmental toxicity. neurotoxicity —carcinogenicity	—stable aerosol cannot be generated —rapidly polymerizes in presence of atmospheric moisture
Isoamyl acetate	123–92–2	NIEHS	—toxicity —neurotoxicity —carcinogenicity	—rapdily hydrolyzed in blood to isoamyl alcohol, which has been studied, and acetic acid
2,4,6-Tribromophenol.	118–79–6	HIEHS	—carcinogenicity	—low production and exposure —little chance for bioaccumulation
Chemicals Deferred for Additional Information				
3-Amino-5-mercapto-1,2,4-triazole.	16691–43–3	NIEHS	—toxicity; carcinogenicity	—high production —suspect chemical structure
Diethylamine	109–89–7	NIEHS	—toxicity; carcinogenicity	—high production and exposure —very little toxicology data available —not mutagenic in *Salmonella*
Isopropylamine	75–31–0	NIEHS	—toxicity; carcinogenicity	—high production and exposure —very little toxicology data available —not mutagenic in *Salmonella*
Triethylamine	121–44–8	UAW; NIEHS	—carcinogenicity	—high production and exposure —not mutagenic in *Salmonella*

[FR Doc. 97–24048 Filed 9–10–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panel I in September and Special Emphasis Panel II in October.

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 Special Emphasis Panel I meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from

mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: September 22, 1997.

Place: Residence Inn, Calvert Room, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: September 22, 1997, 9:00 a.m.–11:30 a.m.

Panel: Center for Substance Abuse Treatment National Helpline.

Contact: Ferdinand W. Hui, Ph.D., Room 17–89, Parklawn Building, Telephone: 301–443–9919 and FAX: 301–443–3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The Special Emphasis Panel II 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) 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II (SEP II).

Meeting Date: October 6, 1997.

Place: Holiday Inn-Chevy Chase, 5520 Wisconsin Avenue, East Palladium Room, Bethesda, MD 20815–4495.

Closed: October 6, 1997, 8:30 a.m.–adjournment.

Contact: Constance Burtoff, 17–89, Parklawn Building, Telephone: 301–443–2437 and FAX: 301–443–3437.

Dated: September 5, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–24119 Filed 9–10–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–23]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: November 10, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Josie D. Harrison, Reports Liaison Officer, Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451—7th Street, SW, Room 5124, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: John H. Waller, (202) 708–2251, (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (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 collection techniques or other forms of information technology, e.g., permitting electronic submission of responses and a (complaint) form for filing with the Department allegations of non-compliance with Section 3.

This Notice also lists the following information:

Title of Form: Economic Opportunities for Low- and Very Low-Income Persons.

OMB Control Number: 25290043.

Title of Form: Complaint Register.

OMB Control Number: 25290043.

Description of the need for the information and proposed use: The information will be used by the Department to monitor program recipients' compliance with Section 3. HUD Headquarters will use the information to assess the results of the Department's efforts to meet the statutory objectives of Section 3. Also, the data collected will be used by recipients as a self-monitoring tool. If the information is not collected, HUD will be unable to prepare the mandatory reports to Congress or to assess the effectiveness of Section 3.

Agency Form Numbers, if applicable: Form HUD–60002 and Form HUD–958.

Members of affected public: State and local governments or their agencies, public and private non-profit organizations, or other public entities.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: On an annual basis 58,750 respondents (HUD recipients) will submit one report to HUD. It is estimated that two hours per annual reporting period will be required of the recipients to prepare the Section 3 report for a total of 117,500 hours.

For the Section 3 Complaint Form, the Department estimates that during the course of a year approximately 100 Section 3 complaints will be filed. It is anticipated that it will take the complainant approximately one (1) hour to complete and the respondent approximately four (4) hours to respond to the allegations of the complaint. About 10% of the complaints received will be administratively closed for lack of jurisdiction prior to the notification of the respondent. The total number of burden hours for the Complaint Form is 460 hours.

Status of the proposed information collection: Revision of currently approved collection to reflect the collection of information from HUD recipients only and to remove the request for racial/ethnic data (Form HUD–60002); and revision of currently approved collection to reflect revised compliance requirements (Form HUD–958).

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C., as amended. Section 7(d) of the Department of

Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 4, 1997.

William D. Gregorie,

Acting Deputy Assistant Secretary for Program Operations and Compliance.

[FR Doc. 97–24068 Filed 9–10–97; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4235–N–20]

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 Johnson, 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 the 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: *Energy:* Ms. Marsha Penhaker, Department of Energy, Facilities Planning and Acquisition Branch, FM–20, Room 6H–058, Washington, DC 20585; (202) 586–0426; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Service 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: September 4, 1997.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 09/12/97

Suitable/Available Properties

Buildings (by State)

North Carolina

Federal Building
140 4th Avenue West
Hendersonville Co: Henderson NC 28739–
Landholding Agency: GSA
Property Number: 549730021
Status: Excess
Comment: 6522 sq. ft., most recent use—office, good condition
GSA Number: 4–G–NC–726

Federal Building
146 North Main Street
Rutherfordton Co: Rutherford NC 28139–
Landholding Agency: GSA
Property Number: 549730022
Status: Excess
Comment: 4919 sq. ft., most recent use—office, good condition
GSA Number: 4–G–NC–727

Land (by State)

Arkansas

Hergett Substation
305 N. Floyd St.
Jonesboro Co: Craighead AR
Landholding Agency: GSA
Property Number: 549730017
Status: Excess
Comment: 1.55 acres, most recent use—electrical substation
GSA Number: 7–B–AR–553

Wyoming

Former Portion/Warren AFB
Cheyenne Co: Laramie WY 82001–
Landholding Agency: GSA
Property Number: 549730016
Status: Surplus
Comment: 1.92 acres, most recent use—highway purposes
GSA Number: 7–GR–WY–422V

Unsuitable Properties

Buildings (by State)

California

Bldg. 11

Fleet & Industrial Supply Center
San Diego Co: San Diego CA 92132–
Landholding Agency: Navy
Property Number: 779730068
Status: Excess
Reason: Extensive deterioration

Hawaii

Bldg. 370
Pearl Harbor Naval Shipyard
Pearl Harbor Co: Honolulu HI
Landholding Agency: Navy
Property Number: 779730064
Status: Excess
Reason: Extensive deterioration

Bldg. 385
Pearl Harbor Naval Shipyard
Pearl Harbor Co: Honolulu HI
Landholding Agency: Navy
Property Number: 779730065
Status: Excess
Reason: Extensive deterioration

Bldg. 857
Pearl Harbor Naval Shipyard
Pearl Harbor Co: Honolulu HI
Landholding Agency: Navy
Property Number: 779730066
Status: Excess
Reason: Extensive deterioration

Bldg. S1115
Pearl Harbor Naval Shipyard
Pearl Harbor Co: Honolulu HI
Landholding Agency: Navy
Property Number: 779730067
Status: Excess
Reason: Extensive deterioration

New Hampshire

Bldg. 1, ESMT Portsmouth
New Castle Co: Rochingham NH
Landholding Agency: GSA
Property Number: 549730015
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–U–NH–486

Tennessee

5 Bldgs.
K–724, K–725, K–1031, K–1131, K–1410
East Tennessee Technology Park
Oak Ridge Co: Roane TN 37831–
Landholding Agency: Energy
Property Number: 419730001
Status: Unutilized
Reason: Extensive deterioration

[FR Doc. 97–24047 Filed 9–10–97; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Jacksonville Zoological Gardens, Jacksonville, FL, PRT–833968.

The applicant request a permit to import one male and two female captive-held jaguars (*Panthera onca onca*) from Fundacion Nacional de Parques Zoologicos y Acuarios, Venezuela for the purpose of enhancement of the survival of the species through captive propagation.

Applicant: Arthur E. Nienow, East Palatka, FL, PRT–834101.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Miami Metrozoo, Miami, FL, PRT–834016.

The applicant requests a permit to import one Cheetah (*Acinonyx jubatus*) born in captivity from De Wildt Cheetah Research and Breeding Center, De Wildt, South Africa, for the purpose of enhancement of the survival of the species through conservation education.

Applicant: University of Puerto Rico, Rio Piedras, Puerto Rico, PRT–833581.

The applicant requests a permit to export and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the permittee's collection for scientific research. This notification covers activities conducted by the applicant for a five year period.

Applicant: National Cancer Institute, Frederick, MD, PRT–834014.

The applicant requests a permit to import hair, tissue, and blood samples from Vicuna (*Vicugna vicugna*) from Lauca National Park, Arica, Chile, Pampa Galeras Vicuna Reserve, Peru and The Province of Picotani, Peru, for the purpose of enhancement of the survival of the species through scientific research.

Applicant: Ringling Bros.—Barnum & Bailey Circus, Vienna, VA, PRT–834173.

The applicant requests a permit to import and re-export captive-born Bengal tigers (*Panthera tigris tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities by the applicant over a three year period.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: USFWS Marine Mammals Management, Anchorage, AK, PRT–834120.

Type of Permit: Import for Scientific Research.

Name and Number of Animals: Northern sea otters (*Enhydra lutris lutris*), up to 100.

Summary of Activity to be Authorized: The applicant has requested a permit to import up to 100 salvaged specimens for the purpose of scientific research including investigations of die-off events, and collection of other biological information.

Source of Marine Mammals: Salvaged carcasses throughout the range within the territory of the Russian Federation.

Period of Activity: Five years from issuance date of the permit, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: Shannon Kollmeyer, Chelan, WA, PRT–833972.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Perry Channel polar bear population, Northwest Territories, Canada for personal use.

Applicant: Lynn Herbert, Myrtle Creek, OR, PRT–833971.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort polar bear population, Northwest Territories, Canada for personal use.

Applicant: Darryl Hastings, Rochester, MI, PRT–834072.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Davis Straight polar bear population, Northwest Territories, Canada for personal use.

Applicant: Bruce Schoenewis, Alton, IL, PRT–833661.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the McClintock Channel polar bear population,

Northwest Territories, Canada for personal use.

Written data or comments, requests for copies of the complete applications, or requests for a public hearing on any of these applications for marine mammal permits should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with all of the applications listed in this notice 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 30 days of the date of publication of this notice at the above address.

Dated: September 5, 1997.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–24013 Filed 9–10–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following individuals have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. PRT–830271

Applicant: Patrick Mullen Burchfield, Brownsville, Texas

Applicant requests authorization to receive, rehabilitate, and release endangered and threatened sea turtles that are found sick, injured, or cold shocked on Texas beaches including Kemp's ridley (*Lepidochelys kempii*), green (*Chelonia mydas incl. Agassizi*), hawksbill (*Eretmochelys imbricata*), loggerhead (*Caretta caretta*), leatherback (*Dermochelys coriacea*), and olive ridley (*Lepidochelys olivacea*) sea turtles.

Permit No. PRT–810341

Applicant: Dr. David W. Owens, College Station, Texas

The applicant requests authorization to take/receive salvaged specimens of endangered/threatened sea turtles that may occur along the Texas coast for scientific research and recovery purposes, rehabilitation and release back into the wild, and to permanently hold nonreleasable specimens for future scientific research aimed at enhancement of propagation or survival of the species. Species include Kemp's Ridley (*Lepidochelys kempii*), Green (*Chelonia mydas*), and Hawksbill (*Eretmochelys imbricata*) sea turtles.

Permit No. PRT–831384

Applicant: Deborah L. Risberg, Albuquerque, New Mexico

Applicant requests authorization to conduct surveys for southwestern willow flycatchers (*Empidonax traillii extimus*), and Mexican spotted owls (*Strix occidentalis lucida*) on reservation areas and statewide within New Mexico and Arizona.

Permit No. PRT–830213

Applicant: Dr. George A. Ruffner, Mesa, Arizona

Applicant requests authorization to conduct presence/absence surveys for, mist net, and band Southwestern willow flycatchers (*Empidonax traillii extimus*) within the State of Arizona.

Permit No. PRT–4 832201 0

Applicant: Dr. Richard N. Conner, Nacogdoches, Texas

Applicant requests authorization to monitor nest success, cavity competitors, and other biotic features within red-cockaded woodpecker (*Picoides borealis*) habitat during and outside the red-cockaded woodpecker breeding season.

Permit No. PRT–4 831957 0

Applicant: Bryan R. Adams, Lake Jackson, Texas

Applicant requests authorization to display 5 Kemp's ridley (*Lepidochelys kempii*) sea turtles for educational purposes.

Permit No. PRT–4 832018

Applicant: Leonard Robbins, Bureau of Indian Affairs, Gallup, New Mexico

Applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*), Mexican spotted owls (*Strix occidentalis lucida*), peregrine falcons (*Falco pereginus*), bald eagles (*Haliaeetus leucocephalus*), black-footed ferrets (*Mustela nigripes*), Navajo sedge (*Carex specuicola*), and the Mesa Verde cacti (*Sclerocactus mesae-verdae*) within the Navajo Indian Reservation and Indian allotted lands in Arizona, New Mexico, and Utah.

Permit No. PRT–829995

Applicant: Richard W. Buickerood, Dallas, Texas

Applicant requests authorization to display 45 Texas blind salamanders (*Typhlomolge rathbuni*), and 57 Barton Springs salamanders (*Eurycea sosorum*) for educational display purposes at the Dallas Zoo and Dallas Aquarium.

Permit No. PRT–821369

Applicant: Rhonda M. Sidner, Tucson, Arizona

Applicant requests authorization for scientific research and recovery purposes to conduct population surveys, capture (using mist netting techniques), handle, photograph, and release unharmed at the capture site Mexican long-nosed bats (*Leptoncycteris nivalis*) in Hidalgo County, New Mexico.

Permit No. PRT–832385

Applicant: D. Craig Rudolph, Nacogdoches, Texas

Applicant requests authorization to conduct presence/absence surveys for American burying beetles (*Nicrophorus americanus*) in eastern Texas.

Permit No. PRT–833003

Applicant: Eric C. Milstead, Portales, New Mexico

Applicant requests authorization to collect 3000 seeds from gypsum wild buckwheat (*Eriogonum gypsophilum*) from each of the 3 populations of this species near Carlsbad, New Mexico. A specimen will also be collected for storage in the herbarium as a tool for future reference. Specimens will be pressed and added to the herbarium collections at Eastern New Mexico University and either New Mexico State University or the University of New Mexico.

Permit No. PRT–825473

Applicant: Edward M. Sutherland, Austin, Texas

Applicant requests authorization to conduct presence/absence surveys for the following federally-protected species:

American peregrine falcon (*Falco pereginus ovatum*)
golden-cheeked warbler (*Dendroica chrysoparia*)
whooping crane (*Grus americana*)
Concho water snake (*Nerodia harteri paucimaculata*)
black-capped vireo (*Vireo atricapillus*)
brown pelican (*Pelicanus occidentals*)
cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*)
interior least tern (*Sterna antillarum*)

piping plover (*Charadrius melodus*)
red-cockaded woodpecker (*Picoides borealis*)
southwestern willow flycatcher (*Empidonax traillii extimus*)
Houston toad (*Bufo houstonensis*)
Big Bend gambusia (*Gambusia gaigei*)
Comanche Springs pupfish (*Cyprinodon elegans*)

Permittee also requests authorization to collect the minimal amounts necessary for identification of the following plants from existing or new highway rights-of-way:

Navasota ladies'-tresses (*Spiranthes parksii*)
Nellie cory cactus (*Coryphantha minima*)
slender rush pea (*Hoffmannseggia tenella*)
Sneed's pincushion cactus (*Coryphantha sneedii var. Sneedii*)
star cactus (*Astrophylum asterias*)
Terlingua Creek cat's-eye (*Cryptantha crassipes*)
Texas ambrosia (*Ambrosia cheiranthifolia*)
Texas ayenia (*Ayenia limitaris*)
Texas poppy-mallow (*Callirhoe scabriuscula*)
Texas prairie dawn (*Hymenoxys texana*)
Texas snowbells (*Styrax texana*)
Texas trailing phlox (*Phlox nivalis var. texensis*)
Tobusch fishhook cactus (*Ancistrocactus tobuschii*)
Walker's manioc (*Manihot walkerae*)
white bladderpod (*Lesquerella pallida*)
ashy dogweed (*Thymophylla tephroleuca*)
black lace cactus (*Echinocereus reichenbachii var. albertii*)
bunched cory cactus (*Coryphantha ramillosa*)
Davis' green pitaya (*Echinocereus viridiflorus var. Davisii*)
Hinckley's oak (*Quercus hinckleyi*)
Johnston's frankenia (*Frankenia johnstonii*)
large-fruited sand verbena (*Abronia macrocarpa*)
Little Aguja pondweed (*Potamogeton clystocarpus*)
Lloyd's mariposa cactus (*Neolloydia mariposensis*)

Permit No. PRT–820283

Applicant: Dr. David M. Leslie, Stillwater, Oklahoma

Applicant requests authorization to collect by seine and freeze 30 specimens of Pecos Gambusia (*Gambusia nobilis*) at each of 10 sites in the Diamond Y Draw Preserve of the Texas Nature Conservancy, Pecos County, Texas.

Permit No. PRT–833851

Applicant: Robert Hansen, Austin, Texas

Applicant requests authorization for scientific monitoring, enhancement of propagation or survival, and incidental taking of the Barton Springs salamander (*Eurycea sosorum*).

Permit No. PRT–833866

Applicant: Donna Work, Lufkin, Texas

Applicant requests authorization to conduct presence/absence surveys for red-cockaded woodpeckers (*Picoides borealis*); monitor populations, cavity trees, and stand conditions; midstory and understory removal/control; install artificial cavity inserts, restrictor plates, hardware cloth, and snake exclusion devices; banding and sexing of juveniles; and capturing, handling and possible banding of adults.

Permit No. PRT–833867

Applicant: Juan Valera-Lema, Austin, Texas

Applicant requests authorization hold 4 Barton Springs salamanders (*Eurycea sosorum*) and to collect and/or receive 25 additional species for educational display purposes at the Austin Nature and Science Center.

Permit No. PRT—833868

Applicant: E. Linwood Smith, Tucson, Arizona

Applicant requests authorization to conduct presence/absence surveys for the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) on the Barry M. Goldwater Air Force Range in Arizona.

Permit No. PRT—822998

Applicant: John M. McGee, Tucson, Arizona

Applicant request authorization for scientific research and recovery purposes to survey for the Sonora tiger salamander (*Ambystoma tigrinum stebbinsi*), Huachuca water umbel (*Lilaeopsis schaffneriana ssp recurva*), Pima pineapple cactus (*Coryphantha scheeri robustispina*), New Mexican ridge-nosed rattlesnake (*Crotalus willardi obscurus*), Gila topminnow (*Poeciliopsis occidentalis occidentals*), Sonora chub (*Gila ditaenia*), American peregrine falcon (*Falco peregrinus anatum*), and Canelo Hills ladies' tresses (*Spiranthes delitescens*).

DATES: Written comments on these permit applications must be by October 14, 1997.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. 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 30 days of the date of publication of this notice, to the address above.

Jerome M. Butler,

Acting Regional Director, Region 2 Albuquerque, New Mexico.

[FR Doc. 97–24115 Filed 9–10–97; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of an Application for an Incidental Take Permit by Langboard, Inc. for Construction of a Fiberboard Manufacturing Facility Near Willacoochee, Atkinson County, GA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Langboard, Inc. (Applicant) seeks an incidental take permit (ITP) from the Fish and Wildlife Service (Service) pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended (Act). The Applicant proposes to construct a fiberboard manufacturing facility and associated infrastructure on sandhill habitat near Willacoochee, Atkinson County, Georgia. The threatened Eastern indigo snake (Drymarchon corais couperi) is known to occur on the property. The ITP would authorize incidental take of snakes throughout the life of the facility. To minimize impacts associated with the proposed project, Langboard proposes to implement conservation measures to restore degraded snake habitat on 59 acres adjacent to the proposed facility.

The Service also announces the availability of the HCP for the incidental take application. Copies of the HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice also advises the public that the Service has made a preliminary determination that issuing the ITP is available through the Categorical Exemption process outlined in the Service's Departmental Manual governing implementation of the National Environmental Policy Act (NEPA). This notice is provided pursuant to Section 10 of the Act and NEPA regulations (40 CFR 1506.6). The Service specifically requests comment on the appropriateness of the ''No Surprises'' assurances should the Service determine that an ITP will be

granted and based upon the submitted HCP. Although not explicitly stated in the HCP, the Service has, since August 1994, announced its intention to honor a ''No Surprises'' Policy for applicants seeking ITPs. Copies of the Service's ''No Surprises'' Policy may be obtained by making a written request to the Regional Office (see **ADDRESSES**). The Service is soliciting public comments and review of the applicability of the ''No Surprises'' Policy to this application and HCP.

DATES: Written comments on the permit application and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before October 14, 1997.

ADDRESSES: Persons wishing to review the application and HCP may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, Brunswick, Georgia Field Office, 4270 Norwich Street, Brunswick, Georgia 31520. Written data or comments concerning the application or HCP should be submitted to the Regional Office. Requests for the documentation must be in writing to be processed. Comments must be submitted in writing to be processed. Please reference permit number PRT–833793 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. Rick G. Gooch, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7110; or Ms. Robin Goodloe, Fish and Wildlife Biologist, Brunswick, Georgia Field Office, (see **ADDRESSES** above), telephone: 912/265–9336.

SUPPLEMENTARY INFORMATION: The Eastern indigo snake (snake) is a large, docile, non-venomous snake reaching more than 7 feet in length. The snake once was a common southeastern Coastal Plain species found from South Carolina to Louisiana. Now it occurs in significant numbers only in Georgia and Florida and is believed to be declining throughout its range. Declines in snake populations are primarily due to habitat loss. Sandhill habitats within the range of the snake have been severely impacted by silviculture, farming, and urbanization. A reduction in numbers and extent of wildfires and prescribed burns has resulted in adverse modification of sandhill habitats. Snake collections for the pet trade and deaths related to rattlesnake hunting also reduced numbers. Additional mortality may result from bioaccumulation of pesticides and herbicides.

In Georgia, the primary habitat of the snake is dry sandhills (longleaf pine-turkey oak-wiregrass association) interspersed with wetland habitats such as drainageways, river swamps, and cypress ponds. The majority of snake winter dens in Georgia are located in gopher tortoise (*Gopherus polyphemus*) burrows. Snakes are quiescent during winter, and the availability of deep dens that do not flood (e.g., gopher tortoise burrows on the sandhills) is essential for winter survival. Snakes move from winter habitat in the sandhills to stream bottoms and agricultural fields from May through November. Seasonal range from May through July is estimated at 17 acres and increases to 39 acres from August to November.

Snakes forage in a variety of forest types including wetlands and upland pine-hardwoods up to a mile from their winter dens. The snake feeds on other snakes, frogs, toads, small mammals, birds, turtles, fish, and other vertebrates. Mating activity (recorded in a captive colony at Auburn) begins in November, peaks in December, and continues into March. Nests tend to be located in abandoned gopher tortoise burrows and rotting pine stumps.

The current status and future survival of the snake is likely linked directly to the status of sandhill habitat. Density of gopher tortoise populations, and therefore, snake habitat, is closely related to available biomass of herbaceous food plants; this in turn is dependent on a sparse tree canopy and relatively open (litter free) ground conditions. Frequent fires that remove some, but not all, scrub hardwood and most brush are essential in maintaining habitat quality.

Langboard, Inc. proposes to construct a fiberboard manufacturing facility, with associated infrastructure, on a 723-acre site near Willacoochee, Atkinson County, Georgia. The majority of the property is flatwood wetlands, which will be avoided during construction. The northern 200 acres primarily is sandhill habitat planted in pine. Two federally threatened snakes, as well as 88 active and 713 inactive or abandoned gopher tortoise burrows, were located in upland habitats on the property during 1996 surveys. The fiberboard manufacturing facility will be constructed on 45.29 acres of sandhill habitat that currently supports four active and 94 inactive/abandoned gopher tortoise burrows.

Construction and operation of the fiberboard manufacturing facility may directly injure or kill snakes that utilize the site or indirectly cause death or injury by destroying gopher tortoise burrows that provide snakes with winter dens, refugia, and egg-laying habitat. To minimize impacts associated with the proposed project, the Applicant proposes to implement conservation measures to restore 59 acres of sandhill habitat adjacent to the proposed facility. Conservation measures on different areas managed under the HCP will include prescribed warm season burns on a regular basis throughout the lifetime of the facility, replanting with longleaf pine (*Pinus palustris*), maintenance of overstory at a 30–40 percent open canopy, thinning other areas to stimulate growth of herbaceous vegetation, and maintaining a buffer along a county road and the property's north boundary.

The Service will evaluate whether the issuance of the Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

On Thursday, January 16, 1997, the Service published a notice in the **Federal Register** announcing the Final Revised Procedures for implementation of NEPA (NEPA Revisions), (62 FR 2375–2382). The NEPA revisions update the Service's procedures, originally published in 1984, based on changing trends, laws, and consideration of public comments. Most importantly, the NEPA revisions reflect new initiatives and Congressional mandates for the Service, particularly involving new authorities for land acquisition activities, expansion of grant programs and other private land activities, and increased Endangered Species Act permit and recovery activities. The revisions promote cooperating agency arrangements with other Federal agencies; early coordination techniques for streamlining the NEPA process with other Federal agencies, Tribes, the States, and the private sector; and integrating the NEPA process with other environmental laws and executive orders. Section 1.4 of the NEPA Revisions identify actions that may qualify for Categorical Exclusion. Categorical exclusions are classes of actions which do not individually or cumulatively have a significant effect on the human environment. Categorical exclusions are not the equivalent of statutory exemptions. If exceptions to categorical exclusions apply, under 516

DM 2, Appendix 2 of the Departmental Manual, the departmental categorical exclusions cannot be used. Among the types of actions available for a Categorical Exclusion is for a ''low effect'' HCP/incidental take permit application. A ''low effect'' HCP is defined as an application that, individually or cumulatively, has a minor or negligible effect on the species covered in the HCP [Section 1.4(C)(2)].

The Service considers the Applicant's project and HCP such a Categorical Exclusion, since the impacts of issuing the ITP involve only a small area of the affected species' range and the anticipated level of incidental take is minimal. The Service is soliciting for public comments on this determination.

Dated: September 4, 1997.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 97–24114 Filed 9–10–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for Incidental Take Permit for Construction and Operation of Approximately 143.6 Acres of Light Industrial Development on the Approximately 440-Acre Schlumberger Property (PRT–827597), in Austin, Travis County, TX

SUMMARY: The Schlumberger Technology Corporation (applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The applicant has been assigned permit number PRT–827597. The requested permit, which is for a period of 30 years, would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take on the 440-acre parcel would occur as a result of 143.6 acres of light industrial development. A minimum of approximately 195 acres will be preserved in its natural state as a conservation easement. All construction will occur on the 440-acre Schlumberger Property located in Austin, Travis County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of whether jeopardy to the species will occur, or a Finding of No Significant Impact (FONSI), will not be made before 30 days from the date of publication of this notice.

This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received by October 14, 1997.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Sybil Vosler, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 a.m. to 4:30 p.m) at the Austin Ecological Services Field Office. Written data or comments concerning the application(s) and EA/HCPs should be submitted to the Field Supervisor, Austin Ecological Services Field Office. Please refer to permit number PRT-827597 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Sybil Vosler at the above Austin Ecological Services Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species, when such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

APPLICANT: Schlumberger Technology Corporation plans to construct a light industrial development on approximately 143.6 acres and preserve a minimum of 195 acres within the 440-acre tract. The construction will be at the Schlumberger property located east of R.M. 620, approximately 1 mile north of RM 2222 on the northwest side of the City of Austin, roughly 12 miles from the downtown area. The preserved area will be maintained in its natural state and a conservation easement will be granted in perpetuity and held by a non-profit conservation organization or governmental agency approved by the Service.

Alternatives to this action were rejected because selling with federally-listed species present or not developing the subject property were not economically feasible.

Jerome M. Butler,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 97–24116 Filed 9–10–97; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On July 10, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 132, Page 37072, that an application had been filed with the Fish and Wildlife Service by James Y. Jones, Dublin, GA, for a permit (PRT–831722) to import a sport-hunted polar bear for personal use.

Notice is hereby given that on August 14, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On June 26, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 123, Page 34482, that applications had been filed with the Fish and Wildlife Service by Hossein Golabchi, Augusta, GA (PRT–830486) and Dennis Schlegel, Ione, WA (PRT–830807) for a permit to each applicant for import of a sport-hunted polar bear for personal use.

Notice is hereby given that on August 18, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permits subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 430, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: September 5, 1997.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–24012 Filed 9–10–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request revising the collection of information listed below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 60 days directly to the Bureau Clearance Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments regarding the proposed information collection as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;

2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. The utility, quality, and clarity of the information to be collected; and,

4. How 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 forms of information technology.

Title: Industrial Minerals Surveys.

OMB approval number: 1032–0038.

Abstract: Respondents supply the U.S. Geological Survey with domestic production and consumption data on nonfuel mineral commodities. This information is published as Annual Reports, Mineral Industry Surveys, and in Mineral Commodity Summaries for use by Government agencies, industry, and the general public.

Bureau form number: Pending OMB information collection approval. (37 forms)

Frequency: Monthly, Quarterly, Semiannual, and Annual.

Description of respondents: Producers and Consumers of Industrial Minerals.

Annual Responses: 15,162.

Annual burden hours: 10,203.

Bureau clearance officer: John E. Cordyack, Jr., 703–648–7313.

John H. DeYoung, Jr.,

Chief Scientist, Minerals Information Team.

[FR Doc. 97–24152 Filed 9–10–97; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request revising and extending the collection of information listed below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the Proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 60 days directly to the Bureau Clearance Officer, U.S. Geological Survey, 807 National Center, Reston, VA 20192.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments regarding the proposed information collection as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;

2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. The utility, quality, and clarity of the information to be collected; and,

4. How 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 forms of information technology.

Title: Portland and Masonry Cement.

OMB approval number: 1028–New.

Abstract: Respondents supply the U.S. Geological Survey with data on cement shipments to final customers. This information will be published as monthly reports for use by Government agencies, industry, and the general public.

Bureau form number: 6–1215–M.

Frequency: Monthly.

Description of respondents: Commercial and importers of portland and masonry cement.

Annual Responses: 600.

Annual burden hours: 300.

Bureau clearance officer: John E. Cordyack, Jr., 703–648–7313.

John H. DeYoung, Jr.,

Chief Scientist, Minerals Information Team.

[FR Doc. 97–24153 Filed 9–10–97; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request for the collection of information listed below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 60 days directly to the Bureau Clearance Officer, U.S. Geological Survey, 807 National Center, Reston Va 20192.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments regarding the proposed information collection as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;

2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

3. The utility, quality, and clarity of the information to be collected; and,

4. How 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 forms of information technology.

Title: Comprehensive Test Ban Treaty.

OMB approval number: 1028–New.

Abstract: The information, required by the Comprehensive Test Ban Treaty (CTBT), will provide the CTBT Technical Secretariat with geographic locations of sites where chemical explosions greater than 300 tons TNT-equivalent have occurred. Respondents to the information collection request are U.S. nonfuel minerals producers. Bureau form number: Pending OMB information collection approval.

Frequency: Annual.

Description of respondents: Companies that have conducted in the last calendar year, or that will conduct in the next calendar year, explosions with a total charge size of 300 tons of TNT-equivalent, or greater.

Annual Responses: 12,370.

Annual burden hours: 3,092.5.

Bureau clearance officer: John E. Cordyack, Jr., 703–648–7313.

John H. DeYoung, Jr.,

Chief Scientist, Minerals Information Team.

[FR Doc. 97–24154 Filed 9–10–97; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

SUMMARY: The proposal for renewal of the collection of information, Land Acquisitions, has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 25). Copies of the proposed collection of information, which is derived directly from 25 CFR 151, and related cover letter may be obtained by contacting the Bureau's clearance officer at the phone number listed below.

ADDRESSES: Please submit your comments and suggestions on or before October 14, 1997, directly to: Attention: Desk Officer for the Interior Department, Office of Management and Budget, Paperwork Reduction Project (076–0100), Washington, D.C. 20503, telephone (202) 395–7340. Send a copy of your comments to: Bureau Clearance Officer, Bureau of Indian Affairs, Office of Management and Budget, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:

Abstract

The Secretary of the Interior has statutory authority to acquire lands in trust status for individual Indians and federally recognized Indian tribes. The Secretary requests information in order to identify the party(ies) involved and describing the land in question. Respondents are Native American tribes or individuals who request acquisition of real property into trust status. The Secretary also requests additional information necessary to satisfy those pertinent factors listed in 25 CFR 151.10 or 151.11. The information is used to determine whether or not the Secretary will approve an applicant's request. No specific form is used, but respondents supply information and data, in accordance with 25 CFR 151, so that the Secretary may make an evaluation and determination in accordance with established Federal factors, rules and policies. A request for comments on this information collection was published in the **Federal Register** on June 18, 1997, in Volume 62, Number 117, page 33101–33102. No comments were received by the Bureau.

Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions uses; (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.

The Office of Management and Budget has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, comments submitted in response to this notice should be submitted to OMB within 30 days in order to assure their maximum consideration.

Title: Land Acquisitions.

OMB approval number: 1076–0100.

Frequency: As needed.

Description of respondents: Native American tribes and individuals desiring acquisition of lands in trust status.

Estimated completion time: 4 hours.

Annual responses: 9,200.

Annual burden hours: 36,800.

Bureau clearance officer: James McDivitt, (202) 208–4174.

Dated: September 4, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–24122 Filed 9–10–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; AA–6645–A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Afognak Native Corporation, successor in interest to Natives of Afognak, Inc., for 4,756.31 acres. The lands involved are located on or in the vicinity of Afognak, Whale, and Raspberry Islands, Alaska, as follows:

Seward Meridian, Alaska

T. 23 S., R. 21 W., T. 25 S., R. 21 W., and T. 25 S., R. 24 W.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the K**odiak Daily Mirror.** Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until October 14, 1997 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Gary L. Cunningham

Land Law Examiner, ANCSA Team Branch of 962 Adjudication.

[FR Doc. 97–24112 Filed 9–10–97; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1220–00; GP7–0284]

Notice of Supplemental Scoping for the John Day River Management Plan and Potential Related Amendments to the Two Rivers and John Day Resource Management Plans

AGENCY: Prineville District, Central Oregon Resource Area; Interior.

ACTION: Notice of intent to prepare a Revised Draft Environmental Impact Statement and Management Plan for the Wild and Scenic John Day River and related Resource Management Plans; and notice of supplemental scoping period.

SUMMARY: In accordance with 43 Code of Federal Regulations (CFR) 1610.2 and 1610.3 and 43 CFR 8350, notice is given that the Bureau of Land Management (BLM) in the State of Oregon, Prineville District, Central Oregon Resource Area, intends to analyze potential amendments to the relevant geographic and resource program sections of the Two Rivers and John Day Resource Management Plan (RMPs) in combination with completion of the Management Plan for the Wild and Scenic John Day River.

DATES: The pubic scoping period is ongoing and will continue until October 30, 1997. The draft river management plan and environmental impact statement (EIS) will be available for a 90 day public review period in the early summer of 1998. The proposed river plan, related RMP amendments and final EIS is expected to be available in the winter of 1998–1999 with decisions made and published following resolution of any protests or any intergovernmental natural resource plan inconsistencies. Future opportunities for public review and comment will be announced through the **Federal Register**, direct mailings to known interested parties, and announcements in Prineville's newspaper, the *Central Oregonian*. Supplemental public scoping meetings will be held in an Open House format. Persons wishing to attend these meetings may come at anytime between 7:00 pm and 9:00 pm on the dates of the meetings to ask questions and submit scoping comments directly to John Day River Planning Team members. The Open House public meetings will be held in the following locations:

September 24, 1997

Wheeler County Fairgrounds, Fossil, Oregon

September 25, 1997

Senior Center, 142 NE Dayton, John Day, Oregon

September 30, 1997

Jefferson County Fairgrounds, 430 SW Fairgrounds, Madras, Oregon

October 8, 1997

Double Tree Hotel, 310 SW Lincoln, Portland, Oregon

The need for additional meetings will be evaluated based on the level of public input as a result of public notification procedures. Any public meetings will be announced at least 15 days in advance.

FOR FURTHER INFORMATION CONTACT: Dan Wood, Project Manager, Prineville District BLM, PO Box 550, Prineville, Oregon 97754 (Telephone 541–416–6751, FAX 541–416–6798). Anyone interested in participating during the public review process of this planning effort may request to be added to the mailing list. Individuals should specify if they wish to have their names and addresses withheld from public access under the privacy provisions of the Freedom of Information Act.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management intends to begin preparation of a Revised Draft Management Plan and Environmental Impact Statement (EIS) for public lands along the John Day River system in Oregon. The planning and analysis process will comply with the procedural requirements of the National Environmental Policy Act, the Wild and Scenic River Act (as amended) and the Federal Land Policy and Management Act. The resulting decisions are expected to satisfy the requirements of the 1989 Omnibus Oregon Wild and Scenic Rivers Act, amend relevant portions of the Two Rivers and John Day Resource Management Plans (both within and outside the river corridors) and address relevant issues from ongoing litigation concerning the John Day River Plan. The John Day River watershed encompasses all or portions of eleven counties, six of which would be directly affected by the proposed plan. These are Gilliam, Grant, Jefferson, Sherman, Wasco and Wheeler Counties in north-central Oregon. The federally designated Wild and Scenic segments of the John Day River managed by the Bureau include 147 miles of the John Day River mainstem from Service Creek to Tumwater Falls and 47 miles of the South Fork of the John Day River from the Malheur National Forest boundary to Smokey Creek. The 54 mile federally designated Wild and Scenic segment of the North Fork of the John Day River is managed by the Umatilla National Forest under a previously prepared and approved plan.

In addition to mailed scoping notices to known interested parties, a series of public meetings will be held in September–October, 1997 to assist in this planning effort. These meetings will be conducted as workshops and open houses so that BLM and concerned publics may review past planning documents and current situations to identify issues to be addressed by the plan and to develop alternative ways of managing resources to be analyzed by the EIS. The public may submit comments at these meetings or directly to the Prineville BLM office at any time during the scoping period. The draft plan and EIS will analyze public lands managed by the Bureau along the John Day River segments which are federally designated as Wild and Scenic and segments which are not so designated, some of which may be potentially suitable for designation as additional components of the National Wild and Scenic River System. Special emphasis will be given to management strategies that protect and enhance the outstandingly remarkable values for which the Bureau managed segments were designated. These outstandingly remarkable values are scenic, recreational, geologic, fish, wildlife, historic and cultural. Other values identified as significant are botanical, ecological, paleontological, and archeological resources. Planning and analysis issues will include management, protection and enhancement of the identified river related values, plus any related Bureau authorized activities or resource uses such as, but not limited to, livestock grazing, irrigated agriculture, road and facility construction and maintenance, noxious weed control, streambank stability and stabilization, acquisition and management of additional lands within the river corridor and attainment of State of Oregon approved water quality standards.

The BLM developed a draft plan and EIS for the John Day River system and released it for public review and comment in 1993. The draft plan focused primarily on recreation, and proposed that other resource uses be managed according to existing resource management plans and other guidance documents. Many of those who commented on the draft plan stated that the plan should address all resource uses, particularly livestock grazing.

In order to meet a December 31, 1996 deadline set in the Northwest Power Planning Council's 1992 ''Strategy for Salmon,'' the BLM Prineville District

suspended further development of the river plan in order to focus its limited resources on allotment-specific evaluation and improvement of grazing management in the John Day basin. This effort has continued under the joint BLM/U.S. Forest Service's 1995 ''Interim Strategies for Managing Anadromous Fish-producing Watersheds in Eastern Oregon and Washington, Idaho, and portions of California'' (known as PACFISH), and has resulted in a number of changes in grazing management and reductions in authorized grazing use on public lands along the John Day River.

The BLM is now re-initiating development of the John Day River management plan. In light of comments on the 1993 draft plan, the BLM intends to address all significant resouce uses in the revised draft plan, including grazing and agricultural leasing.

Preliminary future management strategies (alternatives) to be addressed are (1) Baseline/Current Use, Development and Management (No Action), (2) Maximum Enhancement of Natural Values With Minimal Development, (3) Required Protection and System Restoration with Moderate Use and Development, (4) Increased Use and Development to Enhance Local Economic Activity and Developed Recreation Consistent with River Resource Protection and (5) a Preferred Alternative (to be developed from elements of the other alternatives with public input). Any decisions which are inconsistent with the current Two Rivers or John Day RMPs would result in amendments to the applicable plans as a result of the Oregon State Director approval of the Record of Decision. A team of interdisciplinary specialists, whose backgrounds are in the resources to be affected, will be involved in the review and development of the description of the affected environment, development of alternatives and impact analysis. Disciplines to be represented on the team preparing the plan amendment and EIS include, but are not limited to: Archeology, anthropology, economics, lands and minerals, recreation, forestry, fisheries, hydrology, botanical, soils, wildlife, geology and hazardous materials.

The Prineville District's Two Rivers (1986) and John Day (1985, 1995) Resource Management Plans (RMPs) currently provide general management for the river corridors and known river related values as well as overall land resource use allocations and resource protection or enhancement. Although it is anticipated that the final decisions for river management considered through this analysis could be in full conformance with the applicable RMPs, it is possible that portions of some actions under some alternatives may not be in full conformance with the approved RMPS, as required by 43 Code of Federal Regulations (CFR), Subpart 1610.5–3, ''Conformity and Implementation''. The environmental analysis and public and interagency review process anticipated for this analysis are expected to fully comply with the Bureau's regulations for land use planning, including land use plan amendments, public involvement and coordination with other Federal agencies, State and local governments and Indian tribes (43 CFR 1610.2, 1610.3 and 1610.5–5). This will allow the analysis to consider river corridor and value strategies which are inconsistent with the current direction or substantially affect other resource uses and allocations in one or more of the subject approved RMPs. Any approved decisions which amend the applicable plans will be incorporated into the plans and become part of the permanent planning record. Any refinements or clarifications or management direction, priority of river resource allocations and use of final river corridor boundaries will be incorporated into the applicable plans and documented through published plan maintenance reports, as provided under 43 CFR 1610.5–4. Copies of the two existing approved plans (as amended) will be available in the same locations as the other elements of the supporting record, as noted elsewhere in this notice.

The decisions made through this analysis are expected to be implemented in a series of actions over a period of several years. While the BLM intends to implement most of the final river plan within approximately two years of the approval of the decision(s), some actions that are in conformance with the analysis and decisions and associated approved RMPs may occur over a period of ten or more years. This analysis will serve to facilitate the immediate need for a comprehensive river plan and some immediate changes in resource use, resource allocations, vegetation remediation or recreational facility projects. it will also provide for future long-term actions that fall under the programmatic nature of this analysis dealing with ''desired future conditions''. Future site developments, land use allocation changes and projects would be subject to appropriate environmental analyses, public and interagency reviews and will be reported in the applicable District periodic planning update reports which are distributed to known interested parties.

Dated: September 4, 1997.

James G. Kenna,

Acting District Manager.

[FR Doc. 97–24044 Filed 9–10–97; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Intent To Prepare a Land Use Plan Amendment, Jefferson County, ID

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of intent to prepare a plan amendment for the medicine lodge Resource Management Plan (RMP), approved in April of 1985, to provide for the adjustment of the Sand Mountain Wilderness Study Area (WSA) Boundary and a proposed direct land sale.

SUMMARY: Pursuant to the regulations found at 43 CFR 1600, the Idaho Falls District Office of the Bureau of Land Management proposes to amend the Medicine Lodge Resource Management Plan in order to adjust a Wilderness Study Area boundary. The amendment would also provide for the direct sale of approximately 10 acres of public land.

DATES: Comments regarding the proposed plan amendment must be received by October 27, 1997.

ADDRESSES: Written comments should be sent to Joe Kraayenbrink, BLM Area Manager, Medicine Lodge Resource Area, 1405 Hollipark Drive, Idaho Falls, Idaho 83401.

ADDITIONAL INFORMATION: Additional information concerning the proposed plan amendment may be obtained by contacting Bruce Bash, Realty Specialist, at the above address or by calling (208) 524–7521.

SUPPLEMENTARY INFORMATION: The proposed plan amendment would adjust the boundary of the Sand Mountain Wilderness Study Area to exclude existing developments which were included in error within the WSA boundary. These developments consist of powerlines, roads and trails, numerous dispersed recreational sites, and a parcel of privately-owned land. The developments impair the naturalness of the WSA and should not have been included within the WSA boundary during the original inventory process. The amendment would also allow the BLM to sell approximately 10 acres of public land to resolve an encroachment problem.

The following resources will be considered in preparation of the amendment: lands, wildlife, recreation, wilderness, range, minerals, cultural resources, watershed/soils, threatened/endangered species, and hazardous materials. Staff specialists representing each resource will make up the planning team. Planning issues will include the same planning criteria originally considered for the Medicine Lodge RMP; however, issues for this amendment are expected to primarily involve the proposed WSA boundary adjustment and the minor change in land ownership. This action is not expected to be controversial.

No public meetings are scheduled.

Current land use planning information is available at the Idaho Falls BLM office. Office hours are 7:45 a.m. to 4:30 p.m., Monday through Friday except holidays.

Dated: September 3, 1997.

Joe Kraayenbrink,

Area Manager, Medicine Lodge Resource Area.

[FR Doc. 97–24143 Filed 9–10–97; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–020–1430–01]

Notice of Realty Action, Sale of Public Land in Minidoka County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of public land in Minidoka County.

SUMMARY: The following-described public land has been examined and through the public-supported land use planning process has been determined to be suitable for disposal by direct sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, as amended. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Boise Meridian, Idaho

T. 8 S., R. 25 E.

Sec. 2: Lots 10,11,16,N½NE¼SW¼.

Comprising 39.89 acres of public land, more or less.

The patent, when issued, will contain a reservation to the United States for ditches and canals and will be subject to existing rights-of-way for two buried telephone cables, a railroad, and a county road.

DATES: Upon publication of this notice in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the Federal Land Policy and Management Act. The segregative effect will end upon issuance of patent or 270 days from the date of publication, whichever occurs first.

ADDRESSES: Any comments on this notice should be mailed by close of business on October 15, 1997 to the Bureau of Land Management, Snake River Resource Area, Attention: Scott Barker, 15 East 200 South, Burley, ID 83318.

FOR FURTHER INFORMATION CONTACT: Scott D. Barker, Realty Specialist, (208) 677–6678.

Dated: August 29, 1997.

Tom Dyer,

Snake River Area Manager.

[FR Doc. 97–24151 Filed 9–10–97; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

Notice is hereby given that on September 3, 1997, a proposed partial consent decree in *United States* v. *Barrier Industries, Inc., et al.*, Civil Action No. 95 Civ. 9114 (JSR), was lodged with the United States District Court for the Southern District of New York.

In this action, the United States sought the recovery of response costs incurred by the United States with respect to the Barrier Industries Superfund Site (the ''Site'') in Port Jervis, New York. The proposed partial consent decree resolves the United States' claims under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.*, and the Federal Debt Collection Procedures Act of 1990, 28 U.S.C. 3301 *et seq.*, against defendants Harvey Wasserman and Linda Wasserman (''the Wassermans'') relating to the Site. Under the terms of the proposed partial consent decree, the Wassermans will pay $120,000 in satisfaction of the United States' claims.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication, comments relating to the proposed partial consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Barrier Industries, Inc., et. al.*, Civil Action No. 95 Civ. 9114 (JSR), D.J. Ref. 90–11–2–1132.

The proposed partial consent decree may be examined at the Office of the United States Attorney, Southern District of New York, 100 Church Street, New York, New York 10007, at U.S. EPA Region II, 290 Broadway, New York, New York 10007, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed partial consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $10.75 (25 cent per page reproduction cost).

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–24111 Filed 9–10–97; 8:45 am]

BILLING CODE 4410–15–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Undergraduate Education; Notice of Meetings

This notice is being published in accord with the Federal Advisory Committee Act (Pub. L. 92–463, as amended). During the periods September and October, 1997, the Special Emphasis Panel will be holding panel meetings to review and evaluate research proposals. The dates, contact person, and types of proposals are as follows:

Special Emphasis Panel in Undergraduate Education (1214)

1. *Date:* September 17–20, 1997.

Contact: Frank Settle, Program Director, Room 835, 703–306–1666.

Times: 7:30 p.m. to 9:30 p.m. (September 17); 8:30 a.m. to 5:00 p.m. (September 18–19); 8:30 a.m. to 1:00 p.m. (September 20).

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Proposal: Course and Curriculum Development Program.

Reason for Late Notice: Determination that a Phase II panel was needed was not made until the time requirement for the meeting notice had passed. Conducting this review was essential this FY.

2. *Date:* October 15–17, 1997.

Contact: Terry Woodin, Program Director, Room 835, 703–306–1666.

Times: 8:30 a.m. to 5:00 p.m. each day.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Proposal: NSF Collaborative for Excellence in Teacher Preparation Program.

Type of Meetings: Closed.

Purpose of Meetings: to provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Division of Undergraduate Education as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 5, 1997.

M. Rebecca Winkler,

Committee Management Office.

[FR Doc. 97–24126 Filed 9–10–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: 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 collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Proposed Rule, 10 CFR part 50, Financial Assurance Requirements for Decommissioning Nuclear Power Reactors.

3. *The form number if applicable:* Not applicable.

4. *How often is the collection required:* The initial report is to be submitted within 9 months after the effective date of this rule, and then at least once every 2 years. Any licensee that is within 5 years of the projected end of operation would be required to report annually.

5. *Who will be required or asked to report:* Part 50 licensees.

6. *An estimate of the number of responses:* About 100 responses within 9 months of the rule's effective date, then 100 responses every 2 years, or an average of 50 per year.

7. *The estimated number of annual respondents:* About 100 the first year, then approximately 50 licensees per year.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 800 the first year and 400 each year thereafter (8 hours per respondent).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Applicable.

10. *Abstract:* Potential deregulation of the power generating industry has created uncertainty with respect to whether current NRC regulations concerning decommissioning funds and the financial mechanisms will require a modification to account for utility reorganizations not contemplated when current financial assurance requirements were promulgated. Therefore, the NRC is proposing to require power reactor licensees to periodically report on the status of their decommissioning funds. This mandatory requirement will ensure that sufficient funds will be set aside for decommissioning.

The NRC is planning to issue a Regulatory Guide relative to this proposed rule in which the Financial Accounting Standards Board (FASB) draft standard No. 158–B, ''Accounting for Certain Liabilities Related to Closure or Removal of Long-Lived Assets,'' will be endorsed for the reporting requirements of the proposed rule.

Submit, by October 14, 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 information collection be minimized, including the use of automated collection techniques or other forms of information technology?

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. The proposed rule indicated in ''The title of the information collection'' is or has been published in the **Federal Register** within several days of the publication date of this **Federal Register** Notice. Instructions for accessing the electronic OMB clearance package for the rulemaking have been appended to the electronic rulemaking. Members of the public may access the OMB clearance package by following the directions for electronic access provided in the preamble to the titled rulemaking.

Comments and questions should be directed to the OMB reviewer by October 14, 1997: Norma Gonzales, Office of Information and Regulatory Affairs (3150–0011), 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 4th day of September, 1997.

For the Nuclear Regulatory Commission.

Arnold E. Levin,

Acting Designated Senior Official for Information Resources Management.

[FR Doc. 97–24141 Filed 9–10–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–390]

Tennessee Valley Authority Watts Bar Nuclear Plant, UNIT 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of an amendment to Facility Operating License No. NPF–90, issued to Tennessee Valley Authority (TVA), for operation of the Watts Bar Nuclear Plant, Unit 1 (WBN), located in Rhea County, Tennessee.

Environmental Assessment

Identification of the Proposed Action

TVA has requested a change to the current WBN Technical Specifications (TSs) to provide for insertion of four lead test assemblies (LTAs) containing 32 tritium producing burnable absorber rods (TPBARs) into the WBN reactor during Fuel Cycle 2. After a single cycle of operation the TPBARs will be removed from the reactor and stored in the spent fuel pool. Then the TPBARs will be placed in shipping casks and transported off-site under Department of Energy (DOE) control.

The Need for the Proposed Action

As discussed in the NRC staff report, NUREG–1607, ''Safety Evaluation Report related to the Department of Energy's proposal for the irradiation of lead test assemblies containing tritium-producing burnable absorber rods in commercial light-water reactors,'' May 1997, DOE is responsible for establishing the capability to produce

tritium, an essential material used in U.S. nuclear weapons, by the end of 2005, in accordance with a Presidential decision directive. Tritium is an isotope of hydrogen that decays at a rate of approximately 5 percent per year (a 12.3-year half-life). The United States has not produced tritium for use in nuclear weapons since 1988, when DOE closed its production facility at Savannah River. Resumption of tritium production for weapons will be essential for maintaining the U.S. nuclear weapons stockpile and the U.S. nuclear deterrent. DOE has selected a dual-path strategy to meet its schedule, one of which proposes to produce tritium in commercial light water reactors (CLWRs), either through acquisition of reactor(s) under Government ownership or by contracting for target irradiation services at a plant under private ownership.

DOE has developed a design for burnable poison rods using lithium, rather than the boron which is currently used in reactor fuel assemblies. As a result of irradiation by neutrons in the rector core, some of the lithium in the target rods would be converted to tritium. The irradiated burnable poison rods can then be removed from the fuel assemblies and shipped to another location for tritium extraction. The first phase of the tritium program involving CLWRs is a lead test assembly (LTA) demonstration. LTA irradiation would serve as a confirmatory test of the design for TPBARs that DOE has developed over the past 10 years. For this purpose, DOE has selected TVA as a host utility to perform LTA irradiation. Accordingly, TVA proposes to insert four LTAs into the WBN reactor during Fuel Cycle 2 to provide irradiation services to support DOE investigations into the feasibility of using commercial light water reactors to maintain the nation's inventory of tritium. The proposed action is in accordance with TVA's application for amendment dated April 30, 1997, as supplemented by letters dated June 18, July 21 (3 letters), and August 7 and 21, 1997.

Alternatives to the Proposed Action

As stated in the NRC staff report, NUREG–1607, the second phase of DOE's tritium production program that would involve CLWRs and require NRC review would be DOE's submittal of a topical report for production irradiation in mid-1998. The staff plans to initiate review of that report concurrently with the irradiation of the LTAs and anticipates that it will document its review in a safety evaluation report to be issued in early 1999. DOE has stated that, because the primary purpose of the LTA demonstration is to build confidence among prospective licensees, completion of the LTA demonstration is not an essential precursor to submittal of the topical report. The NRC staff could initiate review of the production topical report independent of the LTA demonstration. However, the staff may need information from the LTA demonstration before it can complete its review of the production topical report.

No Action Taken

The principal alternative would be to take no action to approve the LTA program in the WBN during Fuel Cycle 2. That alternative would avoid any environmental impacts which may be associated with this action, but as indicated herein, there are no significant environmental impacts associated with this action. Denial of this proposed action would have the result that further CLWR tritium production activities, including any NRC staff review of subsequent proposals for production of tritium in a CLWR, would then be made without the benefit of the results of the LTA program. This could result in additional uncertainties affecting DOE's choice of alternatives in the tritium production program, as well as the NRC staff's review, and is not considered a desirable option.

Environmental Impacts of the Proposed Action

Radiological Impact

The WBN has waste treatment systems designed to collect and process waste that may contain radioactive material. The radioactive waste treatment systems were evaluated in the WBN Final Environmental Statement (FES) and its supplement. Results are reported in Tables 5.2 and 5.3 of NUREG–0498, Supplement 1, April 1995. The proposed amendment will not involve any change in the radioactive waste treatment systems or flowrates described in the FES and its supplement.

Tritium produces less dose per unit of radioactivity taken into the human body than many other nuclides because tritium (a) decays by the emission of a low-energy beta radiation, (b) passes through the human body in a short period of time, and (c) does not concentrate in a single organ. Furthermore, tritium in liquid effluents from Watts Bar is diluted to a relative low concentration before it reaches even the most highly exposed member of the public; i.e. the release of the entire 214 Ci (7.93 TBq) in a year's cooling water would produce an average concentration of only about 0.24 pCi/gm (8.9 Bq/kg) in the receiving water. Consequently, the maximum annual dose to a member of the public would be less than 0.02 mrem (0.2 micro-Sievert). This dose is less than 1 percent of the NRC criterion for liquid effluents and only about 0.007 percent of the average annual dose resulting from naturally occurring radionuclides.

The tritium would be further diluted before it reached the substantial number of people (about 216,000) residing in population centers downstream of Watts Bar so the resulting individual doses would be small, averaging about 0.4 micro-rem (4 nano-Sievert). The resulting population dose would be less than 0.09 person-rem (person-cSv).

A portion of the tritium might be released to the atmosphere. The amount would depend on plant conditions and the manner in which it is operated. If the entire 214 Ci (7.93 TBq) were released to the atmosphere, individuals could be exposed via a variety of pathways. These pathways include inhalation and skin absorption, as well as the consumption of meat, vegetables and milk. The total dose by all pathways to the most highly exposed member of the public is calculated to be less than 0.05 mrem (0.50 micro-Sievert). This is less than 1 percent of the NRC criterion for airborne effluents and less than 0.02 percent of the average person's annual dose resulting from naturally occurring radionuclides.

Tritium in the atmosphere also could reach the more highly populated areas in the vicinity of Watts Bar, but the airborne tritium would be diluted even more than would water-borne tritium. Thus the population dose would be smaller from a release to the atmosphere than from a release to the river.

It is concluded that the releases from Watts Bar, and the resulting off-site doses, will not be significantly affected by releases of tritium from the TPBPRs.

The proposed amendment is not expected to significantly affect the doses to the workers in the fuel storage area. The TPBARs are designed to have minimal effect on plant operations, including refueling operations. Since the unirradiated TPBARs are essentially not radioactive, they will produce no increase in exposure, occupational or non-occupational. After irradiation, the TPBARs are expected to contain some 370,000 Ci (13.7 PBq) of tritium (^3H). This is far more tritium, but far less radioactivity, than that produced by the reactor core. The tritium does not pose a particular threat because (1) tritium emits only a low-energy (E_{max}= 18.6 keV) beta and (2) the tritium is bound in the TPBARs. Some of the tritium beta

energy is converted into x-rays (bremsstrahlung) but 370,000 Ci of tritium produces less photon energy than is produced by 1 Ci (37 GBq) of ^{137}Cs and the ^{137}Cs radiation is much more penetrating. The spent fuel removed for refueling contains about a million curies of ^{137}Cs and many other nuclides. Thus, the effect of tritium as a source of external radiation in the reactor environment is negligible.

The TPBARs are designed to minimize the leakage of tritium and DOE experience indicates that leakage will be less than 6.7 Ci (0.248 TBq) per rod annually. If all 32 of the TPBARs were to leak at this rate, the annual tritium release to the reactor coolant would be less than 214 Ci (7.93 TBq). This quantity is consistent with the nominal amounts of tritium expected in pressurized water reactor (PWR) coolant systems. The NRC licensing calculation, the GALE code, predicts about 250 Ci (9.25 TBq) of tritium in the reactor coolant and tritium releases to the environment from large PWRs are averaging over 600 Ci (22.2 TBq) per year per reactor and ranging as high as 4,000 Ci (148 TBq) per year without exceeding regulatory limits. Thus, the TPBARs might produce an observable but not dramatic increase in the tritium concentration in the spent fuel pool. Increasing the tritium in the spent fuel pool could increase occupational exposure but, since tritium exposure is not an important contributor to occupational exposure (according to NRC data summarized in NUREG–0713, ''Occupational Radiation Exposure at Commercial Nuclear Power Reactors and Other Facilities, 1995'', January 1997), the increase would be expected to be negligible. This is consistent with the results reported in the DOE report.

The staff concludes that the TPBARs could cause some increase in occupational radiation exposure. However, this increase would be negligible and would not constitute a safety, or an ''as low as is reasonably achievable'' (ALARA) concern.

Based on the above, the staff concludes that there are no significant radiological environmental impacts associated with the proposal.

Non-Radiological Impact

The proposal does not affect non-radiological plant effluents and no changes to the National Pollution Discharge Elimination System (NPDES) permit are needed. The proposal does not result in any significant changes to land use or water use, or result in any significant changes to the quantity or quality of effluents and no effects on endangered or threatened species or on their habitat are expected. Therefore, no changes or different types of non-radiological environmental impacts are expected as a result of the amendment.

Accident Considerations

In its application, TVA evaluated the possible consequences of postulated accidents and described the means for mitigating these consequences should they occur. This evaluation included the effects of a TPBAR on postulated accidents, including a TPBAR assembly dropped during refueling, radiological consequences of release of reactor coolant (steam generator tube rupture or steamline break), and TPBAR damage and radiological consequences during a design-basis loss-of-coolant accident (LOCA). On the basis of its analysis, TVA concluded that the effect of the TPBAR on accident consequences would be small and that the calculated consequences are within regulatory requirements and staff guideline dose values.

As TVA has reported in its application and the staff has previously evaluated in NUREG–1607, there are increases in the potential radiological consequences resulting from a design basis LOCA; and the LOCA is the most limiting accident with regard to TPBAR failure. The DOE report states that the effect of TPBARs and the additional tritium on the combustible gas inventory following a LOCA is negligible. In addition, the maximum stored inventory of tritium in TPBAR LTAs is a very small fraction of the hydrogen that would be released from a zirconium-water reaction. Consequently, TPBARs would have no significant contribution to combustible gas in a LOCA. The tritium released to the coolant would not be released as a gas and, therefore, would not produce an increase in hydrogen concentration. The resulting dose at the exclusion area boundary would be about 0.3 mrem (3 μSv). The potential increase in the offsite radiological consequence as a result of accidents has been determined to be negligible. The environmental impacts of any credible accidents are found not to be significant.

Summary

The Commission has completed its evaluation of the proposed action. The change will not significantly increase the probability or consequences of accidents, no changes are being made in the types and no significant increases are being made in the amounts of any effluents that may be released offsite, and there is no significant increase in the allowable individual offsite dose or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the FES for WBN Units 1 and 2, dated April 1995.

Agencies and Persons Consulted

In accordance with its stated policy, on August 20, 1997 the staff consulted with the Tennessee State official, Mr. Eddy Nanney, of the Division of Radiological Health, regarding the environmental impact of the proposed action. The State official indicated that TVA and NRC should consider very carefully anything designed and fabricated by DOE that is to be put into the Watts Bar reactor. As stated herein, the NRC staff does believe that its review carefully considers the impacts of inserting the LTAs containing the TPBARs into Watts Bar during Fuel Cycle 2.

Finding of No Significant Impact

The staff has reviewed the proposed lead test assembly program at WBN relative to the requirements set forth in 10 CFR Part 51. Based upon its environmental assessment, the staff has concluded that there are no significant radiological or non-radiological impacts associated with the proposed action and that the proposed license amendment will not have a significant effect on the quality of the human environment. Therefore, the Commission has determined, pursuant to 10 CFR 51.31, not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to the proposed action, see the licensee's letter dated April 30, 1997, as supplemented by letters dated June 18, July 21 (3 letters), August 7 and 21, 1997, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee.

Dated at Rockville, Maryland, this 8th day of September 1997.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II–3, Division of Reactor Projects—I/II.

[FR Doc. 97–24219 Filed 9–10–97; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Postal Facility Visit

AGENCY: Postal Rate Commission.

ACTION: Notice of postal facility visit.

Authority: 39 U.S.C. 404(b), 3603, 3622–3624, 3661, 3662.

SUMMARY: Arrangements have been made for members of the Commission and certain staff members to visit the United States Postal Service's Brentwood mail processing and distribution center in northeast Washington, DC. The purpose is to increase familiarity with Postal Service mail operations. Information obtained during the visit will assist Commissioners and staff in the execution of their duties.

DATES: The tour is scheduled for Thursday, September 11, 1997, at 6 p.m.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, (202)–789–6820.

SUPPLEMENTARY INFORMATION: A report of the visit will be filed in the Commission's docket room.

Dated: September 8, 1997.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 97–24125 Filed 9–10–97; 8:45 am]

BILLING CODE 7715–01–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 10b–10, SEC File No. 270–389, OMB Control No. 3235–0444

Rule 11Ac1–3, SEC File No. 270–382, OMB Control No. 3235–0435

Rule 15c2–12, SEC File No. 270–330, OMB Control No. 3235–0472

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 10b–10, Confirmation of Transactions, applies to all securities transactions, other than transactions in municipal securities or U.S. savings bonds, it would potentially apply to all of the approximately 5,400 firms registered with the Securities and Exchange Commission that effect transactions on behalf of customers.

Rule 10b–10 requires broker-dealers convey to customers basic trade information regarding their securities transactions. This information includes the date and time of the transaction; the identity and number of shares bought or sold; and the trading capacity of the broker-dealer. Depending on the trading capacity of the broker-dealer, the rule requires the disclosure of commissions and, under specified circumstances, mark-up and mark-down information. For transactions in debt securities, the rule requires the disclosure of redemption and yield information.

The confirmation process is automated, and it takes about one minute to generate and send a confirmation. The cost per confirmation generally stays the same. Per year, it is estimated that broker-dealers spend 10.8 million hours complying with Rule 10b–10.

It is important to note, however, that the confirmation is a customary document used by the industry. The staff estimates the costs of producing and sending a confirmation to be approximately 89 cents, although the amount of confirmations sent and the cost of sending each confirmation will vary from firm to firm. Smaller firms will send fewer confirmations because they will have fewer transactions. As a result, the total cost to the industry is approximately $578 million per year (650 million confirmations at 89 cents per confirmation).

Rule 11Ac1–3, Customer Account Statements, requires disclosure on each new account and on a yearly basis thereafter, on the annual statement, the firm's policies regarding receipt of payment for order flow from any market makers, exchanges or exchange members to which it routes customers' order in the national market system securities for execution; and information regarding the aggregate amount of monetary payments, discounts, rebates or reduction in fees received by the firm over the past year.

It is estimated that there are 5,308 registered broker-dealers with customer accounts. The staff estimates that the average number of hours necessary for each broker-dealer to comply with the Rule 11Ac1–3 is fourteen hours annually. Thus, the total burden is 74,312 hours annually. The average cost per hour is approximately $40. Therefore, the total cost of compliance for broker-dealers is $297,248.

Rule 15c2–12, Municipal Securities Disclosure, requires underwriters of municipal securities: (1) to obtain and review a copy of an official statement deemed final by an issuer of the securities, except for the omission of specified information; (2) in non-competitively bid offerings, to make available, upon request, the most recent preliminary official statement, if any; (3) to contract with the issuer of the securities, or its agent, to receive, within specified time periods, sufficient copies of the issuer's final official statement to comply both with this rule and any rules of the Municipal Securities Rulemaking Board; (4) to provide, for a specified period of time, copies of the final official statement to any potential customer upon request; (5) before purchasing or selling municipal securities in connection with an offering, to reasonably determine that the issuer or other specified person has undertaken, in a written agreement or contract, for the benefit of holders of such municipal securities, to provide certain information about the issue or issuer on a continuing basis to a nationally recognized municipal securities information repository; and (6) to review the information the issuer of the municipal security has undertaken to provide prior to recommending a transaction in the municipal security.

These disclosure and recordkeeping requirements will ensure that investors have adequate access to official disclosure documents that contain details about the value and risks of particular municipal securities at the time of issuance while the existence of compulsory repositories will ensure that investors have continued access to terms and provisions relating to certain static features of those municipal securities. The provisions of Rule 15c2–12 regarding an issuer's continuing disclosure requirements assist investors by ensuring that information about an issue or issuer remains available after the issuance.

Municipal offerings of less than $1 million are exempt from the rule, as are offerings of municipal securities issued in large denominations that are sold to no more than 35 sophisticated investors,

have short-term maturities, or have short-term tender or put features. It is estimated that approximately 12,000 brokers, dealers, municipal securities dealers, issuers of municipal securities, and nationally recognized municipal securities information repositories will spend a total of 123,850 hours per year complying with Rule 15c2–12. Based on average cost per hour of $50, the total cost of compliance with Rule 15c2–12 is $6,192,500.

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 collected 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: September 2, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24040 Filed 9–10–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available are from: Securities and Exchange Commission, Office of Filings and, Information Services, Washington, D.C. 20549.

Revision

(Form 13F—SEC File No. 270–22—OMB Control No. 3235–0006

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 (the ''Commission'') has submitted for OMB approval a revision to Form 13F [17 CFR 249.325] under the Securities Exchange Act of 1934.

Form 13F is used by certain large investment managers to report quarterly with respect to certain securities over which they exercise investment discretion. Each report takes about 24.7 hours to fill out.

It is estimated that approximately 1, 804 institutional investment managers are subject to the rule. Each reporting managers files Form 13F quarterly. It is also estimated that, each quarter, following the expiration of grants of confidential treatment, 50 managers will re-submit electronically information previously submitted in paper. It is estimated that compliance with the form's requirements imposes a total annual average burden per manager of approximately 98.8 hours for submitting the report, and an additional annual burden of 4 hours (one additional burden hour per manager per quarter) for the 50 managers re-submitting information previously filed. The total annual burden for all managers is estimated at 178,435.2 hours. The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act and is based on the Commission's experience with similar filings and discussions with a few registrants.

Direct general comments to the OMB Desk Officer for the Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, and the Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: September 4, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24138 Filed 9–10–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22812; No. 811–7979]

Variable Account Six

September 5, 1997.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an Order under the Investment Company Act of 1940 (''1940 Act'').

APPLICANT: Variable Annuity Account Six.

RELEVANT 1940 ACT SECTION: Order requested under Section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on June 5, 1997 and amended on July 16, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving the Applicant with a copy of the request, in person or by mail. Hearing requests must be received by the SEC by 5:30 p.m., on September 30, 1997, and should be accompanied by proof of service on the Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Any person may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, C/O Anchor National Life Insurance Company, 1 SunAmerica Center, Los Angeles, California 90067–6022.

FOR FURTHER INFORMATION CONTACT: Joyce Merrick Pickholz, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission.

Applicant's Representations

1. On December 20, 1996, the Applicant, a separate account of Anchor National Life Insurance Company (''Anchor National''), filed a notification of registration as a unit investment trust on Form N–8A and a registration statement on Form N–4 (File No. 333–18361) to register under the Securities Act of 1933 interests in the Polaris II Variable Annuity Contracts (''Polaris Contracts'') to be issued by Anchor National through the Applicant. Applicant's registration statement never became effective and Applicant will request that it be withdrawn.

2. On March 20, 1997, the Board of Directors of Anchor National authorized

the use of an existing separate account of Anchor National to support the Polaris II Contracts. Anchor National filed a new a registration statement on Form N–4 (333–25473) to issue the Contracts through such existing separate account (File No. 811–03859), which was declared effective on May 14, 1997.

3. The Board of Directors of Anchor National authorized the dissolution of Applicant and, pursuant to Arizona Insurance Law, on June 3, 1997, Anchor National nullified the establishment of the Applicant.

4. Applicant has never made a public offering of its securities and does not propose to make a public offering of its securities.

5. Applicant has not held any assets since its establishment.

6. Accordingly, there were no securityholders of Applicant as of the date of the filing of this application; Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant; no distributors were made to securityholders of Applicant in connection with Applicant's dissolution and no assets have been retained by the Applicant.

7. No debts or liabilities of the Applicant remain outstanding.

8. Applicant is not a party to any litigation or administrative proceeding.

9. Applicant has not sold any securities of which it is the issuer and Applicant is not engaged in, and does not propose to engage in, any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24139 Filed 9–10–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39011; File No. SR–CBOE–97–26]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1 and 2 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to Listing and Trading of Regular and Long-Term Index Options and FLEX Options on the Dow Jones Industrial Average

September 3, 1997.

I. Introduction

On June 23, 1997, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 list and trade cash-settled, European-style stock index options on the Dow Jones Industrial Average (''DJIA'' or ''Index''), a broad-based, price-weighted index comprised of 30 large companies traded on the New York Stock Exchange (''NYSE''), as more fully described below. The CBOE is also proposing to trade long-term index options series (''LEAPS®'') in the Index as well as flexible exchange options (''FLEX Options'') on the Index.

The proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 38789 (June 30, 1997), 62 FR 36588 (July 8, 1997). No comment letters were received in response to the proposal. The Exchange subsequently filed Amendment Nos. 1 and 2 to the proposed rule change on August 12, 1997[3] and August 12, 1997,[4] respectively. This order approves the proposal, as amended, and solicits comments on Amendment Nos. 1 and 2.

II. Background and Description

CBOE hereby proposes to amend certain of its rules to provide for the listing and trading on the Exchange of options on the DJIA, a broad-based index designed by Dow Jones & Company, Inc. (''Dow Jones ™.[5]) Options on the DJIA ™ will be cash-settled and will have European-style exercise provisions. The Exchange also proposes to amend its rules to provide for the trading of FLEX Options on the DJIA. The DJIA is a price-weighted index of thirty of the largest, most liquid

[1] 15 U.S.C. 78s(b)(1).

[2] 17CFR 240.19b–4.

[3] Amendment No. 1 states that the Exchange will notify the Commission if any of the following occur: the market value of any component stock is less than $75 million and that component is not options eligible; less than 80% of the weight of the Index is represented by component stocks that are eligible for options trading; 10% or more of the weight of the index is represented by component stocks trading less than 20,000 shares per day; the largest component stock accounts for more than 15% of the weight of the index or the largest five components in the aggregate account for more than 50% of the weight of the Index; and if the Index decreases to less than 20 component stocks. In addition, Amendment No. 1 amends CBOE Rule 6.42, Interpretation and Policy .03, to provide that the minimum increment for bids and offers for options on the Dow Jones Industrial Average (''DJIA'') price at $3 or above shall be in eighths, unless the Exchange determines that the minimum increment should be reduced to sixteenths. Finally, CBOE has attached to Amendment No. 1 a letter from Dow Jones & Company, Inc. (''Dow Jones'') describing its procedures for replacing Index components and stating the conflicts-of-interest policy regarding its employees. *See* letter from Eileen Smith, Director, Product Development, CBOE, to John Ayanian, Special Counsel, Market Regulation, Commission, dated August 1, 1997 (''Amendment No. 1'').

[4] Amendment No. 2 states that with respect to trading DJIA options in increments of sixteenths of a dollar for options greater than $3, the CBOE Board of Directors will make the determination to allow trading in options on the DJIA in sixteenths. In addition, CBOE will notify members and member firms of the Board's decision to trade DJIA options in sixteenths at least one week prior to implementing the change. Also, CBOE will make a rule change under Section 19(b)(3)(A) of the Act prior to the time the change goes into effect and will make any additional filings necessary to conform its Rules to the fact that trading in DJIA options will take place in sixteenths. Amendment No. 2 also deletes the reference to LEAPS on the DJIA from Rule 24.9(b)(2), the reduced-value LEAPS section, to reflect the fact that there will be no reduced-value LEAPS trading on the DJIA. *See* letter from Eileen Smith, Director, Product Development, CBOE, to John Ayanian, Special Counsel, Market Regulation, Commission, dated August 8, 1997 (''Amendment No. 2'').

[5] ''Dow Jones,'' and ''Dow Jones Industrial Average™'' are trademarks of Dow Jones & Company, Inc. and have been licensed for use for certain purposes by CBOE. CBOE's options based on the Dow Jones Industrial Average are not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in such products.

stocks traded on organized U.S. securities markets.[6] Options initially will be based on one-one hundredth of the DJIA. CBOE's proposal also permits it to trade Index options on an underlying level of one-tenth of the value of the DJIA. CBOE indicates, however, that it does not intend to immediately trade such options contracts and states in its rule filing that these contracts may be introduced at a later date. CBOE stated that its purpose in getting approval to trade options based on either one-one-hundredth or one-tenth of the value of the DJIA is to offer contracts which appeal to both retail and institutional investors. If CBOE were to trade options based on both one-one-hundredth and one-tenth the value of the DJIA, each contract would have a different ticker symbol to eliminate any potential confusion.

Index Design. The DJIA has been designed to measure the performance of certain high capitalization stocks. The DJIA has been calculated by Dow Jones & Company since 1896 and, according to CBOE, is the most commonly watch index of the U.S. stock market. The DJIA is a price-weighted index with each stock affecting the Index in proportion to its market price. Each stock in the Index is currently trading on the NYSE and is eligible for options trading. All component stocks are ''reported securities,'' as that term is defined in Rule 11Aa3–1 of the Act.[7]

As of June 5, 1997, the 30 stocks in the Index ranged in capitalization from $5.9 billion to $200.0 billion. The total market capitalization of the Index was $1.7 trillion, the average capitalization of the firms in the Index was $57.0 billion and the median capitalization was $40.6 billion. The largest stock accounted for 6.30% of the total weight of the Index, while the smallest accounted for 1.46%. The top 5 components accounted for 26.18% of the weight of the Index. In addition, the average daily trading volume for the component stocks over the six-month period from December 1996 to May 1997 ranged from a high of approximately 8.2 million (Philip Morris) to a low of approximately 515,000 (Goodyear Tire and Rubber Co.).

Calculation. The DJIA is a price-weighted index. The level of the Index reflects the total price of the component stocks divided by the Index Divisor. The DJIA was first calculated on May 26, 1896 and the Index value was 40.94 on that date. The Index had a closing value of 7305.29 on June 5, 1997.[8] The daily calculation of the DJIA Index is computed by dividing the aggregate price of the companies in the Index by the Index Divisor. the Divisor keeps the Index comparable over time and is adjusted periodically to maintain the Index. The values of the Index will be calculated by Dow Jones & Company or its designee and will be disseminated at 15-second intervals during regular CBOE trading hours to market information vendors via the Options Price Reporting Authority (''OPRA'') or the Consolidated Tape Association (''CTA'').

Maintenance. Dow Jones is responsible for maintenance of the DJIA. Generally, Index components are replaced infrequently. The Managing Editor of *The Wall Street Journal* is responsible for component additions and deletions. The Managing Editor selects the stocks he believes best reflect the industrial sector of the economy and of the stock market; though various data might be gathered for reference, this is a subjective decision.[9] The stocks are not formally reviewed on any set schedule. Index maintenance includes monitoring and completing the adjustments for company additions and deletions, stock splits, stock dividends (other than an ordinary cash dividend), and stock price adjustments due to company restructuring or spinoffs. In almost all instances, a stock is removed immediately from the DJIA when the company files for protection under bankruptcy laws. If required, the Index Divisor will be adjusted to account for any of the above changes. These changes are announced in *The Wall Street Journal* and through the Dow Jones News Service generally three to five days prior to implementation. The DJIA has been composed of 30 stocks since 1928 and it is expected that it will remain at 30 stocks.

In addition, the Exchange will notify the Commission if any of the following occur: the market value of any component stock is less than $75 million and that component is not options eligible; less than 80% of the weight of the Index is represented by component stocks that are eligible for options trading; 10% or more of the weight of the Index is represented by component stocks trading less than 20,000 shares per day; the largest component stock accounts for more than 15% of the weight of the Index or the largest five components in the aggregate account for more than 50% of the weight of the Index; and the Index decreases to less than 20 component stocks.[10]

Index Option Trading. In addition to regular Index options, the Exchange may provide for the listing of long-term Index option series (''LEAPS®''). For LEAPS, the underlying value would be computed by using the same levels as proposed for the Index options; one-tenth or one-one-hundredth of the DJIA, as applicable.[11] The current and closing Index value of any such LEAP will, after such initial computation, be rounded to the nearest one-hundredth.

The Exchange also is proposing to list FLEX Index options on the DJIA. FLEX options give investors the ability, within specified limits, to designate certain of the terms of the options. In recent years, an over-the counter (''OTC'') market in customized options has developed which permits participants to designate the basic terms of the options, including size, term to expiration, exercise style, exercise price, and exercise settlement value, in order to meet their individual investment needs. Participants in this OTC market are typically institutional investors, who buy and sell options in large-size transactions through a relatively small number of securities dealers. To compete with this growing OTC market in customized options, the CBOE permits FLEX Index options trading in an exchange auction market environment, with The Options Clearing Corporation (''OCC'') as issuer and

[6] The DJIA currently consists of the following companies: Allied Signal, Incorporated; Aluminum Company of America; American Express Company; AT&T Corporation; Boeing Company; Caterpiller, Incorporated; Chevron Corporation; Coca Cola Company; Du Pont Ei de Nemours; Eastman Kodak Company; Exxon Corporation; General Electric Company; General Motors Corporation; Goodyear Tire and Rubber Company; Hewlett Packard Company; IBM International Business Machines; International Paper Company; Johnson and Johnson; JP Morgan and Company, Incorporated; McDonalds Corporation; Merck and Company, Incorporated; Minnesota Mining and Manufacturing; Philip Morris Companies, Incorporated; Procter and Gamble Company; Sears Roebuck and Company; Travelers Group, Incorporated; Union Carbide Corporation; United Technologies Corporation; Wal Mart Stores, Incorporated; and Walt Disney Company.

[7] *See* 17 CFR 240.11Aa3–1. A ''reported security'' is defined in paragraph (a)(4) of this rule as ''any listed equity security or Nasdaq security for which transaction reports are required to be made on a real-time basis pursuant to an effective transaction reporting plan.'' A ''transaction reporting plan'' is defined in paragraph (a)(2) of this rule as ''any plan for collecting, processing, making available or disseminating transaction reports with respect to transactions in reported securities filed with the Commission pursuant to, and meeting the requirements of, this Section.''

[8] The Commission notes that an option on the DJIA, valued at one-one-hundredth of the value of the DJIA, would have a value approximately equal to 73.05, assuming an Index value of 7305.29.

[9] *See* Amendment No. 1 *supra* note 3.

[10] *See* Amendment No. 1, *supra* note 3.

[11] The Exchange is not proposing to trade reduced value LEAPS on the DJIA.

guarantor.[12] The Exchange's proposal will allow FLEX option market participants to designate the following contract terms for FLEX options on the DJIA: (1) exercise price; (2) exercise style (*i.e.*, American,[13] European,[14] or capped [15]); (3) expiration date; [16] (4) option type (put, call, or spread); and (5) form of settlement (A.M., P.M. or average).

Strike prices for options based on one-one-hundredth of the Index will be set to bracket the Index in ½ point increments or greater. CBOE notes that these ½ point increments correspond to 5-point increments in other broad-based index options, such as the Standard & Poor's 100 (''S&P 100'') Index and Standard & Poor's 500 (''S&P 500'') Index, because the size of the contract will be approximately one-tenth of the size of the option contracts on those other broad-based indexes. Strike prices for options based on one-tenth of the Index will be set in 5-point increments. The trading hours for options on the Index will be from 8:30 a.m. to 3:15 p.m. Chicago time. Options based on the DJIA will be listed in up to three near-term months plus up to three months from the March quarterly cycle.

The Exchange is also proposing to add an interpretation to Rule 6.42 to establish that the minimum increment for bids and offers in the DJIA priced at or above $3 shall be in eighths of a dollar, unless the Exchange determines that the minimum increment for these options should be reduced to sixteenths of a dollar.[17] Rule 6.42 currently requires bids and offers to be expressed in eights of $1, except for those series trading below $3. Under CBOE's proposal, the Board of Directors will have the authority to allow the trading of DJIA options in sixteenths of a dollar, and CBOE will notify its members and member firms at least one week prior to implementing such a change. In addition, CBOE will make a rule change filing under Section 19(b)(3)(A) of the Act prior to the time the change goes into effect, and will make any additional filings necessary to conform its Rules to the fact that trading in DJIA options will be changed from increments of eighths to sixteenths of a dollar.[18]

Exercise and Settlement. The proposed options on the Index will expire on the Saturday following the third Friday of the expiration month. Trading in the expiring contract month will normally cease at 3:15 p.m. (Chicago time) on the business day preceding the last day of trading in the component securities of the Index (ordinarily the Thursday before expiration Saturday, unless there is an intervening holiday). The exercise settlement value of the Index at option expiration will be calculated by Dow Jones [19] based on the opening prices of the component securities on the business day prior to expiration. If a stock fails to open for trading, the last available price on the stock will be used in the calculation of the Index, as is done for currently listed indexes.[20] When the last trading day is moved because of Exchange holidays (such as when CBOE is closed on the Friday before expiration), the last trading day for expiring options will be Wednesday and the exercise settlement value of Index options at expiration will be determined at the opening of regular Thursday trading.

Surveillance. The Exchange will use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in Index options and Index LEAPS. In addition, the Exchange will use the same surveillance procedures currently utilized for each of the Exchange's other FLEX index options to monitor trading in FLEX options on the DJIA. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group (''ISG'') Agreement, dated July 14, 1983, as amended on January 23, 1990, will be applicable to the trading of options on the Index.[21]

Dow Jones & Company also has a policy in place to prevent the potential misuse of material, non-public information by members of the Wall Street Journal managerial and editorial staff in connection with the maintenance of the Index. Specifically, the managerial and editorial staff of the Wall Street Journal are subject to the Dow Jones & Company conflicts-of-interest policy which prohibits, upon penalty of dismissal, the use or dissemination of any vital information prior to publication.[22]

Position Limits. The Exchange proposes to establish position limits for options on the DJIA at 1,000,000 contracts on either side of the market for option contracts that are based on one-one hundredth of the value of the DJIA and 100,000 for contracts based on one-tenth of the value of the DJIA. Positions in options based on either level of the DJIA will be aggregated for purposes of determining compliance with position limits; positions in options based on one-tenth of the value of the DJIA must be multiplied by a factor of 10, then aggregated with options based on one-one hundredth of the value of the DJIA. The broad-based index hedge exemption will be 2,500,000 contracts for options based on one-one hundredth of the DJIA and 250,000 contracts for options based on one-tenth of the DJIA. These limits are roughly equivalent, in dollar terms, to the limits applicable to options on the S&P 500 Index, a broad-based A.M.-settled index option.

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[12] The Commission has previously designated FLEX index options as standardized options for the purposes of the options disclosure framework established under Rule 9b-1 of the Act. *See* Securities Exchange Act Release No. 31910 (February 23, 1993), 58 FR 12056 (March 2, 1993). In addition, the Commission has approved the listing by CBOE of FLEX Index options on the S&P 100 (''OEX''), S&P 500 (''SPX''), Nasdaq 100, and Russell 2000 Indexes. *See* Securities Exchange Act Release Nos. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (approval of FLEX options on the SPX and OEX indexes); 34052 (May 12, 1994), 59 FR 25972 (May 18, 1994) (approval of FLEX options on the Nasdaq 100 index); and 32694 (July 29, 1993), 58 FR 41814 (August 5, 1993) (approval of FLEX options on the Russell 2000 index).

[13] An American-style option is one that may be exercised at any time on or before the expiration date.

[14] A European-style option is one that may be exercised only during a limited period of time prior to expiration of the option.

[15] A capped-style index option is one that is automatically exercised prior to expiration when the cap index value is less than or equal to the index value for calls or when the cap index value is greater than or equal to the index value for puts.

[16] The expiration date of a FLEX option may not fall on a day that is on, or within two business days, of the expiration date of a Non-FLEX option.

[17] *See* Amendment No. 1, *supra* note 3. The Commission notes that the original proposal was to have a minimum trading increment for all bids and offers in the DJIA, regardless of price, in sixteenths of a dollar.

[18] *See* Amendment No. 2, *supra* note 4.

[19] Phone conversation between Eileen Smith, Director, Research and Product Development, CBOE, and Heather Seidel, Attorney, Market Regulation, Commission, on June 30, 1997.

[20] The Commission notes that pursuant to Article XVII, Section 4 of the OCC by-laws, OCC is empowered to fix an exercise settlement amount in the event it determines a current index value is unreported or otherwise unavailable. Further, OCC has the authority to fix an exercise settlement amount whenever the primary market for the securities representing a substantial part of the value of an underlying index is not open for trading at the time when the current index value (*i.e.*, the value used for exercise settlement purposes) ordinarily would be determined. *See* Securities and Exchange Act Release No. 37315 (June 17, 1996), 61 FR 42671 (order approving SR–OCC–95–19).

[21] The ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, dated July 14, 1983, amended January 29, 1990. The members of the ISG are the following: the American Stock Exchange, Inc.; the Boston Stock Exchange, Inc.; the CBOE; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc.; the NYSE; the Pacific Stock Exchange Inc.; and the Philadelphia Stock Exchange, Inc. The major stock index futures exchanges (including the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[22] *See* Amendment No. 1, *supra* note 3.

FLEX Option Trading. The Exchange is proposing changes to its FLEX rules to provide for the trading of FLEX options on the DJIA. The proposed changes include an amendment to the FLEX Index option position limits. The change would apply the same limits to positions in FLEX options on the DJIA that exist for positions in other broad-based indexes in the FLEX program; the limits are 200,000 contracts on the same side of the market. For purposes of determining compliance with these limits, every ten option contracts based on the one-one hundredth of the DJIA will be counted as one contract.

Exchange Rules Applicable. As modified herein, the Rules in Chapter XXIV will be applicable to options on the DJIA. Broad-based margin rules will apply to the Index. The Exchange is proposing to amend Chapter XXIV, Rule 24.14, Disclaimers, to identify Dow Jones and Company, Inc. as the index reporting authority for the DJIA and other Dow Jones products.

Capacity. CBOE believes it has the necessary systems capacity to support new series that would result from the introduction of options on the DJIA. CBOE has also been informed that OPRA also has the capacity to support the new series.[23] In making this determination, the Exchange notes that OPRA has made, and is in the process of making, significant enhancements to its capacity. These enhancements include: upgrades to computers; additional lines to firms, vendors and exchanges; and the introduction of new technology incorporating high speed data transmission. All of these enhancements will be in place prior to the scheduled introduction of these options contracts and will give more than sufficient capacity to deal with these and other new products.

III. Discussion

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5).[24] Specifically, the Commission finds that the trading of options on the DJIA, including FLEX options[25] and full-value LEAPS, will serve to promote the public interest as well as to help remove impediments to a free and open securities market. The Commission also believes that the trading of options on the Index will allow investors holding positions in some or all of the securities underlying the Index to hedge the risks associated with their portfolios. Accordingly, the Commission believes that DJIA Index options will provide investors with an important trading and hedging mechanism.[26] By broadening the hedging and investment opportunities of investors, the Commission believes that the trading of options on the DJIA will serve to protect investors, promote the public interest, and contribute to the maintenance of fair and orderly markets.[27]

Nevertheless, the trading of options, including FLEX Options and full-value LEAPS, on the DJIA raises several issues related to the design and structure of the Index, customer protection, surveillance, and market impact. The Commission believes, however, for the reasons discussed below, that the CBOE has adequately addressed these issues.

Index Design and Structure. The Commission believes that it is appropriate for the Exchange to designate the DJIA as a broad-based index for purposes of index option trading. Specifically, the Commission believes that the Index is broad-based because it reflects a substantial segment of the U.S. equities market. First, the Index represents various diverse segments of the U.S. securities markets, with 19 different industries represented by the Index's components, such as chemicals and allied products, motion picture production, eating and drinking places, transportation equipment, and industrial/commercial machinery and computer equipment. Second, the Index consists of 30 actively-traded stocks that are currently all options eligible.[28] Third, the Index, which is designated to track the overall U.S. Market, is composed of highly capitalized, actively traded securities. Specifically, the total capitalization of the Index as of June 5, 1997, was approximately $1.7 trillion, representing approximately one-fifth of the U.S. equity market. Market capitalization of the individual stocks ranges from $5.9 billion to $200 billion, with an average capitalization of $57 billion. As of the same date, the six-month average daily trading volume for each component in the Index ranged from a low of approximately 515,000 to a high of 8.2 million. Fourth, no stock or group of stocks dominates the Index. Specifically, no single stock accounted for more than 6.30% of the total price weight of the Index, and the five highest weighted securities accounted for 26.18% of the price weight of the Index. Accordingly, the Commission believes that it is appropriate for the Exchange to classify the Index as broad-based and apply its rules governing broad-based index options to trading in the Index options.

The Commission also believes that the general broad diversification, capitalization, and highly liquid markets of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, as discussed above, the Index represents a broad cross-section of domestically traded high capitalization stocks, with no single industry group or stock dominating the Index.[29] Second, all of the stocks that comprise the Index are actively traded. Third, CBOE has represented that it will notify the staff of the Commission when: (1) less than 80% of the weight of the Index is options eligible; (2) 10% or more of the weight of the Index is represented by stocks trading less than 20,000 shares per day; (3) the market capitalization of any component falls below $75 million at a time the component is not options eligible; (4) the largest component of the Index is greater than 15% of the weight of the Index, or the top five components are greater than 50% of the weight of the Index; or (5) if the Index decreases to less than 20 component stocks.[30] In the

[23] *See* Exhibit D.

[24] 15 U.S.C. 78f(b)(5).

[25] *See* discussion *infra* regarding FLEX options on the DJIA.

[26] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a product that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed Index options will provide investors with a hedging vehicle that should reflect the overall market of stocks representing a substantial segment of the U.S. securities market.

[27] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[28] *See* Notice Release. The Exchange's option listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) the public float must be at least 7 million shares; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million shares over the preceding twelve months; and (4) the market price per share must have been at least $7.50 for a majority of business days during the preceding three calendar months. *See* Interpretation .01 to Exchange Rule 5.3.

[29] The Commission believes that, even though the Index is price weighted, the high capitalization and active trading of the component stocks minimize any manipulative concerns that may arise due to the price weighting.

[30] *See* Amendment No. 1, *supra* note 3. The Commission recognizes that the capitalization and daily trading volume of the Index's components currently far exceed these standards. Nonetheless,

Continued

event the Index fails to satisfy any of the criteria, CBOE will notify the Commission to determine the appropriate regulatory response, including but not limited to, prohibiting opening transactions, removal of the securities from the Index, or discontinuing the listing of new series of Index options.[31]

Fifth, the Exchange has proposed reasonable position and exercise limits for the Index options that will serve to minimize potential manipulation and other market impact concerns. The position limits, at 1,000,000 contracts on either side of the market for options valued at one-one-hundredth of the DJIA, are roughly equivalent in dollar terms to the limits applicable to options on other similar indices.[32] Accordingly, the Commission believes these factors minimize the potential for manipulation because it is unlikely that attempted manipulations of the prices of the Index components would affect significantly the Index's value. Moreover, the surveillance procedures discussed below should detect as well as deter potential manipulation and other trading abuses.

Customer Protection. The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as options on the DJIA (including full-value FLEX Options and LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized, exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) the special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options, including LEAPS, will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in options on the DJIA.

Surveillance. The Commission generally believes that a surveillance-sharing agreement between an exchange proposing to list a stock index derivative and the exchange(s) trading the stocks underlying the derivative product is an important measure for the surveillance of the derivatives and underlying securities markets. Such agreements ensure the availability of information necessary to detect and to deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[33] In this regard, the market upon which all of the Index component stocks trade, the NYSE, is a member of the ISG.[34] Similarly, the options on the individual component securities trade on markets which are ISG members.

In addition, the Exchange will apply the same surveillance procedures as those used for existing broad-based index option trading on the CBOE. As noted above, Dow Jones & Company also has a policy in place to prevent the potential misuse of material, non-public information by members of the Wall Street Journal managerial and editorial staff in connection with the maintenance of the Index.[35]

Market-Impact. The Commission believes that the listing and trading of options, including full-value LEAPS, on the DJIA will not adversely impact the underlying securities markets.[36] First, as described above, the Index is broad-based and comprised of 30 stocks, with no one stock dominating the Index. Second, as noted above, the stocks contained in the Index have large capitalizations and are actively-traded. Specifically, as noted above, the average daily trading volume for the component stocks over the six month period from December 1996 to May 1997 ranged from a high of 8.2 million to a low of 515,000.[37] Third, the 1,000,000 contract position and exercise limits for contracts based on one-one-hundredth of the value of the DJIA will serve to minimize potential manipulation and market impact concerns. Fourth, currently all stocks comprising the Index are options eligible and CBOE will notify the Commission if less than 80% of the Index continues to be eligible for options trading. Fifth, the risk to investors of contra-party non-performance will be minimized because the Index options and LEAPS will be issued and guaranteed by the OCC, similar to all other standardized options traded in the United States.

Lastly, the Commission believes that settling expiring Index options based on the opening prices of component securities is reasonable and consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than on closing prices may help reduce adverse effects on markets for stocks underlying options on the Index.[38]

FLEX Options. The Commission also believes that the proposal to list DJIA FLEX options should encourage fair competition among brokers and dealers and exchange markets, by allowing the Exchange to compete with the growing OTC market in customized index options.

The Commission believes the Exchange's proposal reasonably addresses its desire to meet the demands of sophisticated portfolio managers and other institutional investors who are increasingly using the OTC market in order to satisfy their hedging needs. Additionally, the Commission believes that the Exchange's proposal will help promote the maintenance of a fair and orderly market, consistent with Sections 6(b)(5) and 11(a) of the Act, because the purpose of the proposal to list DJIA FLEX options is to extend the benefits of a listed, exchange market to index options that are more flexible than current listed options and that currently trade OTC.[39] The benefits of the Exchange's options market include, but are not limited to, a centralized market center, an auction market with posted transparent market quotations and transaction reporting, parameters and procedures for clearance and settlement,

the is similar to minimum maintenance criteria utilized in maintaining a variety of index products to ensure an adequate level of liquidity in the component stocks.

[31] In addition, if the composition of the Index's underlying securities was to substantially change, the Commission's decision regarding the appropriateness of the Index's current maintenance standards would be reevaluated, and whether additional approval under Section 19(b) of the Act is necessary to continue to trade the product.

[32] The Commission notes that although the actual number of contracts is much larger than that of other indexes, the dollar value position and exercise limits are roughly equivalent to similar broad-based indexes, such as the S&P 500 and 100 index options.

[33] *See, e.g.,* Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992) (CBOE–91–51) (order approving the listing of options on the CBOE Biotech Index).

[34] *See supra* note 14.

[35] *See* Amendment No. 1, *supra* note 3.

[36] In addition, the CBOE has represented that it and OPRA have the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and FLEX Options.

[37] Should 10% or more of the weight of the Index be composed of stocks trading at less than 20,000 per day, CBOE will notify Commission staff. *See* Amendment No. 1, *supra* note 3.

[38] *See, e.g.,* Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992) (CBOE–92–09) (order approving position limits for European-style Standard & Poor's 500 Stock Index options settled based on the opening prices of component securities).

[39] As noted above, FLEX options allow investors to customize certain terms, including size, term to expiration, exercise style, exercise price, and exercise settlement value.

and the guarantee of OCC for all contracts traded on the Exchange.

The Commission notes that FLEX index options on the DJIA can be constructed with expiration exercise settlement based on the closing values of the component securities, which could potentially result in adverse effects for the markets in these securities.[40] Although the Commission continues to believe that basing the settlement of index products on opening as opposed to closing prices on Expiration Friday helps alleviate stock market volatility,[41] these market impact concerns are reduced in the case of FLEX options on the DJIA because expiration of these options will not correspond to the normal expiration of any Non FLEX options (including options overlying the DJIA), stock index futures, and options on stock index futures. In particular, FLEX options, will never expire on any ''Expiration Friday,'' because under CBOE rules the expiration date of a FLEX option may not occur on a day that is on, or within, two business days of the expiration date of a Non-FLEX option. The Commission believes that this should reduce the possibility that the exercise of FLEX options at expiration will cause any additional pressure on the market for underlying securities at the same time Non-FLEX options expire.

Nevertheless, because the position limits for FLEX index options on the DJIA are much higher than those currently proposed for the corresponding non-FLEX Index options and open interest in one or more FLEX options on the DJIA might have an impact on the securities markets for the securities underlying FLEX options. The Commission expects the Exchange to monitor the actual effect of FLEX options on the DJIA once trading commences and take prompt action (including timely communication with the self-regulatory organizations responsible for oversight of trading in the underlying securities) should any unusual market effects develop.

Accelerated Approval of Amendment Nos. 1 and 2. The Commission finds good cause to approve Amendment Nos. 1 and 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, by stating that CBOE will notify the Commission in certain circumstances regarding the weighting, capitalization, and number of DJIA component stocks, specified above, and by describing Dow Jones procedures for replacing component stocks, Amendment No. 1 will help to ensure that the Commission receives adequate notice of material changes in component stocks of the DJIA.

Amendment Nos. 1 and 2 also amend Interpretation and Policy .03 under CBOE Rule 6.42 to specify that the DJIA options priced at $3 or above will be traded in eighths of a dollar, unless the CBOE Board of Directors determines that the minimum increment shall be sixteenths of a dollar; CBOE will give at least one week notice to its members and member firms prior to implementing such a change and will file any proposed rule changes necessary to conform its rules to such a change. This portion of Amendment Nos. 1 and 2 clarifies the minimum trading increment for DJIA options and the procedure by which CBOE, through its Board, can modify that increment. It also ensures that investors will have adequate notice of any changes in the trading increments as well as that proposed rule change(s) under Section 19(b) of the Act will be filed with the Commission as appropriate. The Commission further believes that these proposed amendments raise no new regulatory issues. Finally, the Commission notes that no comments were received on the original CBOE proposal, which was subject to the full 21-day notice and comment period. Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment Nos. 1 and 2 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendments Nos. 1 and 2 to the rule proposal. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–97–26 and should be submitted by October 2, 1997.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[42] that the proposed rule change (SR–CBOE–97–26) including Amendment Nos. 1 and 2, is approved. In addition, for purposes of trading FLEX Options on the Index, the Commission also finds, pursuant to Rule 9b–1 under the Act, that such options are standardized options for purposes of the options disclosure framework established under Rule 9b–1.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[43]

Margaret H. McFarland,

Deputy Secretary.

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[40] *See, e.g.,* Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

[41] *Id.*

[42] 15 U.S.C. 78s(b)(2).

[43] 17 CFR 200.30–3(a) (12) and (51).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39013; File No. SR–CBOE–97–28]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to Proposed Rule Change Relating to Listing of Regular Options, Full and Reduced Value Long-Term Index Options, and FLEX Options on the Dow Jones Utility Average

September 3, 1997.

I. Introduction

On June 23, 1997, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 list regular options, full and reduced value long-term index options (''LEAPS''), and flexible exchange options (''FLEX'') on the Dow Jones Utility Average.

The proposed rule change was published for comment in the **Federal Register** on July 8, 1997.[3] No comments were received on the proposal. On August 12, 1997, the CBOE submitted

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 38790 (June 30, 1997), 62 FR 36592 (July 8, 1997).

Amendment No. 1 to the proposed rule change.[4] This order approves the proposal, as amended, and solicits comment on Amendment No. 1.

II. Description of the Proposal

A. General

The CBOE proposes to list and trade options on the Dow Jones Utility Average (''DJUA'' or ''Index''), an index developed by Dow Jones & Company. The options on the Index will be based on the full value of the Index. The CBOE also proposes to list LEAPS on a full value index level (''full value LEAPS'') and reduced-value LEAPS on the Index.[5] For reduced-value LEAPS, the underlying value would be computed at one-tenth of the Index level. Reduced or full value LEAPS will trade independent of and in addition to regular Index options traded on the CBOE. The CBOE will also provide for the trading of FLEX Options on the Index.[6]

B. Composition of the Index

The DJUA was first calculated on January 2, 1929, and is based on 15 of the largest, most liquid U.S. utility industry stocks. All fifteen of the stocks in the Index currently trade on the New York Stock Exchange, Inc. (''NYSE'').[7] All of the component stocks are ''reported securities'' as that term is defined in Rule 11Aa3–1 of the Act.[8] The Index is price weighted and will be calculated on a real-time basis using last sale prices.

As of the close of trading on June 5, 1997, the Index had a closing value of 221.11.[9] Also, as of the close of trading on June 5, 1997, the market capitalizations of the individual securities in the Index ranged from a high of $14.1 billion (Southern Co.) to a low of $2.1 billion (Noram Energy Corp.), with a mean and median of $7.2 billion and $6.9 billion, respectively. The total market capitalization of the securities in the index was $107.5 billion. The total number of shares outstanding for the issuers in the index range from a high of 674 million shares (Southern Co.) to a low of $5 million shares (Columbia Gas System, Inc.). The price per share of the securities in the Index ranged from a high of $65.75 (Columbia Gas System, Inc.) to a low of $15 (Noram Energy Corp.) with a six-month mean and median, for the period ending June 5, 1997 of $33.267 and $29, respectively. In addition, the average daily trading volume for securities in the Index ranged from a high of 1,261,386 shares (PG and E Corp.) to a low of 203,472 shares (Columbia Gas System, Inc.), with the mean and median 670,171 and 733,286, respectively. Lastly, no one security accounted for more than 13.18 percent of the Index's total value (Columbia Gas System, Inc.), and the percentage weighting of the five largest issues in the Index accounted for 49.81 percent of the Index's value. The percentage weighting of the lowest weighted component was 3.01 percent (Noram Energy Corp.) and the percentage weighting of the five smallest issues accounted for 20.07 percent of the Index's value. Finally, all of the component stocks in the Index are options eligible and currently the subject of trading in equity options.

C. Maintenance

Dow Jones & Company is responsible for maintenance of the DJUA. Dow Jones & Company may change the composition of the Index at any time to reflect the conditions in the utilities industry. The Managing Editor of the Wall Street Journal is responsible for component additions and deletions. The components of the Index are not formally reviewed on any set schedule. The Managing Editor of the Wall Street Journal selects stocks that he believes best reflect the utility sector of the economy and of the stock market. The Managing Editor usually consults one to three senior editors of The Wall Street Journal about prospective changes. Though various data might be gathered for reference, this is a subjective decision. Index maintenance includes monitoring and completing the adjustments for company additions and deletions, stock splits, stock dividends (other than an ordinary cash dividend), and stock price adjustments due to company restructuring or spinoffs. In almost all instances, a stock is removed immediately from the DJUA when the company files for protection under bankruptcy laws. If required, the Index Divisor will be adjusted to account for any of the above changes. Changes to the Index are announced in the Wall Street Journal and through the Dow Jones New Service generally two to three trading days prior to implementation. Generally, Index components are replaced infrequently. The Index is currently composed of 15 stocks and it is expected that it will remain at 15.

The Exchange has represented that it will notify the Commission in the event that the following maintenance criteria are not met: (1) the market value of any component stock is less than $75 million except that the lowest weighted components comprising not more than 10% of the weight of the index cannot have market values less than $50 million; (2) less than 90% of the weight of the Index is represented by component stocks that are options eligible or less than 80% of the number of components are options eligible; (3) if any component stock trades less than 500,000 shares per month in each of the last 6 months, except that for the lowest weighted components comprising not more than 10% of the weight of the index, volume must be at least 400,000 shares in each of the last 6 months; (4) the largest component stock accounts for more than 25% of the weight of the index or the largest 5 component stocks in the aggregate account for more than 60% of the weight of the index and (5) the number of stocks in the index is increased or decreased by more than ⅓.

D. Applicability of CBOE Rules Regarding Index Options

As modified herein, the rules in Chapter XXIV of the CBOE Rules will be applicable to DJUA Index options, full-value and reduced-value Index LEAPS and FLEX options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for narrow-based index options.

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[4] In Amendment No. 1, the CBOE represents that it will notify the Commission if the Index fails to meet maintenance standards identical to those in CBOE Rule 24.2. In addition, Amendment No. 1 states that the position limits for FLEX options will be set at 4 times the limits applicable for industry index options set forth in Rule 24.4(A)(a)(i). Finally, Amendment No. 1, in an attached letter from Dow Jones, describes their procedures for replacing Index components and outlines their conflict of interest policy. *See* letter from Eileen Smith, Director, Product Development, CBOE to John Ayanian, Special Counsel, Division of Market Regulation, SEC dated August 1, 1997 (Amendment No. 1).

[5] ''LEAPS'' is an acronym for Long-Term Equity Anticipation Securities. LEAPS are long-term index option series that expire from 12 to 36 months from their date of issuance. *See* CBOE Rule 24.9(b)(1).

[6] FLEX options are standardized options that provide investors with the ability to customize basic option features, including size, expiration date, exercise style, and exercise price.

[7] The DJUA currently consists of the following companies: American Electric Power Co., Inc., Columbia Gas System, Inc., Consolidated Natural Gas Co., Duke Power Co., Consolidated Edison Co. of New York, Edison International Inc., Enron Corp., Noram Energy Corp., PG and E Corp., Peco Energy Co., Public Service Enterprise Group, Inc., Southern Co., Texas Utilities Co., Unicom Corp. and Williams Companies, Inc.

[8] *See* 17 CFR 240.11Aa3–1. A ''reported security'' is defined in paragraph (a)(4) of this Rule as ''any listed equity security or NASDAQ security for which transaction reports are required to be made on a real-time basis pursuant to an effective transaction reporting plan.''

[9] The DJUA was first calculated on January 2, 1929 and the index value was 85.64 on that date.

E. Calculation of the Index

The DJUA is a price-weighted index. The level of the Index reflects the total price of the component stocks divided by the Index Divisor. The daily calculation of the DJUA is computed by dividing the aggregate price of the companies in the Index by the Index Divisor. The Divisor keeps the Index comparable over time and is adjusted periodically to maintain the Index. The values of the Index will be calculated continuously by Dow Jones & Company or its designee and will be disseminated at 15-second intervals during regular CBOE trading hours to market information vendors via the Options Price Reporting Authority (''OPRA'') or the Consolidated Tape Association.

F. Contract Specifications

The proposed options will be cash-settled, European-style options.[10] The trading hours for options on the Index will be from 8:30 a.m. to 3:02 p.m. Chicago time. Strike prices will be set to bracket the index in 2½ point increments or greater. In addition, pursuant to CBOE rule 24.9, there may be up to six expiration months outstanding at any given time. Specifically, there may be up to three expiration months from the March, June, September, and December cycle, plus up to three additional near-term months so that the two nearest-term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAPS series that expire from 12 to 36 months from the date of issuance.

G. Settlement of Index Options

The proposed options on the Index will expire on the Saturday following the third Friday of the expiration month. Trading in the expiring contract month will normally cease at 3:02 p.m. (Chicago time) on the business day preceding the last day of trading in the component securities of the Index (ordinarily the Thursday before expiration Saturday, unless there is an intervening holiday). The exercise settlement value of the Index at option expiration will be calculated by Dow Jones based on the opening prices of the component securities on the business day prior to expiration. If a stock fails to open for trading, the last available price on the stock will be used in the calculation of the index, as is done for currently listed indexes.[11] When the last trading day is moved because of Exchange holidays (such as when CBOE is closed on the Friday before expiration), the last trading day for expiring options will be Wednesday and the exercise settlement value of Index options at expiration will be determined at the opening of regular Thursday trading.

H. Listing of Long-Term Options on the Full-Value or Reduced Value DJUA Index

The Exchange's proposal provides that the Exchange may list longer term option series having up to thirty-six months to expiration on the Index's full value. In lieu of such long-term options on a full value Index level, the Exchange may instead list long-term, reduced value put and call options based on one-tenth (1/10th) the Index's full value. The current and closing index value of any such reduced-value LEAP will, after initial computation, be rounded to the nearest one-hundredth. In either event, the interval between expiration months for either a full value or reduced long-term option will not be less than six months. The trading of any longer term options would be subject to the same rules which govern the trading of all Exchange's index options, including sales practice rules, margin requirements and floor trading procedures and all options will have European-style exercise.

I. FLEX Option Trading

The Exchange proposes to list FLEX Index options on the DJIA. FLEX options give investors the ability, within specified limits, to designate certain of the terms of the options. In recent years, an over-the-counter (''OTC'') market in customized options has developed which permits participants to designate the basic terms of the options, including size, term to expiration, exercise style, exercise price, and exercise settlement value, in order to meet their individual investment needs. Participants in this OTC market are typically institutional investors, who buy and sell options in large-size transactions through a relatively small number of securities dealers. To compete with this growing OTC market in customized options, the CBOE permits FLEX index options trading in an exchange auction market environment, with OCC as issuer and guarantor.[12] The Exchange's proposal will allow FLEX option market participants to designate the following contract terms for FLEX options on the DJUA: (1) Exercise price; (2) exercise style (*i.e.*, American,[13] European,[14] or capped [15]); (3) expiration date; [16] (4) option type (put, call, or spread); and (5) form of settlement (A.M., P.M. or average).

The Exchange is proposing changes to its FLEX rules to provide for the trading of FLEX options on the DJUA. The proposed changes include an amendment to the FLEX Option position limits. Position limits would be as established by the Exchange but in no event would be greater than four times the limits for standard options on the DJUA.[17]

J. Position and Exercise Limits, Margin Requirements, and Trading Halts

The proposal provides that Exchange rules that are applicable to the trading of narrow-based index options will apply to the trading of options on the Index. Specifically, Exchange rules governing margin requirements, [18]

[10] A European-style option can be exercised only during a specified period before the option expires.

[11] The Commission notes that pursuant to Article XVII, Section 4 of the Options Clearing Corporation's (''OCC'') by-laws, OCC is empowered to fix an exercise settlement amount in the event it determines a current index value is unreported or otherwise unavailable. Further, OCC has the authority to fix an exercise settlement amount whenever the primary market for the securities representing a substantial part of the value of an underlying index is not open for trading at the time when the current index value (*i.e.*, the value used for exercise settlement purposes) ordinarily would be determined. *See* Securities Exchange Act Release No. 37315 (June 17, 1996), 61 FR 42671 (order approving SR–OCC–95–19).

[12] The Commission has previously designated FLEX index options as standardized options for the purposes of the options disclosure framework established under Rule 9b–1 of the Act. *See* Securities Exchange Act Release No. 31910 (February 23, 1993), 58 FR 12056 (March 2, 1993). In addition, the Commission has approved the listing by CBOE of FLEX Index options on the S&P 100 (''OEX''), S&P 500 (''SPX''), Nasdaq 100, and Russell 2000 Indexes. *See* Securities Exchange Act Release Nos. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (approval of FLEX options on the SPX and OEX indexes); 34052 (May 12, 1994), 59 FR 25972 (May 18, 1994) (approval of FLEX options on the Nasdaq 100 index); and 32694 (July 29, 1993), 58 FR 41814 (August 5, 1993) (approval of FLEX options on the Russell 2000 index).

[13] An American-style option is one that may be exercised at any time on or before the expiration date.

[14] A European-style option is one that may be exercised only during a limited period of time prior to expiration of the option.

[15] A capped-style index option is one that is automatically exercised prior to expiration when the cap index value is less than or equal to the index value for calls or when the cap index value is greater than or equal to the index value for puts.

[16] The expiration date of a FLEX option may not fall on a day that is on, or within two business days, of the expiration date of a Non-FLEX option.

[17] *See* Amendment No. 1, *supra* note 4.

[18] Pursuant to CBOE Rule 24.11, the margin requirements of the Index options will be: (1) for short positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long term options positions, 100% of the options premium paid.

position and exercise limits,[19] and trading halt procedures[20] that are applicable to trading of narrow-based index options will apply to options traded on the Index. Position limits on reduced value long-term DJUA Index options will be equivalent to the position limits for regular (full value) Index options and would be aggregated with such options (for example, if the position limit for the full value options is 15,000 contracts on the same side of the market, then the position limit for the reduced value options will be 150,000 contracts on the same side of the market).

K. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Index. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group (''ISG'') Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[21]

Dow Jones & Company also has a policy in place to prevent the potential misuse of material, non-public information by members of the Wall Street Journal managerial and editorial staff in connection with the maintenance of the Index. Specifically, the managerial and editorial staff of the Wall Street Journal are subject to the Dow Jones & Company conflicts-of-interest policy which prohibits, upon penalty of dismissal, the use or dissemination of any vital information prior to publication.[22]

III. Findingcard Conclusions

The Commission find 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,[23] and, in particular, with the requirements of Section 6(b)(5).[24] Specifically, the Commission finds that the trading of options on the Index, including full-value and reduced value Index LEAPS and FLEX options, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with an additional means to hedge exposure to market risk associated with stocks in the utility sector.[25] The trading of options in the DJUA, however, raises several issues relating to index design, investor protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the CBOE has adequately addressed the issues.

A. Index Design and Structure

The DJUA is comprised of only fifteen stocks, all of which are within one industry segment, the utility industry segment. Accordingly, the Commission believes that it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options including for margin and position and exercise limit purposes.[26]

The Commission also believes that the liquid markets, large capitalizations, and relative weightings of the index's component stocks significantly minimize the potential for manipulation of the Index. First, as of June 5, 1997, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median daily trading volume 670,171 and 733,268 shares, respectively.[27] Second, the market capitalizations of the stocks in the Index are very large, ranging from $2.1 billion to $14.1 billion, with the mean and median being $7.2 billion and $6.9 billion, respectively. Third, although the Index is only comprised of fifteen component stocks, no one stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 13.18% of the Index total value and the percentage weighting of the five largest issues in the Index accounts for 49.81% of the Index's value. Fourth, all of the stocks in the Index are currently the subject of equity options trading.[28] Fifth, the Exchange has represented that it will notify the Commission in the event that the following maintenance criteria are not met: (1) the market value of any component stock is less than $75 million except that the lowest weighted components comprising not more than 10% of the weight of the index cannot have market values less than $50 million; (2) less than 90% of the weight of the Index is represented by component stocks that are options eligible or less than 80% of the number of components are options eligible; (3) if any stock trades less than 500,000 shares per month in each of the last 6 months, except that for the lowest weighted components comprising not more than 10% of the weight of the index, volume must be at least 400,000 shares in each of the last 6 months; (4) the largest component stock accounts for more than 25% of the weight of the index or the largest 5 component stock accounts for more than 25% of the weight of the index or the largest 5 component stocks in the aggregate account for more than 60% of the weight of the index; and (5) the number of stocks in the index is increased or decreased by more than ⅓. In the event the Index fails to satisfy any of the

[19] Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 15,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.

[20] Pursuant to CBOE Rule 24.7, the trading of options on the Index will be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index's value is halted or suspended.

[21] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the American Stock Exchange, Inc.; the Boston Stock Exchange, Inc.; the CBOE; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc.; the NYSE; the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock, and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (e.g., the Chicago Mercantile Exchange and the Chicago board of Trade) joined the ISG as affiliate members in 1990.

[22] *See* Amendment No. 1, *supra* note 4.

[23] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

[24] 15 U.S.C. 78f(b)(5).

[25] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks representing companies in the utility sector in the U.S. stock markets.

[26] *See* supra notes 18 through 20, and accompanying text.

[27] In addition, for the six-month period ending June 5, 1997, all of the companies comprising the Index had an average daily trading volume of at least 203,472 shares per day.

[28] The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) the public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders' (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. *See* CBOE Rule 5.3.

criteria, CBOE will notify the Commission to determine the appropriate regulatory response, including but not limited to, prohibiting opening transactions, removal of the securities from the Index, or discontinuing the listing of new series of Index options.[29] These maintenance standards should help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in DJUA Index options.[30] Finally, the Commission believes these factors minimize the potential for manipulation because it is unlikely that attempted manipulations of the prices of the Index components would affect significantly the Index's value. Moreover, the surveillance procedures discussed below should detect as well as deter potential manipulation and other trading abuses.[31]

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as options on the Index, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) the special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because options on the Index will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in options on the Index. Finally, replacements of component securities in the Index are published in the Wall Street Journal two to three trading days before they are implemented to notify the public of changes in the composition of the Index. The Commission believes this should help to protect investors and avoid investor confusion.

C. Surveillance

The Exchange believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[32] In this regard, markets on which all of the components of the Index currently trade are members of the ISG, which provides for the exchange of all necessary surveillance information.[33]

As noted above, Dow Jones & Company also has a policy in place to prevent the potential misuse of material, non-public information by members of the Wall Street Journal managerial and editorial staff in connection with the maintenance of the Index.[34]

D. Market Impact

The Commission believes that the listing and trading of options on the Index, including long-term full-value and reduced-value Index options and FLEX options, on the CBOE will not adversely impact the underlying securities markets.[35] First, as described above, due to the ''price weighting'' methodology, no one stock or group of stocks dominates the Index. Second, as noted above, the stocks contained in the Index have relatively large capitalizations and are relatively actively traded. Third, the currently applicable 15,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contraparty non-performance will be minimized because the options on the Index will be issued and guaranteed by OCC just like any other standardized exchange-listed option traded in the United States.

Lastly, the Commission believes that settling expiring options on the Index (including long-term full-value and reduced-value Index options) based on the opening prices of component securities is reasonable and consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for stocks underlying options on the Index.[36]

E. FLEX Options Trading

The Commission also believes that the proposal to list DJUA FLEX options should encourage fair competition among brokers and dealers and exchange markets, by allowing the Exchange to compete with the growing OTC market in customized index options.

The Commission believes the Exchange's proposal reasonably addresses its desire to meet the demands of sophisticated portfolio managers and other institutional investors who are increasingly using the OTC market in order to satisfy their hedging needs. Additionally, the Commission believes that the Exchange's proposal will help promote the maintenance of a fair and orderly market, consistent with Sections 6(b)(5) and 11(a) of the Act, because the purpose of the proposal to list DJUA FLEX options is to extend the benefits of a listed, exchange market to index options that are more flexible than current listed options and that currently trade OTC.[37] The benefits of the Exchange's options market include, but are not limited to, a centralized market center, an auction market with posted transparent market quotations and transaction reporting, parameters and procedures for clearance and settlement, and the guarantee of OCC for all contracts traded on the Exchange.

The Commission notes that FLEX index options on the DJUA can be constructed with expiration exercise settlement based on the closing values of the component securities, which could potentially result in adverse effects for the markets in these

[29] In addition, if the composition of the Index's underlying securities was to substantially change, the Commission's decision regarding the appropriateness of the Index's current maintenance standards would be reevaluated, and whether additional approval under Section 19(b) of the Act is necessary to continue to trade the product.

[30] These maintenance standards are similar to those applied to other index products. *See* CBOE Rule 24.2(c).

[31] The Commission believes that, even though the Index is price weighted, the high capitalization and active trading of the component stocks minimize any manipulative concerns that may arise due to the price weighting.

[32] See Securities and Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992).

[33] *See supra* note 21 and accompanying text.

[34] *See* Amendment No. 1, *supra* note 4.

[35] In addition, CBOE and OPRA have represented that CBOE and OPRA have the necessary systems capacity to support those new series of index options that would result from the introduction of options on the Index. *See* Letter from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, Director of Research and Product Development, CBOE, dated June 12, 1997.

[36] Securities and Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

[37] As noted above, FLEX options allow investors to customize certain terms, including size, term to expiration, exercise style, exercise price, and exercise settlement value.

securities.[38] Although the Commission continues to believe that basing the settlement of index products on opening as opposed to closing prices on Expiration Friday helps alleviate stock market volatility,[39] these market impact concerns are reduced in the case of FLEX options on the DJUA because expiration of these options will not correspond to the normal expiration of any non-FLEX options (including options overlying the DJUA), stock index futures, and options on stock index futures. In particular, FLEX options, will never expire on any ''Expiration Friday'' because the expiration date of a FLEX option may not occur on a day that is on, or within, two business days of the expiration date of a Non-FLEX option. The Commission believes that this should reduce the possibility that the exercise of FLEX options at expiration will cause any additional pressure on the market for underlying securities at the same time that Non-FLEX options expire.

Nevertheless, because the position limits for FLEX index options on the DJUA are much higher than those currently proposed for the corresponding non-FLEX Index options (*i.e.*, 4 times the existing 15,000 contract limit) and open interest in one or more FLEX option series could grow to significant levels, it is possible that FLEX options on the DJUA might have an impact on the securities markets for the securities underlying FLEX options. The Commission expects the Exchange to monitor the actual effect of FLEX options on the DJUA once trading commences and take prompt action (including timely communication with the self-regulatory organizations responsible for oversight of trading in the underlying securities) should any unusual market effects develop.

F. Accelerated Approval of Amendment No. 1

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1, does raise any novel issues. It merely states that the Exchange will notify the Commission in the event that the Index fails to meet a set of maintenance standards that are substantially similar to existing maintenance standards for narrow-based indices. These representations are identical in all material respects to those made by the Exchange in connection with similar proposals to list options on stock indexes. In addition, Amendment No. 1 sets position limits for FLEX options at 4 times the limits applicable for industry index options and includes an attached letter from Dow Jones & Company describing their procedures for replacing Index components and outlining their conflict of interest policy. The Commission believes, therefore, that Amendment No. 1 further strengthens and clarifies the proposal, and raises no new regulatory issues. Further, the Commission notes that the original proposal was published for the full 21-day comment period and no comments were received by the Commission. Accordingly, the Commission believes it is consistent with Sections 19(b)(2) and 6(b)(5) of the Act to approve Amendment No. 1 to the Exchange's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–CBOE–97–28 and should be submitted by October 2, 1997.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[40] that the proposed rule change (SR–CBOE–97–28) is approved, as amended. In addition, for purposes of trading FLEX options on the Index, the Commission also finds, pursuant to Rule 9b–1 under the Act, that such options are standardized options for purposes of the options disclosure framework established under Rule 9b–1.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[41]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24039 Filed 9–10–97; 8:45 am]

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[38] *See, e.g.,* Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

[39] *Id.*

[40] 15 U.S.C. 78s(b)(2).

[41] 17 CFR 200.30–3(a) (12) and (51).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39012; File No. SR–CBOE–97–27]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to Proposed Rule Change Relating to Listing of Regular Options, Full and Reduced Value Long-Term Index Options, and FLEX Options on the Dow Jones Transportation Average

September 3, 1997.

I. Introduction

On June 23, 1997, the Chicago Board Options Exchange, Inc. (''CBOE'' 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 list regular options, full and reduced value long-term index options (''LEAPS''), and flexible exchange options (''FLEX'') on the Dow Jones Transportation Average.

The proposed rule change was published for comment in the **Federal Register** on July 8, 1997.[3] No comments were received on the proposal. On August 12, 1997, the CBOE submitted Amendment No. 1 to the proposed rule change.[4] This order approves the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 38790 (June 30, 1997), 62 FR 36592 (July 8, 1997).

[4] In Amendment No. 1, the CBOE represents that it will notify the Commission if the Index fails to meet maintenance standards substantially similar to those in CBOE Rule 24.2. In addition, Amendment No. 1 states that the position limits for FLEX options will be set at 4 times the limits applicable for industry index options set forth in Rule 24.2(A)(a)(i). Finally, Amendment No. 1, in an attached letter from Dow Jones, describes their procedures for replacing Index components and outlines their conflict of interest policy. *See* letter from Eileen Smith, Director, Product Development, CBOE to John Ayanian, Special Counsel, Division of Market Regulation, SEC dated August 1, 1997 (Amendment No. 1).

proposal, as amended, and solicits comment on Amendment No. 1.

II. Description of the Proposal

A. General

The CBOE proposes to list and trade options on the Dow Jones Transportation Average (''DJTA'' or ''Index''), an index developed by Dow Jones & Company. The options on the Index will be based on one-tenth of the value of the Index. The CBOE also proposes to list LEAPS on a one-tenth value index level (''full value LEAPS'') and reduced-value LEAPS on the Index.[5] For reduced value LEAPS, the underlying value would be computed at one-one-hundredth of the Index level, or one-tenth of the value of full-value options. Reduced or full value LEAPS will trade independent of and in addition to regular Index options traded on the CBOE. The CBOE will also provide for the trading of FLEX Options on the Index.[6]

B. Composition of the Index

The DJTA was first calculated on September 8, 1996, and is based on 20 of the largest, most liquid U.S. transportation industry stocks. Eighteen of the stocks in the Index currently trade on the New York Stock Exchange, Inc., (''NYSE'') and two trade through the facilities of the National Association of Securities Dealers Automated Quotation System (''Nasdaq'').[7] All of the component stocks are ''reported securities'' as that term is defined in Rule 11Aa3–1 of the Act.[8] The Index is price weighted and will be calculated on a real-time basis using last sale prices.

As of the close of trading on June 5, 1997, the Index had a closing value of 2683.55.[9] Also, as of the close of trading on June 5, 1997, the market capitalizations of the individual securities in the Index ranged from a high of $16.7 billion (Union Pacific Corp.) to a low of $352 million (Alaska Air Group, Inc.), with a mean and median of $5.1 billion and $2.5 billion, respectively. The total market capitalization of the securities in the index was $101.9 billion. The total number of shares outstanding for the issuers in the index range from a high of 244 million shares (Union Pacific Corp.) to a low of 14 million shares (Alaska Air Group, Inc.). The price per share of the securities in the Index ranged from a high of $97.625 (AMR Corp.) to a low of $19.625 (Yellow Corp.) with a six-month mean and median, for the period ending June 5, 1997 of $49.475 and $36.813, respectively. In addition, the average daily trading volume for securities in the Index ranged from a high of 971,439 shares (US Airways Group, Inc.) to a low of 17,242 shares (XTRA Corp.), with the mean and median 379,153 and 336,908, respectively. Lastly, no one security accounted for more than 9.87 percent of the Index's total value (AMR Corp.), and the percentage weighting of the five largest issues in the Index accounted for 45.02 percent of the Index's value. The percentage weighting of the lowest weighted component was 1.98 percent (Yellow Corp.) and the percentage weighting of the five smallest issues accounted for 12.8 percent of the Index's value. Finally, all of the component stocks in the Index are options eligible and currently the subject of trading in equity options.

C. Maintenance

Dow Jones & Company is responsible for maintenance of the DJTA. Dow Jones & Company may change the composition of the Index at any time to reflect the conditions in the transportation industry. The Managing Editor of the Wall Street Journal is responsible for component additions and deletions. The components of the Index are not formally reviewed on any set schedule. The Managing Editor of the Wall Street Journal selects stocks that he believes best reflect the transportation sector of the economy and of the stock market. The Managing Editor usually consults one to three senior editors of The Wall Street Journal about prospective changes. Though various data might be gathered for reference, this is a subjective decision. Index maintenance includes monitoring and completing the adjustments for company additions and deletions, stock splits, stock dividends (other than an ordinary cash dividend), and stock price adjustments due to company restructuring or spinoffs. In almost all instances, a stock is removed immediately from the DJTA when the company files for protection under bankruptcy laws. If required, the Index Divisor will be adjusted to account for any of the above changes. Changes to the Index are announced in the Wall Street Journal and through the Dow Jones News Service generally two to three trading days prior to implementation. Generally, Index components are replaced infrequently. The Index is currently composed of 20 stocks and it is expected that it will remain at 20.

The Exchange has represented that it will notify the Commission in the event that the following maintenance criteria are not met: (1) The market value of any component stock is less than $75 million except that the lowest weighted components comprising not more than 10% of the weight of the index cannot have market values less than $50 million; (2) less than 90% of the weight of the Index is represented by component stocks that are options eligible or less than 80% of the number of components are options eligible; (3) 10% or more of the weight of the index is represented by stocks trading less than 15,000 shares per day over the previous 6 month period; (4) the largest component stock accounts for more than 25% of the weight of the index or the largest 5 component stocks in the aggregate account for more than 60% of the weight of the index and (5) the number of stocks in the index is increased or decreased by more than ⅓.

D. Applicability of CBOE Rules Regarding Index Options

As modified herein, the rules in Chapter XXIV of the CBOE Rules will be applicable to DJTA Index options, full-value and reduced-value Index LEAPS and FLEX options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, and margin treatment for narrow-based index options.

E. Calculation of the Index

The DJTA is a price-weighted index. The level of the Index reflects the total price of the component stocks divided by the Index Divisor.The daily calculation of the DJTA is computed by dividing the aggregate price of the companies in the Index by the Index Divisor. The Divisor keeps the Index comparable over time and is adjusted periodically to maintain the Index. The values of the Index will be calculated continuously by Dow Jones & Company

[5] ''LEAPS'' is an acronym for Long-Term Equity Anticipation Securities. LEAPS are long-term index option series that expire from 12 to 36 months from their date of issuance. *See* CBOE Rule 24.9(b)(1).

[6] FLEX options are standardized options that provide investors with the ability to customize basic option features, including size, expiration date, exercise style, and exercise price.

[7] The JDTA currently consists of the following companies: Airborne Freight Corp., Alaska Air Group, Inc., AMR Corp., APL Ltd., Burlington Northern Santa Fe Corp., Caliber System, Inc., CNF Transportation, Inc., CSX Corp., Delta Air Lines, Inc., Federal Express Corp., Illinois Central Corp., Norfolk Southern Corp. Ryder System, Inc., Southwest Airlines Co., US Airways Group, Inc., UAL Corp., Union Pacific Corp., US Freightways Corp., XTRA Corp. and Yellow Corp.

[8] *See* 17 CFR 240.11Aa3–1. A ''reported security'' is defined in paragraph (a)(4) of this Rule as ''any listed equity security or NASDAQ security for which transaction reports are required to be made on a real-time basis pursuant to an effective transaction reporting plan.''

[9] The DJTA was first calculated on September 8, 1896 and the index value was 48.55 on that date.

or its designee and will be disseminated at 15-second intervals during regular CBOE trading hours to market information vendors via the Options Price Reporting Authority (''OPRA'') or the Consolidated Tape Association.

F. Contract Specifications

The proposed options will be cash-settled, European-style options.[10] The trading hours for options on the Index will be from 8:30 a.m. to 3:02 p.m. Chicago time. Strike prices will be set to bracket the index in 2½ point increments or greater. In addition, pursuant to CBOE Rule 24.9, there may be up to six expiration months outstanding at any given time. Specifically, there may be up to three expiration months from the March, June, September, and December cycle, plus up to three additional near-term months so that the two nearest-term months will always be available. As described in more detail below, the Exchange also intends to list several Index LEAPS series that expire from 12 to 36 months from the date of issuance.

G. Settlement of Index Options

The proposed options on the Index will expire on the Saturday following the third Friday of the expiration month. Trading in the expiring contract month will normally cease at 3:02 p.m. (Chicago time) on the business day preceding the last day of trading in the component securities of the Index (ordinarily the Thursday before expiration Saturday, unless there is an intervening holiday). The exercise settlement value of the Index at option expiration will be calculated by Dow Jones based on the opening prices of the component securities on the business day prior to expiration. If a stock fails to open for trading, the last available price on the stock will be used in the calculation of the index, as is done for currently listed indexes.[11] When the last trading day is moved because of Exchange holidays (such as when CBOE is closed on the Friday before expiration), the last trading day for expiring options will be Wednesday and the exercise settlement value of Index options at expiration will be determined at the opening of regular Thursday trading.

H. Listing of Long-Term Options on the Full-Value or Reduced Value DJTA Index

The Exchange's proposal provides that the Exchange may list longer term option series having up to thirty-six months to expiration on one-tenth (1/10th) the Index's full value, which is the same value used to calculate regular options on the Index. In lieu of such long-term options on a one-tenth value Index level, the Exchange may instead list long-term, reduced value put and call options based on one-one-hundredth (1/100th) the Index's full value. The current and closing index value of any such reduced-value LEAP will, after such initial computation, be rounded to the nearest one-hundredth. In either event, the interval between expiration months for either a long-term option or reduced value long-term option will not be less than six months. The trading of any long term options would be subject to the same rules which govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures and all options will have European-style exercise.

I. FLEX Option Trading

The Exchange proposes to list FLEX Index options on the DJTA. FLEX options give investors the ability, within specified limits, to designate certain of the terms of the options. In recent years, an over-the-counter (''OTC'') market in customized options has developed which permits participants to designate the basic terms of the options, including size, term to expiration, exercise style, exercise price, and exercise settlement value, in order to meet their individual investment needs. Participants in this OTC market are typically institutional investors, who buy and sell options in large-size transactions through a relatively small number of securities dealers. To compete with this growing OTC market in customized options, the CBOE permits FLEX index options trading in an exchange auction market environment, with OCC as issuer and guarantor.[12] The Exchange's proposal will allow FLEX option market participants to designate the following contract terms for FLEX options on the DJTA: (1) Exercise price; (2) exercise style (*i.e.*, American,[13] European,[14] or capped [15]); (3) expiration date,[16] (4) option type (put, call, or spread); and (5) form of settlement (A.M., P.M. or average).

The Exchange is proposing changes to its FLEX rules to provide for the trading of FLEX options on the DJTA. The proposed changes include an amendment to the FLEX Option position limits. Position limits would be as established by the Exchange but in no event would be greater than four times the limits for standard options on the DJTA.[17]

J. Position and Exercise Limits, Margin Requirements, and Trading Halts

The proposal provides that Exchange rules that are applicable to the trading of narrow-based index options will apply to the trading of options on the Index. Specifically, Exchange rules governing margin requirements,[18] position and exercise limits,[19] and trading halt procedures [20] that are applicable to trading of narrow-based

[10] A European-style option can be exercised only during a specified period before the option expires.

[11] The Commission notes that pursuant to Article XVII, Section 4 of the Options Clearing Corporation's (''OCC'') by-laws, OCC is empowered to fix an exercise settlement amount in the event it determines a current index value is unreported or otherwise unavailable. Further, OCC has the authority to fix an exercise settlement amount whenever the primary market for the securities representing a substantial part of the value of an underlying index is not open for trading at the time when the current index value (*i.e.*, the value used for exercise settlement purposes) ordinarily would be determined. *See* Securities Exchange Act Release No. 37315 (June 17, 1996), 61 FR 42671 (order approving SR–OCC–95–19).

[12] The Commission has previously designated FLEX index options as standardized options for the purposes of the options disclosure framework established under Rule 9b–1 of the Act. *See* Securities Exchange Act Release No. 31910 (February 23, 1993), 58 FR 12056 (March 2, 1993). In addition, the Commission has approved the listing by CBOE of FLEX Index options on the S&P 100 (''OEX''), S&P 500 (''SPX''), Nasdaq 100, and Russell 2000 Indexes. *See* Securities Exchange Act Release Nos. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (approval of FLEX options on the SPX and OEX indexes); 34052 (May 12, 1994), 59 FR 25972 (May 18, 1994) (approval of FLEX options on the Nasdaq 100 index); and 32694 (July 29, 1993), 58 FR 41814 (August 5, 1993) (approval of FLEX options on the Russell 2000 index).

[13] An American-style option is one that may be exercised at any time on or before the expiration date.

[14] A European-style option is one that may be exercised only during a limited period of time prior to expiration of the option.

[15] A capped-style index option is one that is automatically exercised prior to expiration when the cap index value is less than or equal to the index value for calls or when the cap index value is greater than or equal to the index value for puts.

[16] The expiration date of a FLEX option may not fall on a day that is on, or within two business days, of the expiration date of a Non-FLEX option.

[17] *See* Amendment No. 1, *supra* note 4.

[18] Pursuant to CBOE Rule 24.11, the margin requirements of the Index options will be: (1) For short positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long term options positions, 100% of the options premium paid.

[19] Pursuant to CBOE Rules 24.4A and 24.5, respectively, the position and exercise limits for the Index options will be 15,000 contracts, unless the Exchange determines, pursuant to Rules 24.4A and 24.5 that a lower limit is warranted.

[20] Pursuant to CBOE Rule 24.7, the trading of options on the Index will be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index's value is halted or suspended.

index options will apply to options traded on the Index. Position limits on reduced value long-term DJTA Index options will be equivalent to the position limits for regular (full value) Index options and would be aggregated with such options (for example, if the position limit for the full value options is 15,000 contracts on the same side of the market, then the position limit for the reduced value options will be 150,000 contracts on the same side of the market).

K. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Index. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group (''ISG'') Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[21]

Dow Jones & Company also has a policy in place to prevent the potential misuse of material, non-public information by members of the Wall Street Journal managerial and editorial staff in connection with the maintenance of the Index. Specifically, the managerial and editorial staff of the Wall Street Journal are subject to the Dow Jones & Company conflicts-of-interest policy which prohibits, upon penalty of dismissal, the use or dissemination of any vital information prior to publication.[22]

III. Findings and Conclusions

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,[23] and, in particular, with the requirements of Section 6(b)(5).[24] Specifically, the Commission finds that the trading of options on the Index, including Index LEAPS, reduced value Index LEAPS, and FLEX options, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with an additional means to hedge exposure to market risk associated with stocks in the transportation sector.[25] The trading of options in the DJTA, however, raises several issues relating to index design, investor protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that CBOE has adequately addressed the issues.

A. Index Design and Structure

The DJTA is comprised of only twenty stocks, all of which are within one industry segment, the transportation industry segment. Accordingly, the Commission believes that it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options including for margin and position and exercise limit purposes.[26]

The Commission also believes that the liquid markets, large capitalizations, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, as of June 5, 1997, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median daily trading volume 379,153 and 336,908 shares, respectively.[27] Second, the market capitalizations of the stocks in the Index are very large, ranging from $352 million to $16 billion, with the mean and median being $5 billion and $2.5 billion, respectively. Third, although the Index is only comprised of twenty component stocks, no one stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 9.87% of the Index total value and the percentage weighting of the five largest issues in the Index accounts for 45.02% of the Index's value. Fourth, all of the stocks in the Index are currently the subject of equity option trading.[28] Fifth, the Exchange has represented that it will notify the Commission in the event that the following maintenance criteria are not met: (1) The market value of any component stock is less than $75 million except that the lowest weighted components comprising not more than 10% of the weight of the index cannot have market values less than $50 million; (2) less than 90% of the weight of the Index is represented by component stocks that are options eligible or less than 80% of the number of components are options eligible; (3) 10% or more of the weight of the index is represented by stocks trading less than 15,000 shares per day over the previous 6 month period; (4) the largest component stock accounts for more than 25% of the weight of the index or the largest 5 component stocks in the aggregate account for more than 60% of the weight of the index and (5) the number of stocks in the index is increased or decreased by more than ⅓. In the event the Index fails to satisfy any of the criteria, CBOE will notify the Commission to determine the appropriate regulatory response, including but not limited to, prohibiting opening transactions, removal of the securities from the Index, or discontinuing the listing of new series of Index options.[29] These maintenance

[21] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment 29, 1990. The members of the ISG are: the American Stock Exchange, Inc.; the Boston Stock Exchange, Inc.; the CBOE; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc.; the NYSE; the Pacific Stock Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock, and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (e.g., the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[22] *See* Amendment No. 1, *supra* supra note 4.

[23] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78f(b)(5).

[25] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks representing companies in the transportation sector in the U.S. stock markets.

[26] *See* supra notes 18 through 20, and accompanying text.

[27] The Commission notes that one of the securities in the Index, XTRA Corp., had an average daily trading volume of 17,242 shares. To prevent the Index from being dominated by illiquid securities, the Exchange has agreed to notify the Commission in the event that 10% or more of the weight of the Index is represented by stocks trading less than 15,000 shares per day over the previous 6 month period. *See* note 29 and accompanying text.

[28] The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. *See* CBOE Rule 5.3.

[29] In addition, if the composition of the Index's underlying securities was to substantially change, the Commission's decision regarding the appropriateness of the Index's current maintenance standards would be reevaluated, and whether

Continued

standards should help protect against material changes in the composition and design of the Index that might adversely affect the CBOE's obligations to protect investors and to maintain fair and orderly markets in DJTA Index options.[30] Finally, the Commission believes these factors minimize the potential for manipulation because it is unlikely that attempted manipulations of the prices of the Index components would affect significantly the Index's value. Moreover, the surveillance procedures discussed below should detect as well as deter potential manipulation and other trading abuses.[31]

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as options on the Index, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because options on the Index will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in options on the Index. Finally, replacements of component securities in the Index are published in the Wall Street Journal two to three trading days before they are implemented to notify the public of changes in the composition of the Index. The Commission believes this should help to protect investors and avoid investor confusion.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative products is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation.[32] In this regard, markets on which all of the components of the Index currently trade are members of the ISG, which provides for the exchange of all necessary surveillance information.[33]

As noted above, Dow Jones & Company also has a policy in place to prevent the potential misuse of material, non-profic information by members of the Wall Street Journal managerial and editorial staff in connection with the maintenance of the Index.[34]

D. Market Impact

The Commission believes that the listing and trading of options on the Index, including LEAPS, reduced-value LEAPS, and FLEX options, on the CBOE will not adversely impact the underlying securities markets.[35] First, as described above, due to the ''price weighting'' methodology, no one stock or group of stocks dominates the Index. Second, as noted above, the stocks contained in the Index have relatively large capitalizations and are relatively actively traded. Third, the currently applicable 15,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contraparty non-performance will be minimized because the options on the index will be issued and guaranteed by OCC just like any other standardized exchange-listed option traded in the United States.

Lastly, the Commission believes that settling expiring options on the Index (including long-term full-value and reduced-value Index options) based on the opening prices of component securities is reasonable and consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for stocks underlying options on the Index.[36]

E. FLEX Options Trading

The Commission also believes that the proposal to list DJTA FLEX options should encourage fair competition among brokers and dealers and exchange markets, by allowing the Exchange to compete with the growing OTC market in customized index options.

The Commission believes the Exchange's proposal reasonably addresses its desire to meet the demands of sophisticated portfolio managers and other institutional investors who are increasingly using the OTC market in order to satisfy their hedging needs. Additionally, the Commission believes that the Exchange's proposal will help promote the maintenance of a fair and orderly market, consistent with Sections 6(b)(5) and 11(a) of the Act, because the purpose of the proposal to list DJTA FLEX options is to extend the benefits of a listed, exchange market to index options that are more flexible than current listed options and that currently trade OTC.[37] The benefits of the Exchange's options market include, but are not limited to, a centralized market center, an auction market with posted transparent market quotations and transaction reporting, parameters and procedures for clearance and settlement, and the guarantee of OCC for all contracts traded on the Exchange.

The Commission notes that FLEX index options on the DJTA can be constructed with expiration exercise settlement based on the closing values of the component securities, which could potentially result in adverse effects for the markets in those securities.[38] Although the Commission continues to believe that basing the settlement of index products on opening as opposed to closing prices on Expiration Friday helps alleviate stock market volatility,[39] these market impact concerns are reduced in the case of FLEX options on the DJTA because expiration of these options will not correspond to the normal expiration of any non-FLEX options (including options overlying the DJTA), stock index futures, and options on stock

additional approval under Section 19(b) of the Act is necessary to continue to trade the product.

[30] These maintenance standards are similar to those applied to other index products. *See* CBOE Rule 24.2(c).

[31] The Commission believes that, even though the Index is price weighted, the high capitalization and active trading of a large majority of the component stocks helps address the manipulative concerns that may arise due to the price weighting.

[32] See Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992).

[33] *See supra* note 21 and accompanying text.

[34] *See* Amendment No. 1, *supra* note 4.

[35] In addition, CBOE and OPRA have represented that CBOE and OPRA have the necessary systems capacity to support those new series of index options that would result from the introduction of options on the Index. *See* Letter from Joe Corrigan, Executive Director, OPRA, to Eileen Smith, Director of Research and Product Development, CBOE, dated June 12, 1997.

[36] Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

[37] As noted above, FLEX options allow investors to customize certain terms, including size, term to expiration, exercise style, exercise price, and exercise settlement value.

[38] See, e.g., Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

[39] Id.

index futures. In particular, FLEX options will never expire on any ''Expiration Friday'' because the expiration date of a FLEX option may not occur on a day that is on, or within, two business days of the expiration date of a Non-FLEX option. The Commission believes that this should reduce the possibility that the exercise of FLEX options at expiration will cause any additional pressure on the market for underlying securities at the same time that Non-FLEX options expire.

Nevertheless, because the position limits for FLEX index options on the DJTA are much higher than those currently proposed for the corresponding non-FLEX Index (*i.e.*, 4 times the existing 15,000 contract limits) options and open interest in one or more FLEX option series could grow to significant levels, it is possible that FLEX options on the DJTA might have an impact on the securities markets for the securities underlying FLEX options. The Commission expects the Exchange to monitor the actual effect of FLEX options on the DJTA once trading commences and take prompt action (including timely communication with the self-regulatory organizations responsible for oversight of trading in the underlying securities) should any unusual market effects develop.

F. Accelerated Approval of Amendment No. 1

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 1, does not raise any novel issues. It merely states that the Exchange will notify the Commission in the event that the Index fails to meet a set of maintenance standards that are substantially similar to existing maintenance standards for narrow-based indices. These representations are nearly identical in all material respects to those made by the Exchange in connection with similar proposals to list options on stock indexes. In addition, Amendment No. 1 sets position limits for FLEX options at 4 times the limits applicable for industry index options and includes an attached letter from Dow Jones & Company describing their procedures for replacing Index components and outlining their conflict of interest policy. The Commission believes, therefore, that Amendment No. 1 further strengthens and clarifies the proposal, and raises no new regulatory issues. Further, the Commission notes that the original proposal was published for the full 21-day comment period and no comments were received by the Commission. Accordingly, the Commission believes it is consistent with Sections 19(b)(2) and 6(b)(5) of the Act to approve Amendment No. 1 to the Exchange's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–CBOE–97–27 and should be submitted by October 2, 1997.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[40] that the proposed rule change (SR–CBOE–97–27) is approved, as amended. In addition, for purposes of trading FLEX options on the Index, the Commission also finds, pursuant to Rule 9b–1 under the Act, that such options are standardized options for purposes of the options disclosure framework established under Rule 9b–1.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[41]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24132 Filed 9–10–97; 8:45 am]

BILLING CODE 8010–01–M

[40] 15 U.S.C. 78s(b)(2).

[41] 17 CFR 200.30–3(a) (12) and (51).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39019; File No. SR–NASD–97–41]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Definition of Branch Office

September 4, 1997.

I. Introduction

On June 17, 1997,[1] the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend Rule 3010 of the NASD's Conduct Rules to create another exception to the definition of branch office. A notice of the proposed rule change appeared in the **Federal Register** on July 2, 1997.[4] The Commission received two comment letters endorsing the proposed rule change.[5] The Commission is approving the proposed rule change.

II. Description of the Proposal

The definition of a branch office, found in NASD Rule 3010, includes any location identified by any means to the public or customers as a location at which the member conducts an investment banking or securities business, subject to several exceptions.[6] If a business location of a member meets the definition of a branch office, such office must be identified to the NASD through the filing of a Schedule E to

[1] The NASD granted an extension of the time for Commission action on this rule filing until thirty-five days after NASD Regulation filed an amendment advising of the action of the NASD Board of Governors. Letter from Craig L. Landauer, Associate General Counsel, NASD Regulation, Inc., to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated June 24, 1997. The NASD Board of Governors reviewed this proposed rule change on June 26, 1997. Letter from Craig L. Landauer, Associate General Counsel, NASD Regulation, Inc., to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated June 27, 1997.

[2] 15 U.S.C. § 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] Securities Exchange Act Release No. 38781 (June 26, 1997), 62 FR 35870.

[5] Letter from Allen W. Croessmann, President, BankBoston Investor Services, to Jonathan G. Katz, Secretary, SEC, dated July 22, 1997 and Letter from Joseph P. Savage, Assistant Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, SEC, dated July 22, 1997.

[6] *See* NASD Rule 3010(g)(2).

Form BD and such location is subject to an annual NASD fee of $75.00.

Rule 3010 does not address the circumstance in which a business location is used exclusively for appointments from time to time between registered representatives and customers. This issue may arise under networking arrangements between NASD members and banks. In this context, registered representatives of the member may periodically schedule appointments with bank customers at a bank location where the NASD member conducts no securities activities. Under the Interagency Statement on Retail Sales of Non-deposit Investment Products, banks are required to use signage at the place of the appointment to identify the NASD member that employ the registered person.[7] Thus, the presence of this signage at the place of appointment could be interpreted as the member or its agent designating the location as a branch office for which branch office registration requirements would apply. Thus, the NASD has created another exception to the definition of branch office to address this type of situation.

The proposed amendment adds language to paragraph (g) of Rule 3010 to exempt from the definition of branch office certain locations where a person conducts business for the member firm occasionally and exclusively by appointment for the convenience of customers, and where the member maintains no other tangible presence. To be consistent with other provisions of Rule 3010, the persons conducting business at such locations would be required to provide each customer with the address and telephone number of the branch office or office of supervisory jurisdiction of the firm from which the person who is conducting the meeting is supervised.

III. Discussion

The Commission believes the proposed rule change is consistent with the Act and rules and regulations promulgated thereunder. Specifically, the Commission believes that approval of the proposed rule change is consistent with Section 15A(b)(6)[8] of the Act.[9] Pursuant to Section 15A(b)(6), the proposed rule change permits member firms and their representatives to be flexible when scheduling appointments at a location convenient to their customers without being assessed an additional branch office registration fee. However, the Commission reiterates that member firms, pursuant to NASD Rules, are required to monitor and supervise representatives and their activity, whether they conduct business in a branch or non-branch office. The status of a location as a branch or non-branch office is not relevant to the duty to supervise.[10]

IV. Conclusion

For the above reasons, the Commission believes that the proposed rule change is consistent with the provisions of the Act, and in particular with Section 15A(b)(6).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NASD–97–41) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24133 Filed 9–10–97; 8:45 am]

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[7] Board of Governors of the Federal Reserve System *et al.*, Interagency Statement on Retail Sales of Non-deposit Investment Products, p. 10 (February 15, 1994).

[8] Section 15A(b)(6) requires the Commission to determine that a registered national securities association's rules are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system; and are not designed to permit unfair discrimination among customers, issuers, brokers, or dealers.

[9] The Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

[10] The NASD plans to issue a Notice to Members to clarify member firms' supervisory responsibilities concerning non-branch offices.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39024; File No. SR–NASD–97–52]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change Relating to Extension of the Large and Complex Case Rule and Making Application of the Rule Voluntary

September 5, 1997.

I. Introduction

On July 22, 1997.[1] the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend Rule 10334 of the NADS's Code of Arbitration Procedure (''Code'') to extend the effectiveness of Rule 10334 to August 1, 2002, and to make application of Rule 10334 voluntary.

Notice of the proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 38879 (July 28, 1997), 62 FR 41454 (August 1, 1997). No comments were received on the proposal. This order approve the proposed rule change.

II. Description

Rule 10334 provides special procedures for large and complex cases.[4] Any claim where the amount in controversy is $1 million or more, or where all parties agree, is eligible for disposition under the procedures.

Currently, Rule 10334 requires that the parties in any eligible case participate in an administrative conference with a member of the staff of the Office of Dispute Resolution (''Office''). The purpose of the conference is to permit the parties and staff to develop a plan for administering the case, including planning for discovery and narrowing the issues to be decided at the hearing. Application of all other provisions of the Rule to a case is completely voluntary.

Rule 10334 was developed to meet the special needs of parties in large and complex cases, including the need for arbitrators with particular experience and the need in some cases for additional discovery, including the availability of depositions. NASD Regulation's experience in the two years that Rule 10334 has been effective is that few parties use the procedures. From May 2, 1995 until January 28, 1997, 880 cases were eligible for treatment under Rule 10334. Parties agreed to proceed under Rule 10334, however, in only 43 cases.

[1] The NASD filed Amendment No. 1 to the proposed rule change on July 25, 1997, the substance of which was incorporated into the notice. *See* letter from Elliott R. Curzon, Assistant General Counsel, NASDR, to Katherine A. England, Assistant Director, Market Regulation, Commission, dated July 25, 1997 (''Amendment No. 1'').

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] The rule, in pilot form, became effective for one year on May 2, 1995, was extended to August 1, 1996, extended again until August 1, 1997, and temporarily extended until approval of this rule proposals. *See* Securities Exchange Act Release Nos. 35314 (February 1, 1995), 60 FR 7241 (February 7, 1995) (original approval of pilot program); 37154 (April 30, 1996), 61 FR 20301 (May 6, 1996) (temporary extension until August 1, 1996); 37513 (August 1, 1996), 61 FR 41438 (August 8, 1996) (exentsion until August 1, 1997); and 38879 (July 28, 1997), 62 FR 41454 (August 1, 1997) (temporary extension).

NASD Regulation has found that parties are deterred from using these procedures by the extra compensation paid to arbitrators and the additional administrative fees required under Rule 10334. At the same time, NASD Regulation found that one of the most attractive aspects of Rule 10334 is the availability of a list selection procedure for the appointment of arbitrators, which is not yet generally available for other types of arbitration cases.

In addition, the attractiveness of the procedures may be affected by the required administrative conference with the staff. This conference may be beneficial in assisting the parties to develop a road map for a proceeding, even if the parties to not agree to use other procedures under Rule 10334. However, the requirement that the administrative conference be conducted in all cases over $1 million, regardless of whether the parties plan to proceed under Rule 10334, creates a cost burden to the parties and to the Office.

Accordingly, NASD Regulation is proposing to amend Rule 10334 to provide for an administrative conference with the staff only if all parties request such a conference in writing. The procedures will be available if the parties voluntarily agree to proceed with an administrative conference and to develop a written agreement to proceed under Rule 10334. An administrative conference will, however, continue to be a prerequisite to the use of the special procedures provided by Rule 10334. In addition, NASD Regulation is proposing to amend Rule 10334 to extend the Rule for five more years to August 1, 2002.

III. Discussion

The Commission believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[5] in that extending the effectiveness of the procedures for large and complex cases and making their use entirely voluntary will serve the public interest, by enhancing the satisfaction and perceived fairness of such proceedings by the parties to the proceedings.[6] The Commission notes that providing for a five-year extension of the pilot program will permit arbitration participants to continue to utilize the procedures. In addition, an extension of the pilot program will allow the NASD to gather additional data on the program and to continue to monitor the usefulness of the large and complex rule to arbitration parties, in order to see if the pilot program should be approved on a permanent basis.

The Commission also believes that amending Rule 10334 to provide for an administrative conference with the staff only if all parties request such a conference in writing[7] is reasonable under the Act because the elimination of the requirement for an administrative conference in all cases should result in reduced costs to the parties and to NASD Regulation. The Commission also notes that an administrative conference will continue to be a prerequisite to the use of the special procedures provided by Rule 10334.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–NASD–97–52) is approved, through August 1, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24135 Filed 9–10–97; 8:45 am]

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[5] 15 U.S.C. 78*o*–3.

[6] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] The procedures will be available if the parties voluntarily agree to proceed with an administrative conference and to develop a written agreement to proceed under Rule 10334.

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39021; File No. SR–NASD–97–45]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Modifications to the Definition of Qualified Independent Underwriter

September 4, 1997.

I. Introduction

On June 26, 1997, the National Association of Securities Dealers, Inc., (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') 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 relating to modifications to the definition of ''qualified independent underwriter.'' The proposed rule change was published for comment in Securities Exchange Act Release No. 38833 (July 11, 1997), 62 FR 38333 (July 17, 1997). The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

NASD is proposing to amend Rule 2720, Distribution of Securities of Members and Affiliates—Conflicts of Interest, that regulates the conduct of offerings by members of their own securities, those of the member's parent, or an affiliate, and other offerings in which a member has a conflict of interest.

When a member proposes to participate in the distribution of a public offering of its own or an affiliate's securities, or of securities of a company with which it otherwise has a conflict of interest, NASD Rule 2720 requires that the price at which an equity issue or the yield at which a debt issue is to be distributed to the public be established at a price no higher or a yield no lower than that recommended by a member acting as a ''qualified independent underwriter.'' The qualified independent underwriter must also participate in the preparation of the offering document and is expected to exercise the usual standards of due diligence in respect thereto. The participation of a qualified independent underwriter is intended to assure the public of the independence of the pricing and due diligence functions in a situation where a member is participating in an offering where the member has a conflict of interest.

The NASD is proposing to delete the requirement that a qualified independent underwriter has had net income from operations of the broker/dealer entity or from the pro forma combined operations of predecessor broker/dealer entities, exclusive of extraordinary items, as computed in accordance with generally accepted accounting principles, in at least three of the five years immediately preceding the filing of the registration statement.

III. Discussion

The Commission believes the NASD's proposed rule change is consistent with the Act, and specifically with Section 15A(b)(6) thereunder.[3] Section 15A(b)(6) requires that the rules of a national securities association be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78o–3.

securities, and to remove impediments to and perfect the mechanism of a free and open market.[4]

The NASD is proposing to delete the eligibility criteria contained in the definition of ''qualified independent underwriter'' in NASD Rule 2720, which requires a qualified independent underwriter to have recorded net income in three of the five years immediately preceding the offering. Due to the important investor protections provided by qualified independent underwriters, the Commission agrees with the NASD's assessment that qualified independent underwriters should meet certain standards as prescribed by the NASD in Rule 2720, however, the Commission believes the requirement that a qualified independent underwriter have had net income in three of the previous five years immediately preceding an offering does not specifically indicate a member's ability to act as a qualified independent underwriter. The Commission believes that other factors, including a member's actual experience in underwriting, may be more significant in determining eligibility as a qualified independent underwriter. In its proposed rule change, the NASD noted that the Hearing Subcommittees of the NADS's Corporate Financing Committee have granted the majority of requests received seeking an exemption from the proposed qualified independent underwriter net income requirement, relying instead, on members' extensive underwriting experience managing or co-managing public offerings to compensate for any lack of ongoing profitability.

The Commission recognizes that the net income requirement, in some instances, may serve as an effective measure for qualified independent underwriters. However, the Commission also notes that a deficiency in net income may be the result of various situations, many of which are not directly connected to the profitability of a member's underwriting activities. Indeed, in its filing, the NASD noted that one national broker-dealer failed the net income requirement due to its settlement of sales practice abuses in connection with the distribution of noncorporate securities, an activity unrelated to its ability to serve as a qualified independent underwriter.

The Commission believes that the participation of a qualified independent underwriter assures the public of the independence of the pricing and due diligence functions in a situation where a member is participating in an offering where such member has a conflict of interest. Because of the important investor protections provided by qualified independent underwriters in such an instance, the Commission believes certain criteria must be met to assure the credibility of those acting as qualified independent underwriters. The Commission believes the elimination of the net income requirement is appropriate, as such requirement does not appropriately reflect a member's ability to act as a qualified independent underwriter. The Commission further believes the remaining standards provided in NASD Rule 2720 are more relevant in assessing a member's qualifications in the capacity as a qualified independent underwriter.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD, and in particular Section 15A(b)(6).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (File No. SR–NASD–97–45) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24137 Filed 9–10–97; 8:45 am]

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[4] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39025; File No. SR–NASD–97–57]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Electronic Delivery of Information Between Members and Their Customers

September 5, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 30, 1997,[2] the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation, Inc. (''NASD Regulation'' or ''NASDR'').[3] 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

NASDR has filed a Notice to Members (''NTM'') setting forth the policy of NASDR applicable to the electronic delivery of information between members and their customers.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDR included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDR has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission, in Release Nos. 34–37182[4] and 33–723,[5] set forth guidelines establishing a framework under which broker-dealers and others may use electronic media as an

[1] 15 U.S.C. 78s(b)(1).

[2] On August 27, 1997, the NASD Regulation amended its NTM attached as Exhibit A to this notice. *See* letter from Mary N. Revell, Associate General Counsel, NASD Regulation, Inc., to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated August 26, 1997.

[3] The Board of Governors reviewed the proposed rule change at its meeting on August 7, 1997. *See* letter from Mary N. Revell, Assistant General Counsel, NASD Regulation, Inc., to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated August 11, 1997.

[4] *See* Securities Exchange Act Release No. 37182, May 9, 1996; 61 FR 24644, May 15, 1996, (Commission's interpretation concerning the delivery of the information through electronic media in satisfaction of broker-dealer and transfer agent requirements to deliver information under the Act and the rules thereunder) (''May 1996 Release'').

[5] *See* Securities Act Release No. 7233, Oct. 6, 1995; 60 FR 53458, Oct. 13, 1995, (Commission's interpretation concerning the use of electronic media as a means of delivering information required to be disseminated pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Company Act of 1940).

alternative to paper-based media to satisfy delivery obligations under federal securities laws. The Commission also indicated in the releases that an electronic communication from a customer to a broker-dealer generally would satisfy the requirements for written consent or acknowledgment under these laws.

The NTM, attached as Exhibit A, establishes NASD Regulation policy regarding the use by members of electronic media to electronically transmit documents that they are required or permitted to furnish to customers under Association rules and to receive electronic communications from customers.[6] The Notice states that use of electronic media is permitted provided members comply with the standards contained in the Commission releases. The Notice summarizes these standards, which address, among other things, notice, access, evidence to show delivery, communication of personal financial information, and consent.

The Notice also contains a list of current Association rules that require or permit communications between members and their customers for which electronic delivery may be used in accordance with the standards contained in the Commission releases. The Notice states that electronic delivery also may be used for a new rule or an amendment to an existing Rule that requires or permits communications between members and their customers unless NASDR specifies otherwise at the time of adoption of the rule or amendment.

NASDR believes that use of electronic media to satisfy delivery requirements under Association rules will be beneficial to both members and their customers, particularly when conducted in accordance with Commission standards.

2. Statutory Basis

The proposed rule change is consistent with the requirements of Section 15A(b)(6).[7] The NASDR believes that providing standards that allow members to effectively and efficiently supply required documents to customers is consistent with this requirement.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDR does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received. The proposed rule change was reviewed by the NASDR Executive and Membership Committees. The members of these Committees were in favor of the proposed rule change.

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 of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by October 2, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

Exhibit A—NASD Notice to Members

Electronic Delivery of Information Between Members and Their Customers

Executive Summary

This Notice sets forth the policy of NASD Regulation, Inc. (NASD Regulation) applicable to electronic delivery of information between members and their customers as required or permitted by National Association of Securities Dealers (NASD) Rules.

Discussion

Background

On May 9, 1996, the Securities and Exchange Commission (SEC or Commission) issued an interpretive release publishing its views on the use of electronic media by broker-dealers for delivery of information.[1] The SEC stated that broker-dealers and others may satisfy their delivery obligations under federal securities laws by using electronic media as an alternative to paper-based media within the framework established in its October 1995 interpretive release on the use of electronic media for delivery purposes.[2] The SEC also indicated that an electronic communication from a customer to a broker-dealer generally would satisfy the requirements for written consent or acknowledgment under the federal securities laws.

NASD Regulation will permit members that wish to electronically transmit documents that they are required or permitted to furnish to customers under NASD Rules to do so, provided they adhere to the standards contained in the SEC Releases summarized below. Members also may receive electronic communications from customers. Members are urged to review the May 1996 and October 1995 Releases in their entirety to ensure they comply with all aspects of the SEC's electronic delivery requirements.

SEC Releases

According to the standards established by the SEC, broker-dealers may use electronic media to satisfy their delivery obligations, provided the electronic communication satisfies the following principles:

[6] In the May 1966 Release, the Commission stated that broker-dealers should be cognizant of their responsibilities to prevent, and the potential liability associated with, unauthorized transactions when ''receiving'' or ''obtaining'' electronic responses from their customers. The Commission therefore requests comment on what types of security measures broker-dealers employ or will employ to reasonably assure themselves that the responses they receive electronically from customers are authentic. *See, e.g.,* NASD Rules 3110(g) (2) and (3), (requiring members to obtain written customer authorization before obtaining a check drawn on a customer's account), attached as Exhibit A.

[7] Section 15A(b)(6) requires that the rules of the Association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

[1] *See* Securities Exchange Act Release No. 37182, May 9, 1996; 61 FR 24644 (May 15, 1996) (May 1996 Release). The release also contained a list of current Rules to which broker-dealers apply the guidance provided in the interpretation.

[2] *See* Securities Act Release No. 7233, Oct. 6, 1995; 60 FR 53458 (October 13, 1995) (October 1995 Release).

Notice: The electronic communication should provide timely and adequate notice to customers that the information is available electronically. If necessary, broker-dealers should consider supplementing the electronic communication with another communication that would provide notice similar to that provided by delivery in paper through the postal mail that information has been sent that the recipient may wish to review.

Access: Customers who are provided information through electronic delivery should have access to that information substantially equivalent to that which would be provided if the information were delivered in paper form (*i.e.,* the electronically transmitted document must convey all material and required information). For instance, if a paper document is required to present information in a certain order, then the information delivered electronically should be in substantially the same order. The use of a particular electronic medium should not be so burdensome that intended recipients cannot effectively access the information provided. A recipient should have the opportunity to retain the information through the selected medium or have ongoing access equivalent to personal retention.[3] Also, as a matter of policy, the SEC believes that a person who has a right to receive a document under the federal securities laws and chooses to receive it electronically should be provided with a paper version of the document if consent to receive documents electronically is revoked or upon specific request.[4]

Evidence to Show Delivery: Broker-dealers must have reason to believe that electronically delivered information will result in the satisfaction of the delivery requirements under the federal security laws. Broker-dealers should consider the need to establish procedures to ensure that applicable delivery obligations are met, and should take reasonable precautions to ensure that information transmitted using either electronic or paper media is delivered as intended. Broker-dealers may be able to evidence satisfaction of delivery obligations, for example, by:

(1) Obtaining the intended recipient's informed consent[5] to delivery through a specified electronic medium, and ensuring that the recipient has appropriate notice and access;

(2) Obtaining evidence that the intended recipient actually received the information, such as by an electronic mail return-receipt or by confirmation that the information was accessed, downloaded, or printed; or

(3) Disseminating information through certain facsimile methods.

The SEC also made the following statements regarding the communication of personal financial information (*e.g.,* confirmations and account statements).

Confidentiality and Security: Broker-dealers sending personal financial information through electronic means or in paper form should take reasonable precautions to ensure the integrity, confidentiality, and security of that information. Broker-dealers transmitting personal financial information electronically must tailor those precautions to the medium used in order to ensure that the information is reasonably secure from tampering or alteration.

Consent: Prior to delivering personal financial information electronically, the broker-dealer must notify the intended recipient that the information will be delivered electronically and obtain the recipient's informed consent. The customer's consent may be made either by a manual signature or by electronic means.

The SEC also stated that an electronic communication from a customer to a broker-dealer will satisfy requirements under certain Commission Rules to receive or obtain written customer consent or acknowledgment.[6] Further, the SEC reminded broker-dealers that they must reasonably supervise firm personnel to prevent violations, and suggested that firms should evaluate the need for systems and procedures to deter or detect misconduct by firm personnel in connection with the delivery of information, whether by electronic or paper means.

The SEC release stated that the above standards are intended to permit broker-dealers to comply with their delivery obligations under the federal securities laws when using electronic media. While compliance with the guidelines is not mandatory for the electronic delivery of non-required information that, in some cases, is being provided voluntarily to customers, NASD Regulation believes adherence to the guidelines should be considered, especially with respect to documents furnished pursuant to agreements or other specific arrangements with customers.

Conclusion

A list of current NASD Conduct Rules, Marketplace Rules, and Procedural Rules that require or permit communications between members and their customers for which electronic delivery may be used in accordance with the standards set forth in the SEC May 1996 and October 1995 Releases is set forth below. The summary of delivery obligations provided is intended for reference only, and is not intended to be a statement of all requirements under the Rules listed. NASD Regulation believes this list is complete. The interpretation set forth in this Notice also will apply to a new Rule or an amendment to an existing Rule that requires or permits communications between members and their customers unless NASD Regulation specifies otherwise at the time of adoption of the Rule or amendment.

NASD Rules That Require or Permit Delivery of Information Between Firms and Customers

Conduct Rules

Rule 2210(d)(2)(B) (i), (ii), and (iv) (Communications with the Public; Standards Applicable to Communications with the Public; Specific Standards; Recommendations) requires a member to disclose certain ''conflicts of interest'' situations, if applicable, when making a recommendation; requires a member to provide, or offer to furnish upon request to the customer, available investment information to support a recommendation; and allows a member to offer to furnish a list of all recommendations made within the past year or over longer periods of time.

Rule 2220(d)(2)(D)(i) (Options Communications with the Public; Standards Applicable to Communications with the Public; Specific Standards) requires a member to state in sales literature pertaining to options that supporting documentation for any claims, comparisons, recommendations, statistics, or other technical data will be supplied upon request.

Rule 2230 (Confirmations) requires a member at or before the completion of each transaction to give or send to a customer written notification disclosing the member's role and other facts in connection with the transaction. In addition, if the member was acting as a broker for the customer, the member must disclose from whom the security was purchased or to whom it was sold or the fact that such information will be furnished upon request of the customer.

IM–2230 (''Third Market'' Confirmations) requires a member that acts as a broker for customers in listed securities in the ''third market'' to provide certain disclosures in a legend on the confirmation to the customer.

Rule 2240 (Disclosure of Control Relationship with Issuer) requires a member who has a control relationship with the issuer of the security being purchased or sold to provide written disclosure of the relationship to the customer at or before the completion of the transaction.

Rule 2250 (Disclosure of Participation or Interest in Primary or Secondary Distribution) requires a member to provide written disclosure to the customer at or before completion of a transaction in a primary or secondary distribution of the security, if the member is participating or has an interest in the distribution.

Rule 2260 (Forwarding of Proxy and Other Materials) requires a member to forward proxy materials, annual reports, information statements, and other material to each beneficial owner of shares of a stock held by the member.

Rule 2270(a) (Disclosure of Financial Condition to Customers) requires that, upon

[3] The SEC stated that the ability to download the document or print from the electronic medium would be sufficient to satisfy this need.

[4] *See* May 1996 Release, n.17.

[5] The SEC described an informed consent as one that specifies the electronic medium or source through which the information will be delivered and the period during which the consent will be effective, and describes the information that will be delivered using such means. Except where manual consent is required under the Penny Stock Rules (*see* discussion *infra*), broker-dealers may obtain consents either manually or electronically. *See* May 1996 Release, n.23.

[6] The SEC, however, cautioned broker-dealers that they should be aware of their responsibilities to prevent unauthorized transactions. In this regard, the Commission stated its belief that broker-dealers should have reasonable assurance that the response received from a customer is authentic. The SEC also will continue to require broker-dealers to obtain the manual signature of customers on certain disclosure documents required under the Penny Stock Rules. *See* May 1996 Release, nn.23, 29, & 50.

request, a member must make available to inspection by any bona fide regular customer financial condition information disclosed in its most recent balance sheet.

Rule 2310 (a) and (b) (Recommendations to Customers (Suitability)) requires a member to make a suitability determination based on information disclosed by the customer as to his other security holdings and his financial situation and need and requires a member to make reasonable efforts to obtain specified information concerning non-institutional customers.

IM–2310–2(e) (Fair Dealing with Customers with Regard to Derivative Products or New Financial Products) requires a member to make every effort to make customers aware of the pertinent information regarding certain products. To meet this obligation, members may deliver written documents to the customer under certain circumstances.

Rule 2330(c) (Customers' Securities or Funds; Authorization to Lend) requires a member to obtain from a customer a written authorization permitting the lending of securities carried by the member.

Rule 2330(f)(2) (D) and (G) (Customer's Securities or Funds; Sharing in Accounts; Extent Permissible) requires that a compensation arrangement to share profits in an account must be set forth in a written agreement executed by the customer and the member, and that the member must disclose to the customer all material information relating to the arrangement, including the method of compensation and potential conflicts of interest that may result from the compensation formula.

Rule 2340(a) (Customer Account Statements) requires delivery of a statement of account containing a description of any securities positions, money balances, or account activity to each customer whose account had a security position, money balance, or account activity during the period since the last statement was sent to the customer (See May 1996 Release which covers confirmations of transactions pursuant to Securities Exchange Act Rule 10b–10).

Rule 2510(b) (Discretionary Accounts; Authorization and Acceptance of Account) requires the customer's prior written authorization before a member may exercise discretionary power in a customer's account.

Rule 2510(d) (Discretionary Accounts; Exceptions) allows an exception from the requirements of the rule under certain circumstances for members utilizing negative response letters for bulk exchanges of net asset value of money market mutual funds.

Rule 2710(c)(8)(A) (Corporate Financing Rule—Underwriting Terms and Arrangements; Underwriting Compensation and Arrangements; Conflicts of Interest) requires disclosure of conflicts of interest and the name of the qualified independent underwriter assuming the role of pricing the offering and conducting due diligence.

Rule 2720 (d) and (h) (Distributions of Securities of Members and Affiliates—Conflicts of Interest; Disclosure and Periodic Reports) requires a member to make certain disclosures in the registration statement, offering circular, or similar document and requires a member that makes a distribution to the public of its securities pursuant to this Rule to send to each of its shareholders or investors: (1) quarterly, a summary statement of its operations and (2) annually, independently audited and certified financial statements.

Rule 2720(k) (Distributions of Securities of Members and Affiliates—Conflicts of Interest; Suitability) requires a member underwriting an issue of securities where a conflict of interest exists to make a suitability determination based on information furnished concerning the customer's investment objectives, financial situation, and needs.

Rule 2720(l) (Distributions of Securities of Members and Affiliates—Conflicts of Interest; Discretionary Accounts) requires specific written approval of the customer prior to execution in a discretionary account of a transaction in securities issued by a member or an affiliate of a member, or by a company with which a member has a conflict of interest.

Rule 2730(b) (Securities Taken in Trade) defines the term ''taken in trade'' as a purchase by a member as principal, or as agent for the account of another, of a security from a customer pursuant to an agreement or understanding that the customer purchase securities from the member which are part of a fixed price offering.

Rule 2810(b)(2) (Direct Participation Programs; Requirements; Suitability) requires a member to obtain information from a participant concerning his investment objectives, other investments, financial situation, and needs before making a recommendation.

Rule 2810(b)(3)(D) (Direct Participation Programs; Requirements; Disclosure) requires that prior to executing a purchase transaction in a direct participation program, a member must inform the prospective participant of all pertinent facts relating to the liquidity and marketability of the program during the term of the investment.

Rule 2830(n) (Investment Company Securities; Disclosure of Deferred Sales Charges) requires, in addition to the disclosures required by Rule 2230, additional disclosure on written confirmations if the transaction involves the purchase of shares of any investment company that imposes a deferred sales charge on redemption. In addition, a specified legend on the confirmation is required.

Rule 2845 (Discretionary Accounts) requires a customer's prior written authorization for trading of warrants in a discretionary account, pursuant to the requirements of Options Rule 2860(b)(18).

Rule 2848 (Communications with the Public and Customers Concerning Index Warrants, Currency Index Warrants, and Currency Warrants). The requirements of Rule 2220(d)(2)(D)(i) apply to communications to the public and customers concerning warrants. Rule 2848, therefore, requires the member to state in its sales literature that supporting documentation for any claims on behalf of the warrants will be supplied upon request.

Rule 2860(b)(11) (Options; Requirements; Delivery of Current Disclosure Document) requires delivery of the appropriate Options Clearing Corporation disclosure document to each customer at or prior to the time the customer's account is approved for options trading. Thereafter, delivery must be made to each customer of amendments or revisions to the disclosure document.

Rule 2860(b)(12) (Options; Requirements; Confirmations) requires members to promptly furnish customers with a written confirmation of each transaction in option contracts.

Rule 2860(b)(15) (Options; Requirements; Statements of Account) requires a member to send monthly statements to options account holders.

Rule 2860(b)(16)(A) (Options; Requirements; Opening of Accounts: Approval Required) prohibits a member from accepting an options order from a customer or from approving a customer's account for options trading unless the broker-dealer has furnished to the customer the appropriate options disclosure document(s).

Rule 2860(b)(16)(B) (Options; Requirements; Opening of Accounts; Diligence in Opening Accounts) requires a member to exercise due diligence to ascertain the essential facts relative to a customer before approving a customer's account for options trading.

Rule 2860(b)(16)(C) (Options; Requirements; Opening of Accounts: Verification of Customer Background and Financial Information) requires that background and financial information on every new options account natural person customer be sent to the customer for verification within fifteen days after the account is approved for options trading.

Rule 2860(b)(16)(D) (Options; Requirements; Opening of Accounts; Account Agreement) requires a member to obtain from the customer a written agreement that the customer is aware of and agrees to be bound by the NASD Rules applicable to the trading of option contracts within fifteen days after a customer's account has been approved for trading of options contracts.

Rule 2860(b)(16)(E)(v) (Options; Requirements; Opening of Accounts: Uncovered Short Option Contracts) requires that a short written description of the risks inherent in writing uncovered short option transactions must be furnished to applicable customers.

IM–2860–2 (Diligence in Opening Options Accounts)

Paragraph (a) requires members to seek to obtain certain information at a minimum with respect to options customers who are natural persons in order to fulfill their obligations under Rule 28860(b)(16)(b).

Paragraph (c) recommends that members consider utilizing a standard account approval form so as to ensure the receipt of all required information.

Paragraph (e) states that the requirements of Rule 2860(b)(16)(C), regarding initial and subsequent verification of customer background and financial information, can be satisfied by sending to the customer the information required in paragraphs (a)(1) through (a)(6) of IM–2860–2 and providing the customer with an opportunity to correct or complete the information.

Rule 2860(b)(18)(A) (Options; Requirements; Discretionary Accounts;

Authorization and Approval) requires the written authorization of a customer before a member may exercise any discretionary power with respect to trading an options contract in a customer account.

Rule 2860(b)(19) (Options; Requirements; Suitability) prohibits a member from recommending an options transaction unless the member has reasonable grounds to believe based on the information furnished by the customer that the recommended transaction is not unsuitable for the customer.

Rule 2860(b)(23)(C)(i) (Options; Requirements; Tendering Procedures for Exercise of Options; Allocation of Exercise Assignment Notices) requires notification to customers of the method used to allocate exercise notices to its customers' accounts.

Rule 3110(c) (Books and Records; Customer Account Information) requires members to obtain specified customer information.

Rule 3110(f)(3) (Books and Records; Requirements when Using Predispute Arbitration Agreements with Customers) requires that a copy of the agreement containing a predispute arbitration clause must be given to the customer, who must acknowledge receipt on the agreement or on a separate document.

Rule 3110(g)(2) and (3) (Books and Records; Telemarketing Requirements) requires members to obtain written customer authorization before obtaining a check drawn on a customer's account.

Rule 3230(d) (Clearing Agreements) requires notification upon the opening of an account to each customer whose account is introduced on a full disclosed basis of the existence of the clearing or carrying agreement.

Marketplace Rules: The Nasdaq Stock Market Rules

Rule 4643 (Customer Confirmations) prohibits members from effecting transactions in Nasdaq SmallCap Market securities unless, at or before completion of the transaction, the member gives or sends the customer written notification disclosing specified information.

Procedural Rules: Compliants, Investigations and Sanctions

Rule 8110 (Availability to Customers of Certificate, By-Laws and Rules) requires a member to provide customer access to copies of the NASD Certificate of Incorporation, By-Laws, and Rules.

Procedural Rules: Uniform Practice Code

Rule 11860(a)(3) and (4) (Acceptance and Settlement of COD Orders) requires a member to deliver to the customer a confirmation, or all relevant data customarily contained in a confirmation not later than the close of business on the next business day after any such execution and to obtain an agreement from the customer to furnish instructions regarding the receipt or delivery of the securities involved in the transaction.

Rule 11870(c) (Customer Account Transfer Contracts; Transfer Instructions): customers must be informed of the conditions for account transfer and must authorize the transfer.

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Questions concerning this Notice may be directed to Mary Revell, Assistant General Counsel, NASD Regulation, at (202) 728–8203.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39020; File No. SR–NSCC–97–11]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Limited Cross-Guaranty Agreements

September 4, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 3, 1997, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared primarily by NSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to obtain Commission approval of the limited cross-guaranty agreements between NSCC and each of the International Securities Clearing Corporation (''ISCC''), the Government Securities Clearing Corporation (''GSCC''), and the MBS Clearing Corporation (''MBSCC'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries submitted by NSCC.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to obtain Commission approval of the limited cross-guaranty agreements between NSCC and each of ISCC, GSCC, and MBSCC. NSCC represents that the limited cross-guaranty agreements are substantially similar to the form of limited cross-guaranty agreement previously approved by the Commission in filings made by GSCC, ISCC, and MBSCC.[3]

The limited cross-guaranty agreements between the clearing agency counterparties provide a guarantee that can be invoked in the event of a default of a common member. The guarantee is applicable only to the extent that the common member has unsatisfied obligations at one clearing agency and excess resources at another clearing agency. The guarantee is limited to the amount of the defaulting common member's resources remaining at the guaranteeing clearing agency. The agreements also set forth each clearing agency's priority structure with respect to the order in which it will make guaranty payments to other clearing agencies with which it has entered into a limited cross-guaranty agreement.[4] The agreements also provide that demand for payment must be made within six months of the suspension of the common member.

NSCC amended its rules in File No. SR–NSCC–93–07 to accommodate limited cross-guaranty agreements.[5] NSCC Rule 25 provides that in addition to a member's other obligations to NSCC under its rules, each member is obligated to NSCC for an amount equal to any guaranty payment NSCC is required to make to a cross-guaranty party pursuant to the terms of any clearing agency cross-guaranty agreement.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act because it promotes the safeguarding of

[3] See Securities Exchange Act Release No. 37616 (August 28, 1996), 61 FR 46887 (order approving proposed rule changes riled by MBSCC, GSCC, and ISCC seeking authority to enter into limited cross-guaranty agreements).

[4] Such priority schedule may be amended by later limited cross-guaranty agreements with other entities by delivery of an amended priority schedule to the counterparty.

[5] Securities Exchange Act Release No. 33548 (January 31, 1994), 59 FR 5638 (order approving proposed rule change). The proposed rule change incorporated the limited guaranty provisions into NSCC's rules and approved NSCC's limited cross-guaranty agreement with The Depository Trust Company.

securities and funds in the clearing agency's custody or control or for which it is responsible and fosters cooperation and coordination with other entities engaged in the clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F)[6] of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes that the proposal is consistent with NSCC's obligations to assure the safeguarding of securities and funds in its custody or control or for which it is responsible because the agreement should reduce NSCC's risk of loss due to a member's default.[7] The agreement should also mitigate the systemic risks posed to the national clearance and settlement system as a result of a defaulting common member and thus should foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice because it will permit NSCC to put a risk reduction mechanism into place in an expedient fashion.

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, NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–97–11 and should be submitted by October 2, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–NSCC–97–11) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

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[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] This order also approves future limited cross-guarantee agreements into which NSCC or OCC may enter which other clearing agencies provided that the form of such agreements are substantially similar to the form of agreement approved in this filing.

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39022; File Nos. SR–OCC–97–17 and SR–NSCC–97–12]

Self-Regulatory Organizations; The Options Clearing Corporation and National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes Relating to a Limited Cross-Guaranty Agreement

September 4, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 2, 1997, The Options Clearing Corporation (''OCC'') and on September 3, 1997, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange commission (''Commission'') the proposed rule changes as described in Items I and II below, which items have been prepared primarily by OCC and NSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule changes.

I. Self-Regulatory Organizations' Statements of the Terms of Substance of the Proposed Rule Changes

The purpose of the proposed rule changes is to obtain Commission approval of the form of limited cross-guaranty agreement into which OCC and NSCC propose to enter.

II. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, OCC and NSCC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. OCC and NSCC have prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

The purpose of the proposed rule changes is to obtain Commission approval of the form of limited cross-guaranty agreement into which OCC and NSCC propose to enter. OCC amended its by-laws and rules in File No. SR–OCC–96–18[3] to accommodate limited cross-guaranty agreements and accordingly is not proposing to amend the language of its by-laws and rules

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries submitted by OCC and NSCC.

[3] Securities Exchange Act Release No. 38410 (March 17, 1997), 62 FR 13931 (order approving proposed rule change). In general, the proposed rule change added a provision to OCC Rule 1104 to permit OCC to pay any amount owed by OCC to another cross-guaranty party pursuant to a limited cross-guaranty agreement; added a provision to Article VIII, Section 5 of OCC's by-laws to authorize OCC to have recourse to a suspended clearing member's clearing fund contribution for the amount of any payment which it is required to make pursuant to a limited cross-guaranty agreement; and added additional provisions to Article VIII, Section 5 of OCC's by-laws to address the treatment in various circumstances of amounts which OCC might receive under a limited cross-guaranty agreement.

further at this time. NSCC amended its rules in File No. Sr–NSCC–93–07 [4] to accommodate limited cross-guaranty agreements and is not proposing to amend the language of its rules further at this time.

Essentially, a limited cross-guaranty agreement is an agreement between two or more securities clearing corporations and/or commodities clearing organizations (collectively, ''clearing agencies'' and each, a ''clearing agency'') that provides a guarantee that can be invoked in the event that the parties to the agreement must liquidate the assets of an entity that is a member of two or more of the clearing agencies (''common member''). Pursuant to such guarantee, if at least one clearing agency's liquidation of the assets of the common member in its control results in a loss and at least one clearing agency's liquidation of the assets of the common member results in a gain, each clearing agency liquidating to a gain will make the excess assets of the common member in its control available to each clearing agency liquidating to a loss, up to the amount of the loss. If all of the liquidations results in a gain or if all of the liquidations results in a loss, the agreement provides that no assets will be made available by any party to the agreement to any other party.

The effect of a limited cross-guaranty agreement is to enable each party to the agreement to have recourse to the assets of a defaulting common member in the control of the other parties to the agreement. Therefore, a limited cross-guaranty agreement should reduce the risk of each of the clearing agencies which is a party to the agreement because a defaulting common member may well have the positions which were spread across markets in such a manner as to cause its net asset position at one clearing agency to be positive even though its net asset position at another clearing agency is negative.

NSCC and OCC believe that the form of limited cross-guaranty agreement which they propose to sign is substantially similar to the limited cross-guaranty agreement previously entered into by NSCC with the International Securities Clearing Corporation (''ISCC''), the Government Securities Clearing Corporation (''GSCC''), and the MBS Clearing Corporation (''MBSCC'') except as described below.[5] Like NSCC's agreements with MBSCC, GSCC, and ISCC, the agreement provides that demand for payment must be made within six months of the suspension of the common member.

The NSCC–OCC agreement differs from NSCC's agreements with MBSCC, GSCC, and ISCC principally in three ways. The agreement contains statements to make explicit that the net resources which either clearing agency might have to pay over to the other are to be calculated taking into account the obligations to each to the other pursuant to the options exercise settlement agreement [6] between them and the obligations which either might have pursuant to any cross-margining agreement to which it is a party.[7] The agreement also contains a statement to make explicit that the net resources which either clearing agency might have to pay over to the other are to be calculated taking into account any amount deemed by the clearing agency to be necessary to cover any deficiency in the bankruptcy estate of the common member with respect to customers of the common member or to constitute customer funds or securities which the clearing agency has an obligation to return to the common member or its bankruptcy trustee or other representative.[8] The agreement also contains a section providing for the indemnification of the clearing agency paying funds under the agreement by the clearing agency receiving funds under the agreement.

OCC and NSCC believe that the proposed rule changes are consistent with the requirements of Section 17A of the Act because they will establish an additional linkage of clearance and settlement facilities which reduces the risk exposure of the clearing agencies and their members to the liquidation of any defaulting common members and thus reduces systemic risk.

B. Self-Regulatory Organizations' Statements on Burden on Competition

OCC and NSCC do not believe a burden will be placed on competition as a result of the proposed rule changes.

C. Self-Regulatory Organizations' Statements on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

No written comments relating to the proposed rule changes have been solicited or received. OCC and NSCC will notify the Commission of any written comments they receive.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Section 17A(b)(3)(F) [9] of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes that the proposals are consistent with the NSCC's and OCC's obligations to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which they are responsible because the agreement should reduce their risk of loss due to a common member's default.[10] The agreement should also mitigate the systemic risks posed to the national clearance and settlement system as a result of a defaulting common member and thus should foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

NSCC and OCC have requested that the Commission find good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after publication of notice because it will permit NSCC and OCC to put a risk reduction mechanism into place in a timely fashion.

V. Solicitation of Comments

Interested person are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions

[4] Securities Exchange Act Release No. 33548 (January 31, 1994), 59 FR 5638 (order approving proposed rule change). The proposed rule change incorporated the limited guaranty provisions into NSCC's rules and approved NSCC's limited cross-guaranty agreement with The Depository Trust Company.

[5] See Securities Exchange Act Release No. 37616 (August 28, 1996), 61 FR 46887 (order approving proposed rule changes seeking authority to enter into limited cross-guaranty agreements filed by MBSCC, GSCC, and ISCC).

[6] See Securities Exchange Act Release No. 37731 (September 26, 1996), 61 FR 51731 (order approving proposed rule change).

[7] OCC has several cross-margining agreements in place with various community clearing agencies.

[8] OCC believes this statement to be important to reflect its Rule 1104(d) which in turn reflects that its account structure provides for maintaining customer positions in separate customers' accounts and marketmaker positions in separate market-makers' accounts. (A market-maker that is not affiliated with its clearing firm is a ''customer'' of that firm for purposes of the hypothecation rules even though it is regulated as a broker-dealer.)

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] This order also approves future limited cross-guarantee agreements into which NSCC or OCC may enter with other clearing agencies provided that the form of such agreements are substantially similar to the form of agreement approved in this filing.

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of the respective filing swill also be available for inspection and copying at the respective principal offices of OCC and NSCC. All submissions should refer to File Nos. SR–OCC–97–17 and SR–NSCC–97–12 and should be submitted by October 2, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule changes (File Nos. SR–OCC–97–17 and SR–NSCC–97–12) be and hereby are approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24134 Filed 9–10–97; 8:45 am]

BILLING CODE 8010–01–M

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39000; File No. SR–Phlx–97–23]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to the Treatment of PACE Orders in Double-up/Double-Down Tick Situations

September 2, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(c)(1), notice is hereby given that on May 2, 1997, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, and on August 4, 1997 filed with the Commission Amendment No. 1 thereto,[1] as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to adopt paragraph (c) to Supplementary Material .07 of Rule 229, Philadelphia Stock Exchange Automatic Communication and Execution (''PACE'') System, relating to automatic double-up/double-down price improvement and manual double-up/double-down price protection. The operation of the PACE System, which is the Exchange's automatic order routing and execution system for equity securities, is governed by Phlx Rule 229 (''PACE Rule'').

Proposed paragraph (c)(i), Automatic Double-up/Double-down Price Improvement, would state that where the specialist voluntarily agrees to provide automatic double-up/double-down price improvement to all customers and all eligible orders in a security, in any instance where the bid/ask spread of the PACE Quote[2] is a ¼ point or greater, market and marketable limit orders[3] in NYSE-listed or Amex-listed securities for 599 shares or less that are received through PACE in double-up/double-down situations shall be provided with automatic price improvement of ⅛ of a point, beginning at 9:45 a.m. Moreover, a specialist voluntarily may agree to provide automatic double-up/double-down price improvement to larger orders in a particular security to all customers under this provision. Automatic double-up/double-down price improvement will not occur where the execution price would be outside the primary market high/low range for the day, if out-of-range protection was elected by the member organization entering the order pursuant to Supplementary Material .07(a) of the PACE Rule. In addition, the Exchange proposes to adopt a corollary provision in Supplementary Material .10(a) to the PACE Rule respecting automatic double-up/double-down price improvement for marketable limit orders.

The Exchange also proposes to adopt an alternative to automatic double up/double-down price improvement. Specifically, proposed Supplementary Material .07(c)(ii), Manual Double-up/Double-down Price Protection would state that where the specialist does not agree to provide automatic double-up/double-down price improvement in a security, in any instance where the bid/ask spread of the PACE Quote is ⅛ of a point or greater, beginning at 9:45 a.m., the specialist must provide manual double-up/double-down price protection to all customers and all eligible orders in a security. The manual double-up/double-down price protection feature causes eligible market and marketable limited orders of 599 shares or less in NYSE-listed and Amex-listed securities that are received through PACE in double-up/double-down situations to be stopped at the PACE Quote at the time of their entry into PACE. Moreover, a specialist may voluntarily agree to provide manual double-up/double-down price protection to larger orders in a particular security to all customers under this provision. However, if the execution price of an order would be outside the primary market high/low range for the day, where out-of-range protection is elected by the member organization entering the order, the order would be stopped for manual handling by the specialist, regardless of the existence of a double-up/double-down situation. Manual double-up/double-down price protection does not provide an automatic execution or automatic price improvement. Instead, this feature stops orders to provide an opportunity for manual price improvement in double-up/double-down situations.

Finally, proposed paragraph (c)(iii) would provide that both automatic double-up/double-down price improvement and manual double-up/double-down price protection may be disengaged in a security or floorwide in extraordinary circumstances with the approval of two Floor Officials of the Exchange.

[1] *See* Letter from Philip H. Becker, Senior Vice President and Chief Regulatory Officer, Phlx, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, SEC, dated August 1, 1997 (''Amendment No. 1''). The substance of amendment No. 1 has been incorporated into this notice.

[2] The PACE Quote consists of the best bid/offer among the American Stock Exchange (''Amex''), New York Stock Exchange (''NYSE''), Pacific Exchange, Phlx, Boston, Cincinnati, and Chicago Stock Exchanges, as well as the Intermarket Trading System/Computer Assisted Execution System (''ITS/CAES''). *See* PACE Rule.

[3] A market order is an order to buy or sell a stated amount of a security at the best price obtainable when the order is received. A marketable limit order is an order to buy or sell a stated amount of a security at a specified price, which is received at a time when the market is trading at or better than such specified price.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. *Background.* As stated above, the PACE System is the Exchange's automated order routing and execution system on its equity trading floor. The PACE System accepts orders for automatic or manual execution in accordance with the provisions of the PACE Rule, which governs the operation of the PACE System and defines its objectives and parameters. Agency orders received through PACE are subject to certain minimum execution parameters and non-agency orders are subject to the provisions of Supplementary Material .02 of the PACE Rule. The PACE Rule establishes execution parameters for order depending on type (market or limit), size, and the guarantees offered by specialists.[4]

With respect to market orders, Supplementary Material .05 of the PACE Rule currently provides that round-lot market orders up to 500 shares and partial round-lot (''PRL'') market orders of up to 599 shares, which combine a round-lot with an odd-lot, are stopped at the PACE Quote at the time of their entry into PACE (''Stop Price'') for a 15 second delay to provide the Phlx specialist with the opportunity to effect price improvement when the spread between the PACE Quote exceeds ⅛ of a point. This feature is known as the Public Order Exposure System (''POES'') ''window.[5] If such orders are not executed within the POES window, the order is automatically executed at the Stop Price.

b. *Automatic double-up/double-down price improvement.* At this time, the Exchange proposes to adopt a double-up/double-down provision respecting PACE orders. The proposal consists of two alternatives: automatic double-up/double-down price improvement and manual double-up/double-down price protection. Thus, one purpose of the proposal is to provide automatic price improvement to eligible orders. As part of a continued effort to improve its execution parameters and promote the principle of best execution, the Exchange is proposing to adopt an automatic price improvement feature affording eligible orders price improvement of an ⅛ of a point from the PACE Quote when received, in double-up/double-down situations.

Under the proposal, a ''double-up/double-down'' situation is defined as a trade that would be at least: (i) ¼ point (up or down) from the last regular way sale on the primary market; or (ii) ¼ point from the regular way sale that was the previous intra-day change on the primary market. The term ''double'' originated with two ⅛ point ticks, meaning ¼ of a point. Under the proposal, a down tick of 1/16 of a point followed by a down tick of 3/16 of a point would be a double-down situation, because it equals ¼ of a point.

As an example of the part (i) of the definition of a double-up/double-down situation, assuming that the specialist has agreed to participate in this feature, where the PACE Quote is 22½–22¾, if the last sales on the primary market were 22¾ followed by a down tick at 22⅝, a double-up/double-down situation would not occur for a market order to buy, because buying at 22¾ is a single up tick of ⅛ of a point and, thus, does not meet the ¼ point requirement. Under the proposal, because no double-up/double-down situation occurred, no automatic price improvement would be afforded. However, applying part (ii) of the definition, a double-up/double-down situation would occur for a sell order, because a sale at 22½ is a ¼ point away from the next to last intra-day change, executed at 22¾. Under the proposal, the market order to sell would be automatically executed at 22⅝, providing an ⅛ point price improvement over the otherwise-automatic execution at 22½.

Where the PACE Quote is 22¼–22¾, with the last sale at 22½, part (i) of the definition would apply to a market order to buy or sell, because buying at 22¾ creates a double-up tick (¼ of a point away from 22½) and selling at 22¼ creates a double-down tick (also ¼ of a point away from 22½).

If the last sale was at 22¾ and the next-to-last sale was at 22½, part (i) of the definition would apply to a market order to sell, because selling at 22¼ creates a double-down tick (½ of a point away from 22¾), and part (ii) of the definition would apply to a buy order, because buying at 22¾, although not an up or down tick from the last sale of 22¾, is ¼ of a point away from the next to last change, executed at 22½.

If the last sale was at 22⅝ and the next to last sale was at 22½, part (ii) of the definition would apply to a market order to buy, because buying at 22¾ creates a double-up tick of (¼ of a point away) from 22½, as well as to a market order to sell, because selling at 22¼ creates a double-down tick (¼ of a point away) from 22½.

Pursuant to part (ii) of the definition of a double-up/double-down situation, this term includes qualifying changes from the last change, not just the two previous last sales. For example, where the last sales on the primary market were: 32½; 32⅜; and 32⅜, with the PACE Quote at 32¼–32½, a market order to sell that would otherwise be executable at 32¼ should be price-improved to 32⅜, because it is a double-down tick (¼ of a point away) from the last ''change'' or sale that was the previous change (meaning the change from 22½ to 22⅜).[6] Under part (i) of the definition, this order would not qualify as a double-up/double-down situation, because an execution at 22¼ would be only ⅛ of a point away from the last sale of 22⅜.

To explain the interaction between the POES window and the proposal at hand, assuming that the PACE Quote is 15½–¾ and the last sale was at 15½, an order by buy 500 shares would be subject to automatic double-up/double-down price improvement, because buying at 15¾ creates a double up tick (¼ of a point away) from the last sale at 15½. The order would be automatically executed under the proposal at 15⅝ (giving ⅛ of a point price improvement over the PACE Quote of 15¾) and no POES window would occur. The proposed automatic double-up/double-down price improvement feature results in an automatic execution, with no window,

[4] The Commission recently approved a number of amendments to the execution parameters and guarantees of the PACE Rule. *See* Securities Exchange Act Release No. 38898 (August 1, 1997), 62 FR 42616 (August 7, 1997) (File No. SR–Phlx–97–11).

[5] The Exchange recently has filed a proposed rule change to amend this provision to increase the duration of the POES window to 30 seconds. *See* Securities Exchange Act Release No. 38864 (July 23, 1997), 62 FR 40882 (July 30, 1997) (File No. SR–Phlx–97–32).

[6] The first down tick was from 32½ to 32⅜, and the second down tick would have been from 32⅜ to 32¼ had the order been executed. The intervening sale at 32⅜ does not change this result.

timer or delay. If, on the other hand, the order was to sell 500 shares, a double-up/double-down situation would not occur, because selling at 15½ is not an up or down tick (not ¼ of a point away from the last sale); this order would be POES-eligible such that the POES window would apply. At the expiration of the POES window, absent manual specialist intervention, this order would be manually executed at 15½, its Stop Price.

This proposal would also apply to marketable limit orders. As an example, assuming that the specialist has agreed to participate in the automatic double-up/double-down price improvement feature, where the PACE Quote is 15½–15¾, and the last sale was at 15½, an order to buy 500 shares at 15¾ would be subject to automatic double-up/double-down price improvement, because buying at 15¾ creates a double up tick (¼ of a point away) from the last sale at 15½. The order to buy 500 shares at 15¾ is a marketable limit order, because it is executable on the offer. Under this proposal, this order would be automatically executed at 15⅝, receiving price improvement of ⅛ of a point.

The Exchange notes that the execution resulting from the automatic price improvement feature can *create* a double-up/double-down situation; for instance, where the PACE Quote is 31–32¼ and the last sale was at 32⅜, a sell order that would be executable at 32 would be improve to 32⅛, which is a double-down tick (¼ point from 32⅜ to 32⅛).

The Exchange proposes to clarify that automatic double-up/double-down price improvement will not occur where the execution price *before or after the application of automatic price improvement* would be outside the primary market high/low range for the day, if so elected by the entering member organization. The following example illustrates how the execution price before automatic price improvement can be out-of-range. Where the low for the day is 22¼ and the high is 22½, the last sale was at 22⅜ and the PACE Quote is 22⅝–22⅞, an incoming sell order executable at 22⅝ would be stopped due to out-of-range protection (*i.e.*, an execution at 22⅝ would have been at a price above the 22½ high for the day) and thus would *not* be subject to automatic price improvement (to 22¾, which also would have been out-of-range). An execution at 22⅝ would have created a double-up/double-down situation, because 22⅝ is ¼ of a point away from the last sale at 22⅜.

The next example illustrates how the execution price could be out-of-range as a result of automatic price improvement. Where the low for the day is 22¼ and the high is 22⅝, the last sale was at 22⅜ and the PACE Quote is 22⅝–22⅞, an incoming sell order executable at 22⅝ would *not* be improved to 22¾, because such price would be out-of-range (*i.e.*, an execution at 22¾ would have been at a price above the 22⅝ high for the day). Instead, the order would revert to manual status, and the specialist would either stop the order or execute it at 22⅝. Absent out-of-range protection, the 22⅝ execution would have been a double-up situation (¼ of a point away from the last sale of 22⅜).

The Exchange is proposing to extend its price improvement initiative to double-up/double-down situations, because these are particularly suitable for price improvement. Specifically, when the current market is ¼ of a point away from the last sale price, with this trend continuing, as evidenced by consecutive up or down ticks, it is consistent with the role of the specialist to enter into stabilizing transactions on behalf of public customers.[7] Instead of affording an automatic execution at the PACE Quote, the proposal results in an automatic execution that improves on that price by an ⅛ of a point. Thus, automatically executed orders continue to receive the important benefits of speedy automatic execution and reporting, while also receiving price improvement. Heretofore, price improvement was synonymous with delay. Now, price improvement would be automatic for eligible orders. The proposal enables specialist to extend this innovative price improvement procedure to larger orders.

The Exchange has determined that, as with many PACE features and participation in the PACE System itself, automatic double-up/double-down price improvement should be made available on a voluntary, symbol-by-symbol basis, so that specialists can determine which securities are suitable for the program. The availability of a price improvement feature benefits the specialist function, especially in high-volume securities, where stopping orders and manual intervention are time-consuming, delay execution and do not necessarily result in price improvement. The proposed feature triggers a superior result—an immediate automatic execution, with no specialist intervention or delay.

c. *Manual double-up/double-down price protection*. Second, the Exchange proposes to adopt a manual double-up/double-down price protection provision as Supplemental Paragraph .07(c)(ii) of the PACE Rule. Currently, a form of such price protection is a feature of the Pace System, but is neither mandatory, nor available in all securities.[8] Nor has it been incorporated into Exchange rules. Thus, the Exchange is proposing to replace the existing voluntary feature with the proposed mandatory feature. This aspect of the proposal is intended to require a double-up/double-down feature of specialists who do not choose to participate in the automatic price improvement feature.

Manual price protection is proposed to be a mandatory requirement floor-wide in all Phlx non-primary PACE-eligible stocks. Manual price protection would apply in ⅛ point-wide markets or greater; thus, unlike automatic price improvement, which is triggered by ¼ point-wide markets, a 3⁄16 point-wide market would trigger manual price protection.

The proposed manual double-up/double-down price protection provision would stop eligible orders for an opportunity for manual price improvement by the specialist. Under this proposal, an order would be ''stopped'' by the specialist at the PACE Quote at the time of its entry into PACE, meaning that the order is guaranteed to receive at least that price by the end of the trading day. Consistent with Phlx Floor Procedure Advice A–2, specialists are required to display stopped orders at the improved price and any contra-side orders received by the specialist will be taken into account for purposes of determining when to execute a stopped order and at what price. The purpose of stopping an order is to seek a better price for the order, by probing the market further or facilitating the order in a proprietary account at that better price.

Thus, the purpose of a manual price protection provision is to provide an alternative double-up/double-down feature, which allows for price improvement, albeit not automatic, for securities which the specialist has determined are not appropriate for the automatic feature, due to, for example, liquidity, trading patterns and volatility. Less liquid stocks may trade in sizes that render it unfair to specialists to afford automatic price improvement to such orders and manage the resulting positions. The reference to trading

[7] *See* Phlx Rule 203(d).

[8] The current double-up/down price protection feature has been in use since 1991. If elected by the entering member organization in a security selected by the specialist as eligible for this feature, orders within the specialist's automatic execution guarantee size are stopped in double-up/down situations.

patterns may cover stocks where the spread between the bid and offer is very narrow, with little trading occurring between such bid/offer spread, or very wide, with most trading on the bid/offer. Low volatility stocks may not be appropriate for automatic price improvement, because little movement in the stock may also indicate little trading in between the bid/offer. Recognizing that not all stocks should be treated the same, the Exchange notes that different automatic execution sizes are permissible under the PACE Rule (with a minimum of 599 shares).[9] The Exchange believes that offering an opportunity for manual price improvement promotes the goal of best execution on the Phlx.

d. *Both features.* For both automatic price improvement and manual price protection, specialists may establish higher sizes than the 599 share minimum (but less than or equal to the specialist's automatic execution guarantee), which may be changed effective the next day. Member organizations entering PACE orders (''PACE Users'') will be notified of any such changes.

Specialists choosing to activate the automatic feature would also be subject to the procedure described above (*i.e.,* it would become effective the next day). In addition, switching between the automatic and manual features triggers this procedure. Signing up for the manual price protection feature is not required, because all specialists will be required to participate.

The Exchange notes that PACE Users may choose whether to receive the protections offered by the double-up/double-down features (both, not a particular one). In reality, most PACE Users today have elected to receive at least manual protection, which is proposed to be mandatory for all specialists. However, some PACE Users may determine not to participate in either double-up/double-down feature. For instance, a PACE User may determine that the certainty and speed of an automatic execution—a factor in a broker-dealer's decision respecting best execution obligations—outweigh the delay associated with being stopped for potential manual price improvement.

The Exchange notes that odd-lots are not eligible for either double-up/double-down price improvement or price protection. The Exchange also notes that the double-up/double-down features are available for orders that are eligible for automatic execution only. For instance, non-marketable limit orders and orders exceeding a specialist's automatic execution guarantee are not eligible for either feature, because the features depend upon either stopping or automatically improving orders guaranteed a certain automatic execution price.

Pursuant to proposed subparagraph .07(c)(iii) to the PACE Rule, both automatic double-up/double-down price improvement and manual double-up/double-down price protection may be disengaged in a security or floor-wide in extraordinary circumstances. In addition to fast market conditions, for purposes of this paragraph, extraordinary circumstances also include systems malfunctions and other circumstances that limit the Exchange's ability to disseminate or update market quotations in a timely and accurate manner.

2. Statutory Basis

In sum, the Exchange believes that the proposed price improvements features enhance the many benefits of the PACE System. For the reasons discussed above, the Exchange believes that the proposed rule change is consistent with Section 6 of the Act in general,[10] and in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by providing an opportunity for price improvement for eligible orders, whether automatic or manual. In order to champion the principle of best execution, the Exchange has listened and responded to its PACE customers and members by developing these innovation price improvement features. The Exchange also believes that the proposal is consistent with Section 11A of the Act,[11] and paragraph (a)(1) thereunder, which encourages the use of new data processing and communication techniques that create the opportunity for more efficient and effective market operations. Specifically, the proposal is consistent with the public interest and investor protection purposes of Section 11A, in that it should assure the practicability of executing customer orders in the best market as well as an opportunity for investors' orders being executed without the participation of a dealer.

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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–97–23 and should be submitted by October 2, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

[9] The Exchange also notes that all stocks on the CHX are not eligible for SuperMAX, the CHX's automatic price improvement program. Article XX, Rule 37(c) of the CHX Rules states that specialists may choose to participate on a stock-for-stock basis.

[10] 15 U.S.C. § 78(f).

[11] 15 U.S.C. § 78k–1.

[12] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24037 Filed 9–10–97; 8:45 am]

BILLING CODE 8010–01–M

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 by October 14, 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: 8(A) Electronic Application follow-up Survey.

Form No: N/A.

Frequency: On Occasion.

Description of Respondents: Potential 8(A) Applicants.

Annual Responses: 106.

Annual Burden: 17.6.

Dated: September 5, 1997.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 97–24160 Filed 9–10–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2980]

State of Minnesota

As a result of the President's major disaster declaration on August 25, 1997, I find that Anoka, Hennepin, Isanti, Kandiyohi, Ramsey, Sherburne, and Wright Counties in the State of Minnesota constitute a disaster area due to damages caused by severe storms, high winds, tornadoes, and flooding which occurred June 28–July 27, 1997. Applications for loans for physical damages may be filed until the close of business on October 25, 1997, and for loans for economic injury until the close of business on May 26, 1998, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Minnesota may be filed until the specified date at the above location: Benton, Carver, Chippewa, Chisago, Dakota, Kanabec, McLeod, Meeker, Mille Lacs, Pine, Pope, Renville, Scott, Stearns, Swift, and Washington.

Physical damage:	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.250
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 298011 and for economic injury the number is 958200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 4, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–24159 Filed 9–10–97; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Advisory Committee for Trade Policy and Negotiations

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the September 25, 1997, meeting of the Advisory Committee for Trade Policy and Negotiations will be held from 10 a.m. to 2 p.m. The meeting will be closed to the public from 10 a.m. to 1:30 p.m. and open to the public from 1:30 p.m. to 2 p.m.

SUMMARY: The Advisory Committee for Trade Policy and Negotiations will hold a meeting on September 25, 1997 from 10 a.m. to 2 p.m. The meeting will be closed to the public from 10 a.m. to 1:30 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. The meeting will be open to the public and press from 1:30 p.m. to 2 p.m. when trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committee will not be invited to comment.

DATES: The meeting is scheduled for September 25, 1997, unless otherwise notified.

ADDRESSES: The meeting will be held at the Carlton Hotel in the Chandelier Room, located at 16th and K Streets, Washington, DC, unless otherwise notified.

FOR FURTHER INFORMATION CONTACT:

Bill Daley, Office of the United States Trade Representative, (202) 395–6120.

Charlene Barshefsky,

United States Trade Representative.

[FR Doc. 97–24131 Filed 9–10–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Richmond County, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Richmond County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Roy C. Shelton, Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina 27601, Telephone: (919) 856–4350.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposal to improve and/or relocate US 1 in Richmond County from Sandhill Road (SR 1971) south of Rockingham to Indian Lake Road (SR 1479) north of Marston, a distance of approximately 35.4 kilometers (22 miles).

Improvements to the corridor are deemed necessary to improve travel in Richmond County by reducing overall travel time, reducing through and truck traffic congestion in downtown Rockingham, and improving traffic safety along existing US 1. The proposed project is also considered to be a key element in the state's effort to provide a multi-lane US 1 facility from the South Carolina state line to the Virginia state line.

The range of alternatives under consideration include the ''no-action'' or No-Build Alternative, alternates using various other transportation modes, widening the existing two-lane highway to a four-lane or multi-lane facility, and constructing a multi-lane controlled access highway on new location. Incorporated into the study of various build alternatives will be various grade and alignment designs.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have expressed or are known to have interest in this proposal. Small group informational meetings and citizens information workshops have been established for this project. In addition, a corridor public hearing will be held. The public will be notified in advance of the workshops and public hearing through the use of newspaper advertisements and a direct mailing to persons on the project mailing list. The draft EIS will be circulated for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

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

Issued on: August 29, 1997.

Roy C. Shelton,

Operations Engineer, Raleigh.

[FR Doc. 97–24150 Filed 9–10–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33448]

Arizona & California Railroad Company Limited Partnership—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

Arizona & California Railroad Company Limited Partnership (ARZC), a Class III rail common carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire and operate approximately 83.5 mainline route miles of rail line over two connecting branch lines and a connecting spur track from The Burlington Northern and Santa Fe Railway Company (BNSF), as follows: (i) The Centralia-Hoquiam Line, which extends from milepost 0.6, at or near Centralia, WA, to the western end of the line at about milepost 74.1, at or near Hoquiam, WA, including the Horn Spur Track, which connects to the Centralia-Hoquiam Line at milepost 72.5 and extends northward to the end of the track at approximately milepost 2.0; and (ii) the Elma-Shelton Line, which extends from milepost 0.0, at Elma, WA, (connecting to the Centralia-Hoquiam Line at about milepost 46.7) northward to the end of BNSF-owned track at milepost 25.1, at or near Shelton, WA.[1]

In connection with ARZC's acquisition of the Subject Lines, ARZC will also acquire incidental trackage rights as follows: (i) BNSF will assign its trackage rights to operate over Union Pacific Railroad Company (UP)[2] from (a) milepost 68.9 to milepost 69.4 and (b) milepost 70.3 to 72.0, at and near Aberdeen, WA; (ii) BNSF will grant to ARZC incidental trackage rights. for the sole purpose of operating overhead rail freight service, that extend from BNSF milepost 0.6 to BNSF milepost 0.4, at or near Centralia, WA; and (iii) BNSF will assign its rights under a December 11, 1994 agreement between its predecessor, Northern Pacific Railway Company, and the United States of America, pursuant to which BNSF provides service on a government-owned line from its connection with the Elma-Shelton Line to Bangor, a distance of approximately 44 miles, and a branch line to Bremerton Navy Yard, a distance of approximately 4.6 miles.[3]

The transaction was expected to be consummated on or after August 29, 1997. The Subject Lines and the incidental trackage rights will be operated by an operating division of ARZC, d/b/a Puget Sound & Pacific.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33448, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Jo A. DeRoche, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, N.W., Suite 800, Washington, DC 20005–4797.

Decided: September 4, 1997.

[1] The Centralia-Hoquiam Line, the Horn Spur Track, and the Elma-Shelton Line are collectively referred to as the Subject Lines.

[2] The notice of exemption states that should the assignment by BNSF to ARZC of incidental trackage rights over UP's rail line require UP's consent, such consent will be obtained.

[3] On August 21, 1997, Simpson Timber Company (Simpson) filed a petition to stay or revoke the exemption in this proceeding. ARZC replied in opposition to Simpson's petition. BNSF also sought leave to intervene in the proceeding and submitted a reply in opposition to Simpson's petition. Simpson subsequently requested permission to withdraw its petition. BNSF is granted permission to intervene and Simpson is granted permission to withdraw its petition.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary.

[FR Doc. 97–24155 Filed 9–10–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service; Notice of Meeting

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date and location of the next meeting and the agenda for consideration by the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on September 26, 1997. The session will be held from approximately 9:00 a.m. to 12:30 p.m. at the Hilton Hotel, 1301 6th Avenue (6th Avenue at University Street), Seattle, Washington. Tel.: 206–624–0500.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Tariff and Trade Affairs, Office of the Under Secretary for Enforcement, Room 4004, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220. Tel.: (202) 622–0220.

SUPPLEMENTARY INFORMATION: This is the fourth meeting of the current two-year term of the Committee. The provisional agenda to be considered at the meeting is as follows:

1. Automation issues.

a. Year 2000 preparations and resources.

b. Future of the Automated Commercial Environment (ACE) (including planned internal allocation of automation resources.)

c. The Automated Export System: Advisory Committee role in coordinating industry consultations and recommendations.

2. Preview of the FY 1998 Annual Plan.

3. The Reconciliation Prototype (time permitting).

4. Other new business.

The provisional agenda may be modified prior to the meeting. Meeting time is based on this agenda. Members of the public wishing to confirm the precise hours of the meeting and the final content of the agenda may do so by calling the information number one week prior to the meeting. The Committee, in its discretion, may take up other matters, time permitting.

The meeting is open to the public. However, participation in the discussion is limited to Committee members and Treasury and Customs staff. It is necessary for any person other than an Advisory Committee member who wishes to attend the meeting to give notice by contacting Ms. Theresa Manning no later than September 19, 1997 at 202–622–0220.

Dated: September 5, 1997.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 97–24014 Filed 9–10–97; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

USIA Seeks Private Sector Partners for Hannover Expo 2000

AGENCY: United States Information Agency.

ACTION: Seeking Private Sector Partners for Hannover Expo 2000.

SUMMARY: The United States Information Agency announces that the United States intends to participate at Hannover Expo 2000, a World Fair officially sanctioned by the Bureau of International Expositions, to be held in Hannover, Germany, from June 1–October 31, 2000. Participation will entail the design, fabrication and operation of a 40,000 square foot U.S. Pavilion focusing on the expo theme, ''Mankind-Nature-Technology.'' Financing is being sought through cash and ''in kind'' contributions from the private sector, as well as state and local governments and other organizations.

FOR FURTHER INFORMATION CONTACT: Organizations wishing to contribute to, or participate in, this project should contact the United States Information Agency's Hannover Expo 2000 Coordinator, Mr. James E. Ogul, by mail at U.S. Information Agency, E/SP, 301 Fourth St., S.W., Rm. 314, Washington, DC 20547; Telephone: 202–260–6511, Fax: 202–401–5618, or the Internet: JOGUL@USIA.GOV. All correspondence will be considered.

Dated: September 5, 1997.

John G. Busch,

Senior Contracting Officer, Office of Contracts.

[FR Doc. 97–24110 Filed 9–10–97; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0260]

Proposed Information Collection Activity: Proposed Collection; Comment Request; Reinstatement

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to VA Form 10–5345(R), Request for Consent to Release of Medical Records Protected by 38 U.S.C. 7332.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 10, 1997.

ADDRESSES: Submit written comments on the collection of information to Ann Bickoff, Veterans Health Administration (161A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Please refer to ''OMB Control No. 2900–0260'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Ann Bickoff at (202) 273–8310.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) way

to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title and Form Number: Request for and Consent to Release of Medical Records Protected by Section 7332, VA Form 10–5345(R).

OMB Control Number: 2900–0260.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: Section 7332, Title 38, United States Code, requires the VA to obtain prior written consent from a patient before information concerning treatment for alcoholism or alcohol abuse, drug abuse, sickle cell anemia, or infection with the human immunodeficiency virus (HIV) can be disclosed from a patient medical record. This special consent must indicate the name of the facility permitted to make the disclosure, the name of the individual or organization to whom the information is being released, specify the particular records or information to be released, be under the signature of the veteran and dated. It must reflect the purpose for which the information is to be used, and include a statement that the consent is subject to revocation and the date, event or condition upon which the consent will expire if not revoked before. The Privacy Act of 1974 and VA confidentiality statute, Section 5701, Title 38, United States Code, also requires a written patient consent.

The information is collected from the patient. VA personnel complete 50% of the total number of forms used and the patient must simply sign and date the form. Patients complete the remaining 50% of the total number of forms. The information is usually handwritten. If the VA did not collect this information, medical records protected Title 38, U.S.C., Section 7332, could not be released from a patient's records. This would have a negative impact on patients who need and want information released to private insurance companies, physicians and other third parties.

Affected Public: Individuals or households.

Estimated Annual Burden: 8,069 hours.

Estimated Average Burden Per Respondent: 2 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 242,070.

Dated: August 20, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–24057 Filed 9–10–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0045]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 14, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0045.''

SUPPLEMENTARY INFORMATION:

Title and Form Number: VA Request for Determination of Reasonable Value, VA Form 26–1805.

OMB Control Number: 2900–0045.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–1805 is used to collect data necessary for VA compliance with the requirements of Title 38 U.S.C. 3710 (b) (4), (5), and (6). These requirements prohibit the VA guaranty or making of any loan unless the suitability of the security property for dwelling purposes is determined, the loan amount does not exceed the reasonable value, and if the loan is for purposes of alteration, repair, or improvements, the work substantially improves the basic livability of the property. The data supplied by persons and firms completing VA Form 26–1805 is used by VA personnel to identify and locate properties for appraisal and to make assignments to appraisers. The VA is required to notify potential veteran-purchasers of such properties of the VA-established reasonable value. The VA will also use VA Form 26–1843, Certificate of Reasonable Value, as a notice to requesters of the reasonable (appraised) value or an authorized lender will issue a notice of value in connection with the Lender Appraisal Processing Program.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 12, 1997 at page 32148.

Affected Public: Individuals or households.

Estimated Annual Burden: 64,000 hours.

Estimated Average Burden Per Respondent: 12 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 320,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0045'' in any correspondence.

Dated: August 14, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–24055 Filed 9–10–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0548]

Agency Information Collection Activities Under OMB Review

AGENCY: Board of Veterans' Appeals, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Board of Veterans' Appeals (BVA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its

expected cost and burden; it includes the actual data collection instrument. In addition, OMB is being requested to:

a. Grant the BVA a 3-year generic clearance approval authority.

b. Allow the BVA to establish a maximum number of annual burden hours against which burden will be charged for each survey actually used.

c. Allow for the submission of a summary of objectives, specific burden estimates, and all final or near final survey instruments covered by the generic clearance for inclusion in the OMB public docket prior to their use.

DATES: Comments must be submitted on or before October 14, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0548.''

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Board of Veterans' Appeals Customer Satisfaction Surveys.

OMB Control Number: 2900–0548.

Type of Review: Extension of a currently approved collection.

Abstract: Executive Order 12862, Setting Customer Service Standards, requires Federal agencies and departments to identify and survey its customers to determine the kind and quality of services they want and their level of satification with existing service. The BVA uses customer satisfaction surveys to gauge customer perceptions of VA services as well as customer expectations and desires. The results of these information collections lead to improvements in the quality of BVA service delivery by helping to shape the direction and focus of specific programs and services.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 12, 1997 at pages 32149–32150.

Affected Public: Individuals or households.

Estimated Annual Burden: 400 hours.

Estimated Average Burden Per Respondent: 6 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 4,000.

The surveys will consist of no more than 4,000 appellants in whose cases final Board decisions were issued during the 180-day period immediately preceding the survey or whose appeals have been placed on the Board's docket but have not yet been decided. To facilitate data analysis, three customer categories will be targeted: appeals allowed; appeals denied; and current appeals. The anticipated rate of response is 80%.

The areas of concern to the BVA and its customers may change over time, and it is important to have the ability to evaluate customer concerns quickly. Participation in the surveys will be voluntary and the generic clearance will not be used to collect information required to obtain or maintain eligibility for a VA program or benefit. In order to maximize the voluntary response rates, the information collection will be designed to make participation convenient, simple, and free of unnecessary barriers. Baseline data obtained through these information collections will be used to improve customer service standards. The BVA will consult with OMB regarding each specific information collection during this approval period.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0548'' in any correspondence.

Dated: September 22, 1997.

By direction of the Secretary.

William T. Morgan,

Program Analyst.

[FR Doc. 97–24056 Filed 9–10–97; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0365]

Agency Information Collection Activities Under OMB Review

AGENCY: National Cemetery System, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the National Cemetery System (NCS), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 14, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0365.''

SUPPLEMENTARY INFORMATION:

Title and Form Number: Request for Disinterment, VA Form 40–4970.

OMB Control Number: 2900–0365.

Type of Review: Revision of a currently approved collection.

Abstract: Interments made in national cemeteries are permanent and final. Disinterments will be permitted for cogent reasons, and then with prior written authorization only, usually by the Cemetery Director. Approval can be granted when all immediate family members of the decedent, including the person who initiated the interment, give their written consent. An order from a court of local jurisdiction can be accepted in lieu of submitting VA form 40–4970. The form is used to allow a person to request removal of remains from a national cemetery for interment at another location. The information is used for approving or disapproving the disinterment request.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on May 27, 1997 at page 28755.

Affected Public: Individuals or households.

Estimated Annual Burden: 33 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 199.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0365'' in any correspondence.

Dated: August 20, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–24058 Filed 9–10–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0571]

Agency Information Collection Activities Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the National Cemetery System (NCS), Office of Management (OM), and Office of Inspector General (IG), Department of Veterans Affairs, have submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument. In addition, OMB is being requested to:

a. Grant the NCS, OM, and IG a 3-year generic clearance approval authority.

b. Allow the NCS, OM, and IG to establish a maximum number of annual burden hours against which burden will be charged for each survey actually used.

c. Allow for the submission of a summary of objectives, specific burden estimates, and all final or near final survey instruments covered by the generic clearance for inclusion in the OMB public docket prior to their use.

DATES: Comments must be submitted on or before October 14, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0571.''

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the National Cemetery System, Office of Management, and Office of Inspector General Customer Satisfaction Surveys.

OMB Control Number: 2900–0571.

Type of Review: Extension of a currently approved collection.

Abstract: Executive Order 12862, Setting Customer Service Standards, requires Federal agencies and departments to identify and survey its customers to determine the kind and quality of services they want and their level of satisfaction with existing service. The NCS, OM, and IG use the customer satisfaction surveys to evaluate customer services as well as customer expectations and desires. The results of this information collection lead to improvements in the quality of the NCS, OM, and IG service delivery by helping to shape the direction and focus of specific services.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 18, 1997 at pages 33153–33155.

Affected Public: Individuals or households; Business or other for-profit.

Listing of Survey Activities: The following list of activities is a compendium of customer satisfaction survey plans by the NCS, OM, and IG. The actual conduct of any particular activity listed could be affected by circumstances. A change in, or refinement of, our focus in a specific area, as well as resource constraints could require deletion or substitution of any listed item. If these organizations substitutes or proposes to add a new activity that falls under the umbrella of this generic approval, including those activities that are currently in a planning stage, OMB will be notified and will be furnished a copy of pertinent materials, a description of the activity and number of burden hours involved. The NCS, OM, and IG will conduct periodic reviews of ongoing survey activities to ensure that they comply with the PRA.

Year	Number of respondents	Estimated annual burden (hours)	Frequency
National Cemetery System Focus Groups with Next of Kin (10 participants per group/3 hours each session)			
1998	150	450	15 groups annually.
1999	150	450	15 groups annually.
2000	150	450	15 groups annually.
National Cemetery System Focus Groups with Funeral Directors (10 participants per group/3 hours each session)			
1998	150	450	15 groups annually.
1999	150	450	15 groups annually
2000	150	450	15 groups annually.
National Cemetery System Focus Groups with Veterans Service Organizations (10 participants per group/3 hours each session)			
1998	150	450	15 groups annually.
1999	150	450	15 groups annually.
2000	150	450	15 groups annually.
National Cemetery System Focus Groups with State Veterans Officers (10 participants per group/3 hours each session)			
1998	20	60	2 groups annually.
1999	20	60	2 groups annually.
2000	20	60	2 groups annually.
National Cemetery System Visitor Comments Cards			
1998	2,500	420	Twice annually.
1999	2,500	420	Twice annually.

Year	Number of respondents	Estimated annual burden (hours)	Frequency
2000	2,500	420	Twice annually.
National Cemetery System Next of Kin National Customer Satisfaction Survey (Telephone)			
1998	1,500	750	Annually.
1999	1,500	750	Annually.
2000	1,500	750	Annually.
National Cemetery System Potential Customers National Customer Satisfaction Survey (Telephone)			
1998	1,500	750	Annually.
1999	1,500	750	Annually.
2000	1,500	750	Annually.
National Cemetery System Program/Specialized Service Survey (Telephone)			
1998	1,000	250	Annually.
1999	1,000	250	Annually.
2000	1,000	250	Annually.
Office of Management Accountability Report Pilot Evaluation Form			
1998	550	138	Annually.
1999	550	138	Annually.
2000	550	138	Annually.
Office of Inspector General Patient Questionnaire			
1998	1,200	200	Annually.
1999	1,200	200	Annually.
2000	1,200	200	Annually.

Most customer satisfaction surveys will be recurring so that the NCS, OM, and IG can create ongoing measures of performance and to determine how well the agency meets customer service standards. Each collection of information will consist of the minimum amount of information necessary to determine customer needs and to evaluate the organization's performance. The NCS expects to conduct 47 focus groups annually involving a total of 1,410 hours during the approval period. In addition, the NCS expects to conduct telephone surveys with a total annual burden of 1,750 hours. The NCS, OM, and IG will distribute written surveys with a total annual burden of 758 hours.

The areas of concern to the NCS, OM, and IG and their customers may change over time, and it is important to have the ability to evaluate customer concerns quickly. Participation in the surveys and focus groups will be voluntary and the generic clearance will not be used to collect information required to obtain or maintain eligibility for a VA program or benefit. In order to maximize the voluntary response rates, the information collection will be designed to make participation convenient, simple, and free of unnecessary barriers. Baseline data obtained through these information collections will be used to improve customer service standards. The NCS, OM, and IG will consult with OMB regarding each specific information collection during this approval period.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0571'' in any correspondence.

Dated: August 20, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–24059 Filed 9–10–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0567]

Agency Information Collection Activities Under OMB Review

AGENCY: National Cemetery System, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the National Cemetery System (NCS), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 14, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0567.''

SUPPLEMENTARY INFORMATION:

Title: PMC (Presidential Memorial Certificate) Insert.

OMB Control Number: 2900–0567.

Type of Review: Extension of a currently approved collection.

Abstract: The PMC Program was initiated in March 1962 by President John F. Kennedy to honor the memory of honorably discharged, deceased veterans, and has been continued by all

subsequent Presidents. A PMC is mailed to deceased veterans relatives and friends honoring their military service to our Nation. In most cases involving recent deaths, the local VA regional office originates the process without a request from the next-of-kin. With the automation of the program, the insert will accompany the issuance of the original certificate. The insert provides a convenient method for the recipients of the original PMC to request additional certificates and/or replacement or corrected certificates. The information will be used by the NCS to promptly reissue or provide additional certificates.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on May 27, 1997 at pages 28756–28757.

Affected Public: Individuals or households.

Estimated Annual Burden: 925 hours.

Estimated Average Burden Per Respondent: 2 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 27,740.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0567'' in any correspondence.

Dated: August 20, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–24060 Filed 9–10–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0569]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument. In addition, OMB is being requested to:

a. Grant the VBA a 3-year generic clearance approval authority.

b. Allow the VBA to establish a maximum number of annual burden hours against which burden will be charged for each survey actually used.

c. Allow for the submission of a summary of objectives, specific burden estimates, and all final or near final survey instruments covered by the generic clearance for inclusion in the OMB public docket prior to their use.

DATES: Comments must be submitted on or before October 14, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0569.''

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Veterans Benefits Administration Customer Satisfaction Surveys.

OMB Control Number: 2900–0569.

Type of Review: Extension of a currently approved collection.

Abstract: The VBA administers integrated programs of benefits and services, established by law for veterans and their survivors, and service personnel. Executive Order 12862, Setting Customer Service Standards, requires Federal agencies and departments to identify and survey its customers to determine the kind and quality of services they want and their level of satisfaction with existing service. The VBA uses customer satisfaction surveys to gauge customer perceptions of VA services as well as customer expectations and desires. The results of these information collections lead to improvements in the quality of VBA service delivery by helping to shape the direction and focus of specific programs and services.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 5, 1997 at pages 30930–30932.

Affected Public: Individuals or households, non-profit organizations, educational institutions, veterans' service organizations, and businesses or other for-profits.

Listing of Survey Activities: The following list of activities is a compendium of VBA's customer satisfaction survey plan. The actual conduct of any particular activity listed could be affected by circumstances. A change in, or refinement of, our focus in a specific area, as well as resource constraints could require deletion or substitution of any listed item. If VBA substitutes or proposes to add a new activity that falls under the umbrella of this generic approval, including those activities that are currently in a planning stage, OMB will be notified and will be furnished a copy of pertinent materials, a description of the activity and number of burden hours involved. VBA will conduct periodic reviews of ongoing survey activities to ensure that they comply with the PRA.

Survey of Veterans' Satisfaction with the VA Compensation & Pension (C&P) Claims Process: VBA will continue to gage customer satisfaction levels of those who experience the C&P claims adjudication process.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	15 minutes	5,700 hours.
1998 ..	15 minutes	5,700 hours.
1999 ..	15 minutes	5,700 hours.

VA Compensation & Pension Claims Process Customer Satisfaction Focus Groups: VBA will conduct 10 focus groups to solicit customer opinion of the C&P claims process. Each of the 10 groups will consist of 20 participants.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	2 hours	400 hours.
1998 ..	2 hours	400 hours.
1999 ..	2 hours	400 hours.

Survey of Veterans' Satisfaction with the VA Education Claims Process: VBA will conduct surveys to determine the customer satisfaction levels of veterans and their dependents or survivors who are receiving education benefits from VA.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	15 minutes	1,000 hours.
1998 ..	15 minutes	800 hours.

Year	Estimated average burden per respondent	Estimated annual burden
1999 ..	15 minutes	800 hours.

VA Education Claims Process Focus Groups (Certifying Officials, Service Organization representatives, and Montgomery GI Bill participants): VBA will conduct 1 focus group each year which will be comprised of 10 participants who certify to VA that veterans are progressing in their chosen education program, veterans service organization representatives who assist veterans in their education claims, and veterans who are receiving education benefits under the Montgomery GI Bill.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	2 hours	220 hours.
1998 ..	2 hours	220 hours.
1999 ..	2 hours	220 hours.

VA Loan Customer Service Survey: VBA will conduct customer satisfaction surveys of those who have had their home loan guaranteed by VA.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	15 minutes	575 hours.
1998 ..	15 minutes	575 hours.

VA Loan Guaranty Lender Survey: VBA will conduct customer satisfaction surveys of home loan mortgage lenders that participate in the VA home loan guaranty program.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	20 minutes	303 hours.
1998 ..	20 minutes	303 hours.

VA Regional Office-Based Loan Guaranty Surveys: VA regional offices will conduct customer satisfaction surveys of veterans as well as home mortgage lenders and home builders in their particular areas of jurisdiction.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	10 minutes to 1 hour	257 hours.
1998 ..	10 minutes to 1 hour	262 hours.
1999 ..	10 minutes to 1 hour	262 hours.

VA Regional Office-Based Loan Guaranty Focus Groups: VA regional offices will conduct focus groups consisting of participating loan servicers and property managers. There will be 2 groups of 75 participants for up to 4 hours and 12 groups of 10 participants for up to 3 hours respectively.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	3 to 4 hours	960 hours.
1998 ..	3 to 4 hours	960 hours.
1999 ..	3 to 4 hours	960 hours.

VA Regional Office-Based Vocational Rehabilitation & Counseling Surveys: VA regional offices will conduct customer satisfaction surveys of veterans who have entered a program of vocational rehabilitation with VA.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	5 to 15 minutes	384 hours.
1998 ..	5 to 15 minutes	506 hours.
1999 ..	5 to 15 minutes	506 hours.

Insurance Customer Surveys: VBA will continue to conduct customer satisfaction surveys of veterans who have life insurance policies administered by VA.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	6 minutes	216 hours.
1998 ..	6 minutes	280 hours.
1999 ..	6 minutes	280 hours.

Survey of Insurance Interactive Voice Response Users: VBA will continue to conduct customer satisfaction surveys of veterans who have life insurance policies administered by VA and use the Interactive Voice Response System employed at the VA Regional Office & Insurance Center, Philadelphia, PA.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	12 minutes	41 hours.

VA Regional Office-Based Customer Satisfaction Surveys: Many VA regional offices will conduct customer satisfaction surveys of veterans who inquire about and/or apply for different VA benefits.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	3 to 15 minutes	432 hours.
1998 ..	3 to 15 minutes	468 hours.
1999 ..	3 to 15 minutes	468 hours.

VA Regional Office-Based Customer Satisfaction Focus Groups: Many VA regional offices will conduct focus groups comprising veterans who inquire about and/or apply for different VA benefits. The groups will commonly consist of groups of 10 to 12 participants meeting for 2 to 3 hours at a time.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	2 to 3 hours	767 hours.
1998 ..	2 to 3 hours	767 hours.
1999 ..	2 to 3 hours	767 hours.

VA Regional Office-Based Surveys of Specialized Population Groups: VA regional offices will conduct customer satisfaction surveys of such specialized population groups as county veterans officers and Persian Gulf War veterans)

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	10 minutes to 1 hour	125 hours.
1998 ..	10 minutes to 1 hour	115 hours.
1999 ..	10 minutes to 1 hour	115 hours.

VA Regional Office-Based Focus Groups of Specialized Population Groups: VA regional offices will conduct focus groups consisting of such specialized population groups as minority veterans, women veterans, and active duty military personnel.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	2 hours	120 hours.
1999 ..	2 hours	120 hours.

Conceptual Survey Activities: The VBA is planning or considering survey activities in the following areas:

Vocational Rehabilitation & Counseling Service Survey (National): VBA plans to conduct a national survey encompassing veterans who are in a VA Vocational Rehabilitation & Counseling program.

Year	Estimated average burden per respondent	Estimated annual burden
1999 ..	30 minutes	5,600 hours.

Vocational Rehabilitation & Counseling Focus Groups (National): VBA plans to conduct focus groups that consist of veterans who are in a VA Vocational Rehabilitation & Counseling program. These will include 30 groups of 10 participants.

Year	Estimated average burden per respondent	Estimated annual burden
1998 ..	2 hours	600 hours.
1999 ..	2 hours	600 hours.

VA Loan Customer Service Survey: VBA plans to develop a new national survey of veterans who apply for VA home loan guaranty benefits.

Year	Estimated average burden per respondent	Estimated annual burden
1999 ..	15 minutes	4,600 hours.

VA Regional Office Specific Service Improvement Initiatives (Comment Card): VBA plans to develop a comment card which would be given to customers to determine what effect service improvement initiatives are having on customer satisfaction.

Year	Estimated average burden per respondent	Estimated annual burden
1997 ..	5 minutes	4,275 hours.
1998 ..	5 minutes	8,550 hours.
1999 ..	5 minutes	8,550 hours.

Survey of Educational Institutions: VBA plans to develop new survey of educational institutions where veterans attend. This survey would gauge the institution's level of satisfaction with their dealings with VA offices.

Year	Estimated average burden per respondent	Estimated annual burden
1999 ..	15 minutes	250 hours.

Survey of Veterans Who Filed for an Increase in their Service-Connected Disability Compensation: VBA plans to develop a new survey to determine customer satisfaction levels of those who have applied for an increase in their service-connected disability compensation.

Year	Estimated average burden per respondent	Estimated annual burden
1999 ..	20 minutes	167 hours.

Survey of Veterans and their Survivors Who Have Been Denied Claims for Service-Connected Disability Compensation or Related Benefits: VBA plans to develop a new survey of veterans and survivors to determine customer satisfaction levels of those who have been denied benefits.

Year	Estimated average burden per respondent	Estimated annual burden
1999 ..	20 minutes	167 hours.

Survey of Military Personnel Who are Separating from Active Duty: VBA plans to develop a new survey intended to gauge customer satisfaction expectations of military personnel as they leave active service.

Year	Estimated average burden per respondent	Estimated annual burden
1999 ..	20 minutes	167 hours.

Survey of Veterans Service Officers: VBA plans to develop a new survey intended to gauge customer satisfaction levels of Veterans Service Officer that work in partnership with VA in service to veterans.

Year	Estimated average burden per respondent	Estimated annual burden
1998 ..	20 minutes	50 hours.

Undetermined Focus Groups: VBA plans to conduct focus groups consisting of specific population groups that have yet to be determined. There will be approximately 200 focus groups of 10 participants.

Year	Estimated average burden per respondent	Estimated annual burden
1998 ..	2 hours	4,000 hours.
1999 ..	2 hours	4,000 hours.

Most customer satisfaction surveys will be recurring so that the VBA can create ongoing measures of performance and to determine how well the agency meets customer service standards. Each collection of information will consist of the minimum amount of information necessary to determine customer needs and to evaluate the VBA's performance. The VBA expects to conduct focus groups involving an estimated burden of 2,467 hours during the remainder of 1997, 6,947 hours in 1998, and 7,067 hours in 1999. In addition, the VBA expects to distribute written surveys with a total annual burden of approximately 13,308 hours in 1997, 17,559 hours in 1998, and 27,683 hours in 1999. The grand totals for both focus groups and written surveys are—15,775 hours in 1997, 24,506 hours in 1998, and 34,750 hours in 1999.

The areas of concern to the VBA and its customers may change over time, and it is important to have the ability to evaluate customer concerns quickly. Participation in the surveys and focus groups will be voluntary and the generic clearance will not be used to collect information required to obtain or maintain eligibility for a VA program or benefit. In order to maximize the voluntary response rates, the information collection will be designed to make participation convenient, simple, and free of unnecessary barriers. Baseline data obtained through these information collections will be used to improve customer service standards. The VBA will consult with OMB regarding each specific information collection during this approval period.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0570'' in any correspondence.

Dated: August 14, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–24061 Filed 9–10–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0570]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument. In addition, OMB is being requested to:

a. Grant the VHA a 3-year generic clearance approval authority.

b. Allow the VHA to establish a maximum number of annual burden hours against which burden will be charged for each survey actually used.

c. Allow for the submission of a summary of objectives, specific burden

estimates, and all final or near final survey instruments covered by the generic clearance for inclusion in the OMB public docket prior to their use.

DATES: Comments must be submitted on or before October 14, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0570.''

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Veterans Health Administration Customer Satisfaction Surveys.

OMB Control Number: 2900–0570.

Type of Review: Extension of a currently approved collection.

Abstract: Executive Order 12862, Setting Customer Service Standards, requires Federal agencies and departments to identify and survey its customers to determine the kind and quality of services they want and their level of satisfaction with existing service. The VHA uses customer satisfaction surveys to gauge customer perceptions of VA services as well as customer expectations and desires. The results of these information collections lead to improvements in the quality of VHA service delivery by helping to shape the direction and focus of specific programs and services.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 12, 1997 at pages 32148–32149.

Affected Public: Individuals or households.

Special Emphasis (Different Special Emphasis Programs will be surveyed annually; for example, in 1997, VHA is surveying inpatient and outpatient Persian Gulf Veterans and inpatient and outpatient Spinal Cord Injury patients. Special Emphasis program selections have not been made for FYs 1998–2000. Burden hours for the out-years are based on 1997 estimates.)

Year	Number of respondents	Estimated annual burden (hours)	Frequency of response
1998	46,800	18,200	Annually.
1999	46,800	18,200	Annually.
2000	46,800	18,200	Annually.
Local Facilities Surveys:			
1998	12,000	3,000	One-time.
1999	12,000	3,000	One-time.
2000	12,000	3,000	One-time.

Most customer satisfaction surveys will be recurring so that the VHA can create ongoing measures of performance and to determine how well the agency meets customer service standards. Each collection of information will consist of the minimum amount of information necessary to determine customer needs and to evaluate the VHA's performance. The VHA expects to distribute written surveys with a total annual burden of approximately 21,200 hours in 1998, 1999, and 2000.

The areas of concern to the VHA and its customers may change over time, and it is important to have the ability to evaluate customer concerns quickly. Participation in the surveys will be voluntary and the generic clearance will not be used to collect information required to obtain or maintain eligibility for a VA program or benefit. In order to maximize the voluntary response rates, the information collection will be designed to make participation convenient, simple, and free of unnecessary barriers. Baseline data obtained through these information collections will be used to improve customer service standards. The VHA will consult with OMB regarding each specific information collection during this approval period.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0570'' in any correspondence.

Dated: August 13, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–24062 Filed 9–10–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0091]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 14, 1997.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0091.''

SUPPLEMENTARY INFORMATION:

Title and Form Numbers: Application for Medical Benefits, VA Forms 10–10 and 10–10T; Insurance Information, VA Form 10–10I; Financial Worksheet, VA Form 10–10F; and Funeral Arrangements, VA Form 10–2065.

OMB Control Number: 2900–0091.

Type of Review: Revision of a currently approved collection.

Abstract: The OMB approvals for use of these forms is due to expire on August 31, 1997. Many of these forms will be redesigned to meet the requirements of Public Law 104–262, Veterans' Health Care Eligibility Reform Act of 1996. VHA is requesting an extension until such time as these forms

are designed and the enrollment process is implemented.

Title 38, U.S.C., Chapter 17, authorized VA to provide hospital care, medical services, domiciliary care and nursing home care to eligible veterans. Public Law 99–272 amending Title 38, U.S.C., Section 1729, established new eligibility assessment procedures, based on income levels, for determining whether nonservice-connected veterans are eligible for cost-free VA medical care and authorizes VA to recover the cost of care furnished to veterans from their health insurance carriers. Public Law 99–272 codified at Title 38, U.S.C., Section 1722, authorized VA to provide care to nonservice-connected veterans who are unable to defray the necessary expenses of care if the veteran's attributable income is not greater than the maximum annual pension rate. Title 38 U.S.C., Section 1722a, authorizes collection of a co-payment for medications. Public Law 104–262 requires VA to design, establish and operate a system of annual patient enrollment in accordance with a series of priorities stipulated in the law. A consequence of this law is that many groups of veterans who are in a lower priority group (W.W.I veterans, veterans with disabilities rated as 0% service-connected seeking treatment for other than their service connected conditions, veterans exposed to a toxic substance, radiation, or environmental hazard and nonservice-connected veterans) may request that they be allowed to be income tested in order to gain a higher priority. Title 38, U.S.C., Chapters 23 and 24, authorizes VA to provide burial benefits and to bury the remains of an eligible deceased veteran in a National Cemetery.

VA Forms 10–10, 10–10T, 10–10F, and 10–10I are generally completed by clerical staff at the VHA medical facility where the applicant applies for medical care benefits; however, the forms may be completed by veterans in the convenience of their home. If the veteran is completing the forms at home and it is the first time application is made, the forms are submitted to the nearest VA health care facility for processing. VA Form 10–2065 is generally completed by clerical staff at the medical center upon the death of a veteran in a VA medical care facility.

VA Form 10–10 is used to establish a system of records on veterans applying for medical care benefits. The information collected is used to identify the veteran applying for medical care, emergency contact data, employment information, military service data, and income screening data for pharmacy co-payment authorized under Title 38, U.S.C., Section 1722A. This also includes the ''missing'' VA Form 10–10T data collected at a later date.

VA Form 10–10T is a simplified version of VA Form 10–10 and was created to shorten the application process. VA Form 10–10T is used to identify the veteran applying for medical care, establish a veteran's initial eligibility and establish a system of records on veterans applying for medical care benefits. If the veteran is eligible for care, any missing data which in the past would have been collected on VA Form 10–10, such as an emergency contacts, employment information, military service data, and income screening data for pharmacy co-payment authorized under Title 38, U.S.C., Section 1722A is collected at a later date.

VA Form 10–10F is used in the information collection process to obtain financial information on all veterans whose eligibility for VA health care benefits is based on income. Nonservice-connected veterans and noncompensable service-connected veterans rated 0% seeking care for their nonservice-connected conditions complete the form to establish their eligibility for cost-free health care, mileage reimbursement and prescription co-payment exemption benefits. Veterans with compensable service-connected disabilities rated 0, 10 or 20%, may provide their income information to establish their eligibility for prescription co-payment exemption and mileage reimbursement. Veterans with service-connected disabilities rated 30 or 40% may provide their income information to determine their eligibility for prescription co-payment exemption.

VA Form 10–10I is used in the information collection process to collect health insurance information and to bill health insurance carriers to recover the cost of medical care furnished to veterans for treatment on nonservice-connected conditions.

VA Form 10–2065 is used primarily in VA medical facilities and serves as an official record of the funeral director to which the person making funeral arrangements wishes the remains to be released. It is used as a control document when VA is requested to arrange for the transportation of the deceased from the place of death to the place of burial, and/or when burial is requested in a National Cemetery. This information is requested under the authority of Title 38, U.S.C., Chapters 23 and 24.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on May 27, 1997 at page 28757–28758.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,766,738 hours.

VA Form 10–10—1,631,250 hours
VA Form 10–10T—60,417 hours
VA Form 10–10F—492,000 hours
VA Form 10–10I—480,000 hours
VA Form 10–2065—3,071 hours

Estimated Average Burden Per Respondent.

VA Form 10–10—45 minutes
VA Form 10–10T—5 minutes
VA Form 10–10F—20 minutes
VA Form 10–10I—12 minutes
VA Form 10–2064—5 minutes

Frequency of Response: On occasion.

Estimated Number of Respondents: 7,336,850.

VA Form 10–10—2,175,000
VA Form 10–10T—725,000
VA Form 10–10F—1,500,000
VA Form 10–10I—2,900,000
VA Form 10–2064—34,850

Send commends and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. Please refer to ''OMB Control No. 2900–0091'' in any correspondence.

Dated: August 12, 1997.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 97–24063 Filed 9–10–97; 8:45 am]

BILLING CODE 82320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Cemeteries and Memorials, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice that a meeting of the Advisory Committee on Cemeteries and Memorials, authorized by 38 U.S.C. 2401, will be held at Long Island National Cemetery, 2040 Wellwood Avenue, Farmingdale, NY, 11735–1211 and Calverton National Cemetery, 210 Princeton Boulevard, Calverton, NY, 11933. This will be the committee's first meeting of fiscal year 1998. The purpose of the committee is to review the administration of VA's cemeteries and burial benefits program. On October 9,

1997, the meeting will convene at 8 a.m. (EST) and will adjourn at 4:30 p.m. (EST). On October 10, 1997, the meeting will convene at 8 a.m. (EST) and will adjourn at 12 noon (EST).

On October 9, the committee meeting will be held at Long Island National Cemetery. There will be a business session, Field Operations and Operations Support briefings with discussion of issues, and a tour of Long Island National Cemetery.

On October 10, the committee meeting will be held at Calverton National Cemetery. The committee will be briefed on Calverton National Cemetery operations, the administrative procedures and field operations involved with interments, and view the site for the proposed new columbarium.

The meeting will be open to the public. Those wishing to attend should contact Ms. Louise Ware, Special Assistant to the Director, National Cemetery System, [phone (202) 273–7577] no later than 12 noon (EST), October 1, 1997.

Any interested person may attend, appear before, or file a statement with the Committee. Individuals wishing to appear before the Committee should indicate this in a letter to the Director, National Cemetery System (40) at 810 Vermont Avenue, NW., Washington, DC 20420. In any such letters, the writers must fully identify themselves and state the organization, association or person they represent. Also, to the extent practicable, letters should indicate the subject matter they want to discuss. Oral presentations should be limited to 10 minutes in duration. Those wishing to file written statements to be submitted to the Committee must also mail, or otherwise delivery, them to the Director, National Cemetery System.

Letters and written statements as discussed above must be mailed or delivered in time to reach the Director, National Cemetery System, by 12 noon (EST), October 1, 1997. Oral statements will be heard between 11:30 a.m. and 12 noon (EST), October 10 at Calverton National Cemetery, Long Island, NY.

Dated: August 29, 1997.

By Direction of the Secretary-Designate.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–24054 Filed 9–10–97; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Environmental Hazards, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Pub. L. 92–463 that a meeting of the Veterans' Advisory Committee on Environmental Hazards will be held on Wednesday and Thursday, October 29–30, 1997, in room 230 of VA Central Office, 810 Vermont Avenue, N.W., Washington, DC 20420. The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on both days.

The purpose of the meeting is to review information relating to the health effects of exposure to ionizing radiation. The major items on the agenda for both days will be discussions and analyses of medical and scientific papers concerning the health effects of exposure to ionizing radiation. On the basis of their analyses and discussions, the Committee may make recommendations to the Secretary concerning diseases that are the result of exposure to ionizing radiation. On the first day, the Committee will also review and make appropriate recommendations concerning VA's pending regulatory amendment to add prostate cancer and any other cancer as radiogenic diseases for the purposes of compensation under 38 CFR 3.311. The agenda for the second day will include planning future Committee activities and assignment of tasks among the members.

The meeting is open to the public on both days according to the capacity of the room. Those who wish to attend should contact Steven Thornberry of the Department of Veterans Affairs, Compensation and Pension Service, 810 Vermont Avenue, N.W., Washington, DC 20420, prior to October 22, 1997. Mr. Thornberry may also be reached at 202–273–7230.

Members of the public may submit written questions or prepared statements for review by the Advisory Committee in advance of the meeting. Submitted material must be received at least five (5) days prior to the meeting and should be sent to Mr. Thornberry's attention at the address given above. Those who submit material may be asked to clarify it prior to its consideration by the Advisory Committee.

Dated: September 4, 1997.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–24052 Filed 9–10–97; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group, Notice of Meeting

As required by the Federal Advisory Committee Act, the VA hereby gives notice that the Special Medical Advisory Group has scheduled a meeting on September 16, 1997. The meeting will convene at 8:30 a.m. and end at about 4:00 p.m. The meeting will be held in Room 830 at VA Central Office, 810 Vermont Avenue, N.W., Washington, D.C. The purpose of the meeting is to advise the Secretary and Under Secretary for Health relative to the care and treatment of disabled veterans, and other matters pertinent to the Department's Veterans Health Administration (VHA).

The agenda for the meeting will include discussion of health professions training, health care workers of the future, and health care delivery systems.

All sessions will be open to the public up to the seating capacity of the meeting room. Those wishing to attend should contact Brenda Goodworth, Office of the Under Secretary for Health, Department of Veterans Affairs. Her phone number is 202.273.5878.

Dated: September 4, 1997.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–24053 Filed 9–10–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 62, No. 176

Thursday, September 11, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 46

[FAR Case 96-009]

RIN 9000-AH61

Federal Acquisition Regulation; Contract Quality Requirements

Correction

In proposed rule document 97–17150 beginning on page 35901, in the issue of Wednesday, July 2, 1997, make the following correction:

46.202–4 [Corrected]

On page 35901, in the third column, in section 46.202–4(b), in the 11th line, ''ANSA/ASQC E4; ANSE/ASME'' should read ''ANSI/ASQC E4; ANSI/ASME''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

Correction

In notice document 97–23196, beginning on page 46395, in the issue of Tuesday, September 2, 1997, make the following correction:

On page 46395, in the third column, in the **DATES** section, ''September 2, 1997'' should read ''October 2, 1997''.

BILLING CODE 1505-01-D

federal register

Thursday
September 11, 1997

Part II

Securities and Exchange Commission

Privacy Act of 1974; Systems of Records; Notices

SECURITIES AND EXCHANGE COMMISSION

[Release No. PA–20]

Privacy Act of 1974: Deletion, Modification, and Redesignation of Privacy Act Systems of Records

AGENCY: Securities and Exchange Commission.

ACTION: Notification of deletion and modification of Privacy Act Systems of Records and redesignation of all records systems for the Securities and Exchange Commission.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Securities and Exchange Commission is removing four records systems that are either duplicative of a government-wide records system; not retrieved by name or personal identifier, and, therefore, not a Privacy Act system; not implemented or in effect; or obsolete. The Commission is also modifying forty-one systems that involve updating the Commission's address as reflected in the system locations, system manager(s) and address, retention and disposal, notification procedures, and record access procedures, due to recent office moves. Finally, the release would revise the **Federal Register's** biennial compilation of Federal Agency Privacy Act System Notices by redesignating/renumbering the Commission's records systems and by removing appendix A and replacing it with a Table of Contents.

EFFECTIVE DATE: September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Hannah R. Hall, Privacy Act Officer, Tel. (202) 942–4320, Office of the Executive Director, Freedom of Information Act and Privacy Act Operations, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SUPPLEMENTARY INFORMATION: In the course of reviewing its Privacy Act systems of records notices, the Commission identified four systems of records which are being removed: SEC–21, ''Division of Corporate Regulation Bankruptcy Act Records''; SEC–30, ''Equal Employment Opportunity Complaints''; SEC–39, ''Telephone Call Detail Records''; and SEC–57, ''SECO Files.'' With respect to SEC–21, the records in the system are not retrievable by name or other personal identifier and, therefore, the system is not a Privacy Act system of records. With respect to SEC–30, the records are maintained in another system of records subject to a government-wide system notice (EEOC/GOVT–1), published by the Equal Employment Opportunity Commission. With respect to SEC–39, the Commission published a notice of its intent to establish this system of records subject to any comments ''which would result in a contrary determination.'' 60 FR 48733 (Sept. 20, 1995). In response to comments received, the Commission determined not to implement the system of records and, therefore, withdraws its Privacy Act notice. With respect to SEC–57, the Commission no longer places records in this system, which is now obsolete.

In addition, the Commission has deemed it necessary to redesignate/renumber all remaining systems notices. Finally, the Commission is replacing the appendix A of the systems of records with a Table of Contents, to provide a better guide to the Commission's Privacy Act systems notices. For the purposes of complying with the Privacy Act and OMB Circular A–130, these modifications are minor changes and do not require an advance report to, and review by, the Congress and the Office of Management and Budget.

The following systems of records are hereby removed from the **Federal Register** because they are either: (1) Duplicative of a government-wide records system; (2) not retrieved by name or personal identifier and, therefore, not a Privacy Act system of records; (3) not implemented or in effect; or (4) obsolete.

SEC–21

System name: Division of Corporate Regulation Bankruptcy Act Records.

SEC–30

System name: Equal Employment Opportunity Complaints.

SEC–39

System name: Telephone Call Detail Records.

SEC–57

System name: SECO Files.

The following systems notices have been redesignated according to the table below.

PRIVACY ACT SYSTEMS NOTICES NUMBERS

Old No.	New No.
SEC–17	SEC–9.
SEC–18	SEC–10.
SEC–19	SEC–11.
SEC–34	SEC–12.
SEC–43	SEC–13.
SEC–09	SEC–14.
SEC–53	SEC–15.
SEC–10	SEC–16.
SEC–41	SEC–17.

PRIVACY ACT SYSTEMS NOTICES NUMBERS—Continued

Old No.	New No.
SEC–14	SEC–18.
SEC–22	SEC–19.
SEC–23	SEC–20.
SEC–27	SEC–21.
SEC–31	SEC–22.
SEC–40	SEC–23.
SEC–32	SEC–24.
SEC–52	SEC–25.
SEC–42	SEC–27.
SEC–26	[Reserved].
SEC–44	SEC–28.
SEC–16	SEC–29.
SEC–45	SEC–30.
SEC–46	SEC–31.
SEC–56	SEC–32.
SEC–11	SEC–33.
SEC–13	SEC–34.
SEC–58	SEC–35.
SEC–98	SEC–36.
SEC–100	SEC–37.
SEC–47	SEC–38.
SEC–49	SEC–39.
SEC–51	SEC–40.
SEC–54	SEC–41.
SEC–102	SEC–42.
SEC–103	SEC–43.

A Table of Contents is added to read as follows:

Table of Contents: System Notices Names and Numbers

(1) Registration Statements Filed Pursuant to Provisions of the Securities Act of 1933, Securities Exchange Act of 1934, Public Utility Holding Company Act of 1935, and Investment Company Act of 1940.
(2) Applications for Registration/Exemption under the Securities Exchange Act of 1934, Investment Advisers Act of 1940, and Investment Company Act of 1940.
(3) Notification of Exemption from Registration under the Securities Act of 1933.
(4) Beneficial Ownership, Acquisition, Tender Offer, and Solicitation Records Filed under the Securities Exchange Act of 1934.
(5) Ownership Reports and Insider Trading Transaction Records Filed under the Securities Exchange Act of 1934, Public Utility Holding Company Act of 1935, and Investment Company Act of 1940.
(6) Periodic Reports Filed under the Securities Act of 1933, Securities Exchange Act of 1934, Public Utility Holding Company Act of 1935, and Investment Company Act of 1940 and Investment Advisers Act of 1940.
(7) Proposed Sale of Securities Records Filed under the Securities Act of 1933.
(8) Proxy Soliciting Material Filed under the Securities Exchange Act of 1934, Public Utility Holding Company Act of 1935, and Investment Company Act of 1940.
(9) Correspondence Files Pertaining to Registered Broker-Dealers.
(10) Correspondence Files Pertaining to Registered Investment Advisers.
(11) Correspondence Files Pertaining to Registered Investment Companies.
(12) Hearings, Proceedings and Studies.
(13) No-action and Interpretative Letters.
(14) Administrative Audit System.

(15) Pay and Leave System.
(16) Administrative Law Judge Assignments and Dispositions of Administrative Proceedings.
(17) Minutes Regarding Action Taken by the Commission.
(18) Applications for Relief From Disqualification Filed Under the Securities Act of 1933 and the Commission's Rules of Practice.
(19) Division of Corporation Finance and Support Office Working Files.
(20) Division of Corporation Finance Index for Filings on Schedule 13D and Filings under Regulations A and B.
(21) Division of Investment Management Correspondence and Memoranda Files.
(22) Executive/Congressional Personnel Referrals.
(23) Staff Time and Activity Tracking System (STATS).
(24) Freedom of Information Act Requests.
(25) Office of Public Affairs, Policy Evaluation and Research Records.
(26) (Reserved)
(27) Name-Relationship Search System (NRS).
(28) Office of the Chief Accountant Working Files.
(29) Agency Correspondence Tracking System (ACTS).
(30) Office of General Counsel Work Files.
(31) Office of General Counsel (Adjudication) Working Files.
(32) Rule 102(e) of the Commission's Rules of Practice—Appearance and Practice Before the Commission.
(33) Administrative and Litigation Release System.
(34) Administrative Proceedings Records Cards.
(35) Securities Violations Records and Bulletin.
(36) Administrative Proceeding Files.
(37) Automated Personnel Management Information System.
(38) Personnel Management Code of Conduct and Employee Performance Files.
(39) Personnel Management Employment and Staffing Files.
(40) Office of Personnel Training Files.
(41) Personnel Management Security Files.
(42) Enforcement Files.
(43) Office of Inspector General Investigative Files.

Note: Published at 55 FR 1744 (Jan. 18, 1990).

The following systems of records notices, which have been redesignated according to the previous table, are being revised to reflect changes in the following: System locations, system managers and addresses, notification procedures, and record access procedures.

SEC–1 Through SEC–13

These systems are amended as follow:

SYSTEM MANAGER(S) AND ADDRESS:

This section is revised to read: Records Officer, Office of Filings and Information Services, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop A–1, Alexandria, VA 22312–2413.

NOTIFICATION PROCEDURE:

This section is revised to read: All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

This section is revised to read: Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SEC–14 and SEC–15

These systems are amended as follow:

SYSTEM LOCATION:

This section is revised to read: Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–3, Alexandria, VA 22312–2413.

SYSTEM MANAGER(S) AND ADDRESS:

This section is revised to read: Associate Executive Director (Finance), Office of the Comptroller, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–3, Alexandria, VA 22312–2413.

NOTIFICATION PROCEDURE:

This section is revised to read: All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

This section is revised to read: Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SEC–23

SEC–23 is amended as follows:

SYSTEM LOCATION:

This section is revised to read: Securities and Exchange Commission, Office of the Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549.

SYSTEM MANAGER(S) AND ADDRESS:

This section is revised to read: Chief Management Analyst, Office of the Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549.

NOTIFICATION PROCEDURE:

This section is revised to read: All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

This section is revised to read: Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SEC–24

SEC–24 is amended as follows:

SYSTEM LOCATION:

This section is revised to read: Securities and Exchange Commission, Operations Center, 6432 General Green Way, Alexandria, VA 22312–2413.

SYSTEM MANAGER(S) AND ADDRESS:

This section is revised to read: Freedom of Information Act Officer, Office of Freedom of Information and Privacy Act Operations, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

NOTIFICATION PROCEDURE:

This section is revised to read: All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

This section is revised to read: Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange

Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SEC–27

SEC–27 is amended as follows:

SYSTEM LOCATION:

This section is revised to read: Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–4, Alexandria, VA 22312–2413.

SYSTEM MANAGER(S) AND ADDRESS:

This section is revised to read: Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–4, Alexandria, VA 22312–2413.

NOTIFICATION PROCEDURE:

This section is revised to read: All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

This section is revised to read: Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SEC–32

SEC–32 is amended as follows:

SYSTEM NAME:

This section is revised to read: Rule 102(e) of the Commission's Rules of Practice—Appearance and Practice Before the Commission-SEC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Reference to ''17 CFR 201.2(e)'' is revised to read: ''17 CFR 201.102(e)''.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Reference to ''17 CFR 202.1 *et seq.*'' is revised to read: ''17 CFR 201.100 *et seq.*'' Reference to ''17 CFR 202.785–1 *et seq.*'' is revised to read: ''17 CFR 200.735–1 *et seq.*''

SYSTEM MANAGER(S) AND ADDRESS:

All references to Rule 2(e) are removed and replaced with Rule 102(e).

NOTIFICATION PROCEDURE:

This section is revised to read: All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

This section is revised to read: Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SEC–38, SEC–39, and SEC–41

These systems are amended as follow:

SYSTEM LOCATION:

This section is revised to read: Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–1, Alexandria, VA 22312–2413.

SYSTEM MANAGER(S) AND ADDRESS:

This section is revised to read: Associate Executive Director, Office of Administrative and Personnel Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–1, Alexandria, VA 22312–2413.

NOTIFICATION PROCEDURE:

This section is revised to read: All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

This section is revised to read: Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SEC–33, SEC–35, and SEC–36

These systems are amended as follow:

SYSTEM MANAGER(S) AND ADDRESS:

This section is revised to read: Secretary, Office of the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549.

NOTIFICATION PROCEDURE:

This section is revised to read: All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

This section is revised to read: Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SEC–16 Through SEC–22, SEC–25, SEC–28, SEC–30, SEC–31, SEC–34, SEC–37, SEC–42, and SEC–43

These systems are amended as follow:

NOTIFICATION PROCEDURE:

This section is revised to read: All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

This section is revised to read: Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

Appendix A

Appendix A is removed.

Dated: September 4, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24043 Filed 9–10–97; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 34–39016; PA–21; File No. S7–23–97]

Privacy Act of 1974: Major Alterations to the Agency Correspondence Tracking System (ACTS) (SEC–29) and the Office of Personnel Training Files (SEC–40)

AGENCY: Securities and Exchange Commission.

ACTION: Notice of major alterations.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Securities and Exchange Commission gives notice of major alterations to the Agency Correspondence Tracking System (ACTS) (SEC–29) and the Office of Personnel Training Files (SEC–40).

DATES: Comments must be received no later than October 14, 1997. The changes to these systems of records will take effect October 21, 1997, unless the Commission receives comments which would result in a contrary determination.

ADDRESSES: Persons wishing to submit comments should file three (3) copies thereof with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Reference should be made to File No. S7–23–97. Copies of the comments will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Hannah R. Hall, Privacy Act Officer (202) 942–4320, Office of the Executive Director, Freedom of Information Act and Privacy Act Operations, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SUPPLEMENTARY INFORMATION: This report is to give notice of major alterations to the Agency Correspondence Tracking System (ACTS) (SEC–29) and the Office of Personnel Training Files (SEC–40), which are subject to the Privacy Act of 1974, 5 U.S.C. 552a. As revised, ACTS will have subsystems for records collected and maintained by the Office of Investor Education and Assistance (Subsystem A), the Office of the Chairman (Subsystem B), the Office of Filings and Information Services (Subsystem C), and the Office of Information Technology (Subsystem D). The Office of Personnel Training Files (SEC–40), as revised, will be called ''Personnel Management Training Files'' and incorporate information about its automated files. Additional changes proposed for both systems of records include revisions to the systems' location, categories of individuals and records, authority for maintenance, purpose, routine uses, storage, retrievability, safeguards, retention and disposal schedules, manager(s) and address(es), notification, record access, and contesting record procedures, and record source categories. The altered system of records reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Operations of the House of Representatives, the Committee on Government Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' as amended on July 15, 1994.

SEC–29 is revised as follows:

SEC–29

SYSTEM NAME:

Agency Correspondence Tracking System (ACTS)-SEC.

Subsystem A: Investor/Consumer Correspondence Files.

Subsystem B: Chairman Correspondence Files.

Subsystem C: Public Reference Branch Correspondence Files.

Subsystem D: ACTS Computerized Records.

SYSTEM LOCATION:

Records in this system are located at Headquarters, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Also, records covered by Subsystem A are received by and maintained in the Commission's Regional and District Offices, whose addresses are listed below under System Manager(s) and Address(es).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subsystem A: Records are maintained on members of the public and others who submit inquiries or make complaints to the Commission, generally, or who address their correspondence to the Office of Investor Education and Assistance or the Commission's Regional or District Offices.

Subsystem B: Records are maintained on members of the public, members of Congress or their staff, and others who address their inquiries or complaints to the Commission's Chairman.

Subsystem C: Records are maintained on members of the public who submit requests for copies of, or review of records accessible through the Commission's Public Reference Branch.

Subsystem D: Computerized records are comprised of data collected in all of the above subsystems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Both electronic and paper records in this system/subsystems contain the name of the complainant/inquirer/requester or their representative, the name of the entity and/or subject of the complaint/inquiry/request, the date relating to the disposition of the complaint/inquiry/request and, where applicable, the type of complaint/inquiry/request and other information derived from or relating to the complaint/inquiry/request. Paper records may include, but are not limited to letters of complaint/inquiry/request, responses, and related documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 77s, 77sss, 78d, 78d–1, 78d–2, 78w, 78*ll*(d), 79t, 80a–37, and 80b–11.

PURPOSE:

The records will be used by the staff to track and process complaints/inquiries/requests from members of the public and others.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and the information contained in these records may be used as follows:

(1) To respond to inquiries from individuals who have submitted complaints/inquiries/requests, or from their representatives, concerning the status of the particular complaint/inquiry/request;

(2) To provide information to entities against whom complaints/inquiries are directed when Commission staff requests them to research the issues raised and report back to the staff;

(3) To respond to inquiries from the White House, Congressional committees, the General Accounting Office, General Services Administration or the National Archives and Records Administration, or others charged with monitoring the work of the Commission or conducting records management inspections under authority of 44 U.S.C. 2904 and 2906;

(4) To provide information to other Federal or State government agencies, or securities self-regulatory organizations which have more direct jurisdiction over the subject matter of the complaint/inquiry/request;

(5) To coordinate with or assist in law enforcement and regulatory activities of the Commission and other Federal, State, local, or foreign law enforcement

or regulatory agencies, securities self-regulatory organizations, and foreign securities authorities;

(6) To respond to a subpoena, court order, or request for discovery, in connection with any relevant litigation or proceeding where the Federal securities laws are at issue or in which the Commission, or past or present members of its staff, is a party or otherwise involved in an official capacity; and

(7) To provide information to a Federal, State, local, or foreign government or foreign securities authority, in response to its request, in connection with civil, criminal, or other enforcement information, the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Subsystems A, B, and C: These records are maintained in hard copy form by assigned file number, and certain elements of the data are extracted and tracked in computerized form through ACTS. The computerized records can be accessed by the individual's name or other indexed criteria.

Subsystem D: These records are maintained in an on-line database and on data cartridges.

RETRIEVABILITY:

By use of the computerized records in Subsystem D, the paper files in Subsystems A, B, and C are retrievable by the name of the complainant/inquirer/requester, receipt date of the complaint/inquiry/request, name of the registered representative or associated person named in the complaint/inquiry/request, or the name of the entity/issuer that is the subject of the complaint/inquiry/request.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized disclosure. These records are maintained in office files in a building that has a 24-hour security guard.

RETENTION AND DISPOSAL:

Subsystem A: Electronic records are purged after six (6) years. Paper records maintained at SEC Headquarters are retained in-house for three (3) years from the office's date of receipt of the complaint/inquiry/request or its related subsequent submission(s), then transferred to the Federal Records Center for storage. Records sent to the Federal Records Center that *do not* relate to law enforcement matters are maintained for one (1) additional year (for a total of four (4) years from the office's date of receipt), and destroyed thereafter. Records sent to the Federal Records Center that *do* relate to law enforcement matters are maintained for three (3) additional years (for a total of six (6) years from the office's date of receipt), and destroyed thereafter. Paper records maintained in the Regional and District Offices are retained for three (3) years, and destroyed thereafter.

Subsystem B: Electronic records are purged after six (6) years. Paper records are maintained in-house for at least three (3) years from the office's date of receipt, or upon expiration of the Chairman's appointment. Files are forwarded to the Federal Records Center and retained in accordance with the Commission's records retention schedule, published at 17 CFR 200.80f.

Subsystem C: Paper records are maintained in-house for six months from the office's date of receipt, and destroyed periodically thereafter. Electronic records are purged after one (1) year.

Subsystem D: A computerized record of searches and transactions is maintained in an on-line database and on data cartridges. Retention of the electronic records is contingent upon the retention of the paper records, maintained and determined by each office that utilizes ACTS. Cartridges are sent to the Commission's off-site storage vendor. Also, all database files are saved on the cartridges and sent to the off-site storage vendor.

SYSTEM MANAGER(S) AND ADDRESS:

Subsystem A: Office of Investor Education and Assistance, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549;

Assistant Regional Director, Northeast Regional Office, 7 World Trade Center, Suite 1300, New York, NY 10048; District Administrator, Boston District Office, 73 Tremont Street, Suite 600, Boston, MA 02108–3912; District Administrator, Philadelphia District Office, The Curtis Center, 601 Walnut Street, Suite 1005 East, Philadelphia, PA 19106–3322;

Assistant Regional Director, Southeast Regional Office, 1401 Brickell Avenue, Suite 200, Miami, FL 33131; District Administrator, Atlanta District Office, 3475 Lenox Road, NE, Suite 1000, Atlanta, GA 30326–1232;

Assistant Regional Director, Midwest Regional Office, Northwestern Atrium Center, 500 W. Madison Street, Suite 1400, Chicago, IL 60661–2511;

Assistant Regional Administrator, Central Regional Office, 1801 California Street, Suite 4800, Denver, CO 80202–2648; District Administrator, Fort Worth District Office, 801 Cherry Street, Suite 1900, Fort Worth, TX 76102; District Administrator, Salt Lake District Office, 500 Key Bank Tower, 50 South Main Street, Salt Lake City, UT 84144–0402;

Assistant Regional Administrator, Pacific Regional Office, 5670 Wilshire Boulevard, Suite 1100, Los Angeles, CA 90036–3648; and District Administrator, San Francisco District Office, 44 Montgomery Street, 11th Floor, San Francisco, CA 94103–1735.

Subsystem B: Office of the Chairman, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549.

Subsystem C: Office of Filings and Information Services, Securities and Exchange Commission, Operations Center, Mail Stop A–1, 6432 General Green Way, Alexandria, VA 22312.

Subsystem D: Office of Information Technology, Securities and Exchange Commission, Operations Center, Mail Stop O–4, 6432 General Green Way, Alexandria, VA 22312.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

CONTESTING RECORD PROCEDURES:

See Record access procedures above.

RECORD SOURCE CATEGORIES:

Information collected in all subsystems is received from individuals primarily through letters, telephone calls, or personal visits to the Commission's offices.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

SEC–40 is revised as follows:

SEC–40

SYSTEM NAME:

Personnel Management Training Files-SEC.

SYSTEM LOCATION:

Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–1, Alexandria, VA 22312–2413.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on SEC employees, present and past.

CATEGORIES OF RECORDS IN THE SYSTEM:

Both automated and paper records fall within the following categories: (a) Information on internal and external training provided to employees; (b) budget tracking information; (c) training sources used/considered; and (d) class rosters, notices, and certificates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 2951, 3301, 3372, 4103, 4113, and 4118; and 5 CFR part 410.

PURPOSE:

The records are used for statistical reports and employee career counseling, for determining whether mandatory training has been received, and for assessing whether the cost, quality, and appropriateness of courses and sources merit consideration for fulfilling future agency training needs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records and the information contained in these records may be used as follows:

(1) To provide information to Government training facilities (Federal, State, or local) and to non-Government training facilities (private contractors of training courses or programs, private schools, etc.), their representatives, or volunteers working on a contract, service, grant, or cooperative agreement, for training purposes;

(2) To respond to inquiries from the White House, Congressional committees, the General Accounting Office, General Services Administration or the National Archives and Records Administration, or others charged with monitoring the work of the Commission or conducting records management inspections under authority of 44 U.S.C. 2904 and 2906;

(3) To respond to a subpoena, request for discovery, or the appearance of a witness, in connection with any relevant litigation or proceeding where the Commission, or past or present members of its staff, is a party or otherwise involved in an official capacity;

(4) To provide information to a Federal, State, or local governmental entity or agency in response to its request, in connection with the potential violation of civil or criminal law or other regulation, the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter; and

(5) To any source from which additional information is requested, when necessary to obtain information relevant to an agency decision to hire or retain an employee, issue a security clearance, conduct a security or suitability investigation of an individual, classify jobs, let a contract, or issue a license, grant, or other benefits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic media is maintained in a database, paper records are kept in binders and folders.

RETRIEVABILITY:

Records are retrievable by employee name, social security number, organization, and the assigned training form number; vendor name; instructor name; category of training; date(s) of training; and course title and location.

SAFEGUARDS:

Records are available to authorized agency staff. Both paper and electronic media are kept in a secure facility with 24 hour security guard surveillance. Personnel access to the database records is restricted by passwords.

RETENTION AND DISPOSAL:

Records are retained for three (3) fiscal years and destroyed after completion of any applicable reporting requirements by the Office of Personnel Management.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Executive Director, Office of Administrative and Personnel Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–1, Alexandria, VA 22312–2413.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

CONTESTING RECORD PROCEDURES:

See Record Access procedures above.

RECORD SOURCE CATEGORIES:

Records that comprise the information in the system are provided by: The individual on whom the record is maintained; agency supervisors and/or administrative staff on employees being nominated for training; vendors or potential vendor sources for training; and other agency records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: September 4, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24042 Filed 9–10–97; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 34–39017; PA–22; File No. S7–24–97]

Privacy Act of 1974: Establishment of a New System of Records: Confidential Treatment Request Imaging System (SEC–26)

AGENCY: Securities and Exchange Commission.

ACTION: Notice of the establishment of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Securities and Exchange Commission gives notice of the establishment of a new Privacy Act system of records: Confidential Treatment Request Imaging System (SEC–26).

DATES: Comments must be received no later than October 14, 1997. The new system of records will take effect

October 21, 1997, unless the Commission receives comments which would result in a contrary determination.

ADDRESSES: Persons wishing to submit comments should file three (3) copies thereof with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Reference should be made to File No. S7–24–97. Copies of the comments will be available for public inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Hannah R. Hall, Privacy Act Officer (202) 942–4320, Office of the Executive Director, Freedom of Information Act and Privacy Act Operations, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

SUPPLEMENTARY INFORMATION: The Commission gives notice of the establishment of a new system of records entitled Confidential Treatment Request Imaging System (SEC–26).[1]

The Commission is establishing a computerized system of records, using advanced imaging technology, to enhance its ability to store and retrieve confidential treatment requests (''CTRs'')[2] received by the Commission's Office of Freedom of Information Act and Privacy Act Operations (''FOIA/PA Office'') after June 1992.[3] Since this system may be used to retrieve information about individuals by a word search, the Privacy Act of 1974, as amended, requires a general notice of the existence of this system of records to the public. The FOIA/PA Office will primarily use the system to process requests under the FOIA for agency records. Other Commission staff may also use records in the system to process subpoenas and discovery requests in connection with pending judicial or administrative proceedings, and Commission staff or Commission contractors may use the records in servicing the system. The CTRs received by the FOIA/PA Office usually identify the records for which confidentiality is being requested, the case number (composed of letters that represent the originating office—Commission Headquarters, or a Regional or District Office—and a sequential number), case or subject name, or names of the parties or individuals involved. The FOIA/PA Office uses case numbers to identify similar requests for confidential treatment. This system also contains miscellaneous requests submitted under other Commission confidential treatment rules.

Accordingly, the Commission proposes to establish the following system of records, entitled Confidential Treatment Request Imaging System.

SEC–26

SYSTEM NAME:

Confidential Treatment Request Imaging System-SEC.

SYSTEM LOCATION:

Securities and Exchange Commission, Operations Center, Freedom of Information Act and Privacy Act Operations, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on individuals whose names appear in requests for confidential treatment submitted to the Office of Freedom of Information Act and Privacy Act Operations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests for confidential treatment submitted to the Office of Freedom of Information Act and Privacy Act Operations after June 1992, which may identify the case number, case or subject name, names of the companies or individuals involved, and the date of the submission.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 77s, 77sss, 78d, 78d–1, 78d–2, 78w, 78ll(d), 79t, 80a–37, 80b–11; 5 U.S.C. 552; and 17 CFR 200.83.

PURPOSE:

The system is designed to enhance the Commission's ability to store and retrieve requests for confidential treatment received by the Office of Freedom of Information Act and Privacy Act Operations (''FOIA/PA Office'') after June 1992. The system will be used primarily by the staff of the FOIA/PA Office who review agency records in light of applicable requests for confidential treatment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records and the information contained in these records may be used as follows:

(1) In processing subpoenas or requests for discovery, in an administrative or judicial proceeding before a court or adjudicative body, to the extent that they are relevant and necessary to the proceeding; and

(2) To Commission staff or the contractor providing support to permit servicing the system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on optical diskettes, data cartridges, and paper records.

RETRIEVABILITY:

Records may be retrieved by the case number, case or subject name, names of the companies or individuals involved, and the date of the submission. Record searches may be restricted to an individual's name by a word search.

SAFEGUARDS:

Records are safeguarded through the use of appropriate computer passwords to restrict access. In addition, data cartridges (used for back-up storage of electronic records) are kept in a locked storage cabinet which may only be entered with a passkey. Paper records are kept in a locked file cabinet with restricted access. All records are housed in a building with a 24-hour security guard.

RETENTION AND DISPOSAL:

Requests for confidential treatment received by the Office of Freedom of Information Act and Privacy Act Operations regarding investigatory records are maintained indefinitely. All others are retained for ten (10) years, in accordance with 17 CFR 200.80f.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information Act/Privacy Act Officer, Securities and Exchange Commission, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

NOTIFICATION PROCEDURE:

All requests to determine whether this system of records contains a record

[1] In accordance with the Privacy Act of 1974, as amended, the Commission has provided advance notice of this new system of records to the Committee on Government Operations of the House of Representatives, the Committee on Government Affairs of the Senate, and the Office of Management and Budget (''OMB''), and invites public comment on the new system of records. 5 U.S.C. 552a (e) and (r); OMB Circular A–130.

[2] Commission Rule 83, 17 CFR 200.83, provides a procedure whereby persons submitting information to the Commission may request that it not be disclosed under the Freedom of Information Act. This procedure does not apply where another procedure exists for requesting confidential treatment of the information.

[3] Each year, the FOIA/PA Office receives about 6,000 confidential treatment requests. Those received between 1981 and June 1992 are maintained in microfiche. Because information maintained in these microfiche records is not retrievable by an individual's name or other personal identifier, these records are not subject to the notice requirements of the Privacy Act.

pertaining to the requesting individual may be directed to the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

RECORD ACCESS PROCEDURES:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact the Privacy Act Officer, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop O–5, Alexandria, VA 22312–2413.

CONTESTING RECORD PROCEDURES:

See Record Access procedures above.

RECORD SOURCE CATEGORIES:

Letters submitted to the Office of Freedom of Information Act and Privacy Act Operations, for confidential treatment of documents produced to other Commission staff, in connection with investigations, enforcement proceedings, registrations, studies, procurement/contracts, or other matters arising under or required by statute, law, rule, or regulation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

By the Commission.
Dated: September 4, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–24041 Filed 9–10–97; 8:45 am]

BILLING CODE 8010–01–P

federal register

Thursday
September 11, 1997

Part III

Department of Justice

Bureau of Prisons

28 CFR Part 540

Visiting: Notification to Visitors; Proposed Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 540

[BOP 1071–P]

RIN 1120–AA67

Visiting: Notification to Visitors

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing to hold the inmate responsible for having a release authorization form mailed to the proposed visitor in instances where a background investigation is necessary before the visitor can be approved. This amendment is intended to increase consistency in Bureau operations and to reduce the cost to the government in processing additions to an inmate's visitor's list.

DATES: Comments due by November 10, 1997.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on visiting (28 CFR part 540, subpart D). A final rule on this subject was published in the **Federal Register** June 30, 1980 (45 FR 44232) and was amended July 18, 1986 (51 FR 26127), February 1, 1991 (56 FR 4159), and July 21, 1993 (58 FR 39095).

Current provisions in § 540.51(b)(3) state that the inmate may be held responsible for having a release authorization form forwarded to a proposed visitor in instances when a background investigation is necessary before approving a visitor (for example, when the proposed visitor is not a member of the inmate's immediate family). Under the discretionary authority in paragraph (b)(3), some institutions already require the inmate to forward the form. In the interest of reducing processing costs to the government and for the sake of consistency, the Bureau is proposing to require that the inmate shall be held responsible for having the authorization form forwarded to a proposed visitor when a background investigation is necessary.

When deemed appropriate by staff, staff may assist an inmate in filling out the authorization form (for example, when the inmate is illiterate, or when the inmate is unable to complete the form because of a medical condition). The inmate, however, remains responsible for postage costs. Separately stated regulations on inmate correspondence ensure that an inmate who has neither funds nor sufficient postage shall be provided postage stamps for mailing a reasonable number of letters at government expense to enable the inmate to maintain community ties (see 28 CFR 540.21(e)). An inmate without funds, therefore, is still capable of obtaining postage for an authorization form to a proposed visitor.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), does not have a significant impact on a substantial number of small entities, within the meaning of the Act. This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and the conditions of confinement preclude such offenders from conducting a business.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. Comments received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 540

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 540 in subchapter C of 28 CFR, chapter V is proposed to be amended as set forth below.

Subchapter C—Institutional Management

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

1. The authority citation for 28 CFR part 540 continues to read as follows:

Authority: 5 U.S.C. 301, 551, 552a; 18 U.S.C. 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In § 540.51, paragraph (b)(3) is amended by revising the first sentence to read as follows:

§ 540.51 Procedures.

* * * * *

(b) * * *

(3) If a background investigation is necessary before approving a visitor, the inmate shall be held responsible for mailing a release authorization form to the proposed visitor. * * *

[FR Doc. 97–24156 Filed 9–10–97; 8:45 am]

BILLING CODE 4410–05–P

federal register

Thursday
September 11, 1997

Part IV

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 440

Personal Care Services Medicaid Program Coverage; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 440

[MB–071–F]

RIN 0938–AH00

Medicaid Program; Coverage of Personal Care Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule specifies the revised requirements for Medicaid coverage of personal care services furnished in a home or other location as an optional benefit, effective for services furnished on or after October 1, 1994. In particular, this final rule specifies that personal care services may be furnished in a home or other location by any individual who is qualified to do so. This rule conforms the Medicaid regulations to the provisions of section 13601(a)(5) of the Omnibus Budget Reconciliation Act of 1993, which added section 1905(a)(24) to the Social Security Act. Additionally, we are making two minor changes to the Medicaid regulations concerning home health services.

EFFECTIVE DATE: November 10, 1977.

FOR FURTHER INFORMATION CONTACT: Terese Klitenic, (410) 786–5942.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1902(a)(10) of the Social Security Act (the Act), States with Medicaid programs must provide certain basic services to Medicaid recipients. Section 1905(a) of the Act defines the required and optional services that are provided as medical assistance. Before the enactment of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90, Public Law 101–508), a State had the option to elect to cover personal care services under its Medicaid State plan. Although not specifically mentioned in section 1905(a) of the Act, personal care services could be covered under section 1905(a)(22) of the Act (redesignated as section 1905(a)(25) of the Act on November 5, 1990), under which a State may furnish any additional services specified by the Secretary and recognized under State law. In regulations at 42 CFR 440.170(f), the Secretary specified that personal care services may be covered.

Section 4721 of OBRA '90 amended section 1905(a)(7) of the Act to include personal care services as part of the home health services benefit and to impose certain conditions on the provision of personal care services, effective for services furnished on or after October 1, 1994. This amendment would have had a significant effect since, under section 1902(a)(10)(D) of the Act, home health services are a mandatory benefit for all Medicaid recipients eligible for nursing facility services under the State plan. Thus, had section 1905(a)(7) of the Act not been further amended (as discussed below) before the effective date of section 4721 of OBRA '90, personal care services would have become a mandatory benefit for all recipients eligible for nursing facility services, effective October 1, 1994.

Before the provisions of OBRA '90 became effective, the Omnibus Budget Reconciliation Act of 1993 (OBRA '93, Public Law 103–66) was enacted on August 10, 1993. Section 13601(a)(1) of OBRA '93 amended section 1905(a)(7) of the Act to remove personal care services from the definition of home health services. Additionally, section 13601(a)(5) of OBRA '93 added a new paragraph (24) to section 1905(a) of the Act, to include payment for personal care services under the definition of medical assistance. Under section 1905(a)(24) of the Act, personal care services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for persons with mental retardation (ICF/MR), or institution for mental disease is an optional benefit for which States may provide medical assistance payments. The statute specifies that personal care services must be: (1) Authorized for an individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State; (2) provided by an individual who is qualified to provide such services and who is not a member of the individual's family; and (3) furnished in a home or other location. This amendment was effective October 1, 1994. Therefore, as a result of the legislative changes made by OBRA '93, personal care services continue to be an optional State plan benefit, and are now authorized under section 1905(a)(24) of the Act, effective for services furnished on or after October 1, 1994.

II. Issuance of the Proposed Rule

A. Personal Care Services in a Home or Other Location (§ 440.167)

On March 8, 1996, we published in the **Federal Register** a proposed rule that specified that personal care services may be furnished in a home or other location by any individual who is qualified to do so (61 FR 9405). Throughout the preamble to the proposed rule, we emphasized our main goal in implementing the statutory provisions regarding personal care services. Specifically, our objective was to provide States maximum flexibility in tailoring their Medicaid programs to meet the needs of recipients while also setting guidelines so that States that choose to offer the personal care services benefit furnish quality services in an effective manner.

In the preamble to the proposed rule, we stated that as historically used in the Medicaid program, personal care services means services related to a patient's physical requirements, such as assistance with eating, bathing, dressing, personal hygiene, activities of daily living, bladder and bowel requirements, and taking medications (61 FR 9406). These services primarily involve ''hands on'' assistance by a personal care attendant with a recipient's physical dependency needs (as opposed to purely housekeeping services). We noted that although personal care services may be similar to or overlap some services furnished by home health aides, skilled services that may be performed only by a health professional are not considered personal care services. Alternatively, services that require a lower level of skill such as personal care services may also be provided by home health aides under the home health benefit. We did not propose to include the above description of personal care services in the regulations. The specific changes we proposed to the regulations are set forth below:

The existing regulations at § 440.170 specify that personal care services in a recipient's home means services prescribed by a physician in accordance with the recipient's plan of treatment, and furnished by an individual who is (1) qualified to provide the services, (2) supervised by a registered nurse, and (3) not a member of the recipient's family. The existing regulations do not provide for personal care services furnished in settings other than the recipient's home. To conform the regulations to the provisions of section 1905(a)(24) of the Act, we proposed to add a new § 440.167, ''Personal care services in a home or other location.'' We proposed

that personal care services are services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for persons with mental retardation, or institution for mental disease, that are: (1) Authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State; (2) provided by an individual who is qualified to provide such services and who is not a member of the individual's family; and (3) furnished in a home, and if the State chooses, in another location.

Since section 1905(a)(24) of the Act does not require that the services be supervised by a registered nurse, we proposed that we would not require such supervision in new § 440.167. In addition, we proposed that States that elect to offer the personal care services benefit must, at a minimum, cover personal care services provided in the home, but also have the option to cover personal care services provided in other locations. We set forth a detailed discussion of alternatives that we considered in implementing the provision of OBRA '93 that allows States to cover personal care services provided outside the home (61 FR 9406).

We proposed to leave to the State's option the decision of whether personal care services are to be authorized by a physician in accordance with a plan of treatment, or otherwise authorized in accordance with a service plan approved by the State. Similarly, we proposed to permit States to determine, through development of provider qualifications, which individuals are qualified to provide personal care services (other than family members).

Section 1905(a)(24)(B) of the Act specifies that, for Medicaid purposes, personal care services may not be furnished by a member of the individual's family. To provide for more clarity and consistency in this regard, we proposed to define family members under new § 440.167(b) as spouses of recipients and parents (or stepparents) of minor recipients. Finally, since personal care services are now an optional benefit under section 1905(a)(24) of the Act, we proposed to remove existing § 440.170(f), which provides for coverage of personal care services in a recipient's home as part of any other medical care or remedial care recognized under State law and specified by the Secretary.

B. Proposed Changes Concerning Home Health Services (§ 440.70)

We proposed several changes to the regulations concerning home health services. Specifically, we proposed to revise § 440.70(b)(3) to provide that the frequency of physician review of a recipient's need for medical supplies, equipment, and appliances suitable for use in the home under the home health benefit would be determined on a case-by-case basis depending on the nature of the item prescribed (rather than every 60 days, as provided for in the existing regulations). Absent changes in a recipient's condition, we do not believe that a recipient's need for medical equipment necessitates routine inclusion in a plan of care reviewed every 60 days by a physician.

Additionally, existing § 440.70(d) defines a home health agency for purposes of Medicaid reimbursement as a public or private agency or organization, or part of an agency or organization, that meets requirements for participation in Medicare. We proposed to revise this definition to indicate that in order to participate in Medicaid, the agency must meet Medicare requirements for participation as well as any additional standards the State may wish to apply that are not in conflict with Federal requirements. Finally, we proposed a technical change to § 440.70(c) to remove an obsolete reference to subparts F and G of part 442.

III. Discussion of Public Comments and Departmental Responses

We received 73 timely comments in response to the proposed rule. A summary of these comments and our responses follow.

Comment: Many commenters disagreed with our proposal to eliminate the requirement that personal care services be supervised by a registered nurse. The commenters indicated that the registered nurse is the only medical contact many (mostly elderly) beneficiaries have and that the nurse is instrumental in identifying health needs that require immediate attention by a health care professional.

Response: Section 1905(a)(24) of the Act, as added by OBRA ''93, does not specify that personal care services must be supervised by a registered nurse. Therefore, we proposed to remove the requirement from the existing regulations. While we believe that it was clearly the intent of Congress to eliminate this requirement from the statute, we agree with the commenters that there may be situations in which individuals providing personal care services need supervision. However, while some individuals' conditions may dictate a need for nurse supervision, many individuals receiving personal care services are either capable of directing their own care or have needs that are not based on a ''medical'' condition (for example, individuals with mental retardation). Additionally, a stable, physically disabled beneficiary without cognitive impairments may not need supervision of his or her personal care attendant. In some cases, supervision of personal care services by a registered nurse may be unnecessary, but the services of a case manager may be appropriate to oversee the individual's needs. We note that case management services could be reimbursed as either administrative costs or, as applicable, targeted case management services under Medicaid. Our revision to the regulations does not prohibit the supervision of a registered nurse; rather, it allows States to make the determination of when supervision of personal care services is necessary and what type of professional is qualified to supervise the personal care attendant. Therefore, we believe that the need for supervision, whether by a registered nurse or another individual, should be made on a case-by-case basis by the State.

Comment: A few commenters were concerned that we did not define ''qualified'' personal care providers. Others suggested that we require States to establish criteria for determining provider qualifications. In addition, several commenters recommended that, without the nursing supervision requirement, we establish Federal quality assurance standards or minimal standards of training or testing for personal care providers.

Response: We are not establishing provider qualifications for personal care services. Rather, in the interest of maintaining a high level of flexibility in providing personal care services, we suggest that States develop their own provider qualifications and establish mechanisms for quality assurance. While we recognize the importance of provider qualifications and quality assurance, we also firmly believe in allowing States the greatest flexibility in designing their Medicaid programs. There are several methods States may use to ensure that recipients are receiving high quality personal care services. For example, States may opt to screen personal care attendants before they are employed and/or train them afterward or allow the recipient to be the judge of quality through an initial screening. Alternatively, States may require agency providers to train their

employees on the job. State level oversight of overall program compliance standards, case level oversight, attendant training and screening, and recipient complaint and grievance mechanisms are ways in which States can influence the quality of their personal care programs. In this way, States can best address the needs of their target populations (for example, individuals with AIDS or with physical disabilities) and set unique provider qualifications and quality assurance mechanisms. We note that home health aides employed by home health agencies may sometimes provide personal care services. Home health aides that provide only personal care services under Medicaid need only meet the qualifications set forth at § 484.36(e) (and not other qualifications for home health aide services).

Comment: Some commenters disagreed with our proposal that States electing to offer personal care services must cover these services when provided in the home and may also choose to cover personal care services provided in other locations. The commenters believed that we should require States to provide the services in locations outside the home. One commenter stated that we should indicate that assisted living facilities may be considered an individual's home. Other commenters asked that we clarify the meaning of ''other locations.''

Response: In the proposed rule, we set forth a detailed discussion of options we considered for implementing the provision of OBRA '93 that allows States to cover personal care services outside the home (61 FR 9406). We proposed that States electing the personal care services benefit must provide the services in the home but may also choose to provide personal care in locations outside the home. We stated that our main goal in implementing the provision was to afford States maximum flexibility in tailoring their Medicaid programs to meet the needs of their recipients while also expanding the settings in which personal care services may be provided.

We do not believe that adopting the commenters' suggestion that we require States to provide the services in the home *and* in other locations would be appropriate since section 1905(a)(24)(C) of the Act refers to services ''furnished in a home *or* other location.'' We believe that Congress clearly did not intend to impose such a mandate on State Medicaid programs. Moreover, a policy such as the one suggested by the commenters could work against the best interests of recipients if States choose not to offer the personal care services benefit at all because of the expense involved in covering the services both inside and outside the home. In addition, the Medicaid program has always given States latitude in establishing the criteria or conditions under which optional services (such as personal care) may be covered, as long as the services available are sufficient to achieve their purpose. States have the flexibility to define optional services to include less than the full array of services that could be covered under the regulatory definitions, if they so choose. (In accordance with section 1905(r)(5) of the Act, coverage of personal care services outside the home is not optional with respect to those individuals who are eligible for the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program. Personal care services outside the home are mandatory for these individuals when medically necessary under the EPSDT program.)

We note that an individual need not receive personal care services inside the home to be eligible to receive them in another location. Rather, as stated above, a State that opts to furnish personal care services must provide them inside the home to recipients that need them in that setting, but also has the option to provide them in other locations. Thus, depending on whether the State also chooses to provide personal care services outside the home, an individual recipient could receive personal care services inside the home, outside the home or in both locations. We believe that our policy is the most appropriate interpretation of the statute, is in the best interest of recipients, and gives States the discretion necessary to operate their programs in an efficient manner.

With regard to the other issues raised by commenters, States may consider an assisted living facility as an individual's home but we do not believe we need to add this requirement to the regulations. Additionally, ''other locations'' may be any location, as specified by the State, except for the statutorily excluded locations set forth in section 1905(a)(24) of the Act (hospital, nursing facility, or ICF/MR).

Comment: One commenter disagreed with our position that the EPSDT provisions mandate coverage of personal care services outside the home when medically necessary.

Response: As stated above, under section 1905(r)(5) of the Act, the provision of medically necessary personal care services outside the home is not an option but a mandate for individuals eligible under the EPSDT program. The EPSDT benefit includes all medically necessary services described in section 1905(a) of the Act, whether or not such services are covered under the State's Medicaid plan. Therefore, personal care services must be provided outside the home when medically necessary to individuals under the EPSDT program.

Comment: Some commenters disagreed with our proposed definition of personal care services and others believed that we should define the services in regulation. The commenters recommended that we provide a detailed description of the services that can be provided under the personal care services benefit in the regulatory language. One commenter indicated that personal care services should include those that are delegated by a nurse or physician to an unlicensed personal care provider. They also suggested that the definition be revised to delete reference to physical tasks while referring to assistance with both activities of daily living (ADLs) and instrumental activities of daily living (IADLs), including assistance with cognitive tasks and services to prevent an individual from harming himself. One commenter suggested changing the name of the service from personal care services to ''personal assistant services.'' One commenter asserted that assistance with taking medications should not be included as a personal care service.

Response: As stated in the proposed rule, in order to more easily address changes that may occur in the definition and delivery of personal care services and to allow greatest State flexibility, in the near future we plan to publish in a State Medicaid Manual instruction a definition that States may use. As suggested by the commenter, we plan to define the services in terms of assistance with ADLs and IADLs. Services such as those delegated by nurses or physicians to personal care attendants may be provided so long as the delegation is in keeping with State law or regulation and the services fit within the personal care services benefit covered under a State's plan. Services such as assistance with taking medications would be allowed if they are permissible in States' Nurse Practice Acts, although States may need to ensure proper training is provided when necessary. We will not change the name of the service as suggested, as the regulations now are consistent with the statutory language.

Comment: Some commenters were concerned about our proposed definition of ''family member'' for purposes of individuals providing personal care services. A few commenters suggested that we expand the definition to preclude Medicaid

coverage of personal care services provided by children, grandchildren, and legal guardians of recipients. Other commenters believed that parents and spouses should be allowed to provide personal care services. Another commenter recommended that stepparents be allowed to provide personal care services in States where stepparents are not legally responsible for the recipient. Finally, several commenters disagreed with our proposal to allow States to further restrict family members from providing services and indicated that States should be required to limit excluded family members to spouses and parents.

Response: Section 1905(a)(24)(B) of the Act specifies that personal care services may not be furnished by a member of the individual's family. We proposed to define family members as spouses of recipients and parents (or stepparents) of minor recipients. Additionally, we proposed that States could further restrict which family members could qualify as providers by extending the definition to apply to family members other than spouses and parents.

To provide for more clarity and consistency, we have revised the definition of family member at new § 440.167(b) to provide that a family member is a legally responsible relative. Thus, spouses of recipients and parents of minor recipients (including stepparents who are legally responsible for minor children) are included in the definition of family member. This definition is identical to the revised definition that applies to personal care services provided under a home and community-based services waiver.

Congress clearly intended to preclude family members from providing personal care services and we believe our revised definition is the most reasonable interpretation of the term. Furthermore, we have always maintained that spouses and parents are inherently responsible for meeting the personal care needs of their family members, and, therefore, it would not be appropriate to allow Medicaid reimbursement for such services. If stepparents are not legally responsible for the recipient in some States, they could provide personal care services under our revised definition. However, because States can further restrict which family members can qualify as providers by extending the definition to apply to individuals other than those legally responsible for the recipient, States could choose to exclude stepparents regardless of their legal responsibility. In addition, by allowing States to further define ''family members'' for purposes of personal care services, States can tailor their programs to meet their individual needs.

Comment: A few commenters indicated that the personal care services benefit should be a mandatory service that States must provide under their Medicaid programs. One commenter believed that the regulation should specifically allow various methods of delivering personal care services (for example, vouchers, individual providers, consumer-directed agency models, or traditional agency models).

Response: The Medicaid program is a Federal-State program that provides for mandatory services that States must provide and optional services that States may choose to provide. Sections 1902(a)(10)(A) and 1905(a) of the Act define those services that are optional and those that are mandatory. Under section 1905(a)(24) of the Act, personal care services are an optional benefit that States may choose to provide to their Medicaid populations. To mandate that States provide personal care services would require legislative action by Congress. With regard to methods for delivering personal care services, we believe in allowing States the flexibility to determine the best method of providing services and will not specify such methods in a regulation.

Comment: One commenter suggested that we retain the requirement for physician plan of care authorization for personal care services. The commenter believed that eliminating this requirement will lead to fraud and excess spending.

Response: Section 1905(a)(24) of the Act provides that personal care services must be authorized ''by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State.'' In accordance with this section of the Act, we proposed to include this provision in new § 440.167. We believe that the statute clearly indicates Congress' intent to allow States the flexibility to utilize alternative means of plan of care authorization. Further, regarding the commenter's concern that the elimination of the requirement for physician authorization will encourage fraud, we believe that it is in the best interest of States to control spending and to establish methods to prevent providers from engaging in fraudulent activities. Our revisions do not preclude physician authorization of personal care services. Rather, in accordance with the statute, we are allowing States to determine the appropriate method for plan of care authorization. Therefore, we will not continue to require that the plan of care be authorized by a physician.

Comment: One commenter disagreed with our revision to the frequency of review of an individual's plan of care for medical supplies, equipment, and appliances suitable for use in the home under the home health services benefit. The commenter was concerned that our proposal might compromise quality of care and utilization control concerns.

Response: We proposed that § 440.70(b)(3) be revised to provide that physician review of a recipient's need for medical supplies, equipment, and appliances suitable for use in the home under the home health benefit would be required annually instead of every 60 days. The frequency of review on other than an annual basis would be determined by the State on a case-by-case basis depending on the nature of the item prescribed. We have found that, in many cases, once a recipient's need for medical supplies, equipment, and appliances is indicated by a physician, that need is unlikely to change within 60 days. A recipient's need for supplies or pieces of equipment that generally tend to be used on a long-term basis would not be reviewed as frequently as equipment that is usually used only temporarily. For example, review of the need for a wheelchair need not be as frequent as review of the need for an oxygen concentrator. In all cases, a physician's order for the equipment would be required initially, and frequency of further review of a recipient's continuing needs would depend on the type of equipment prescribed. We believe that the requirement for annual review of medical supplies and equipment balances States flexibility in furnishing home health services with providing an appropriate level of oversight. In addition, this may allow a decrease in physicians' paperwork burden, time, and costs.

Comment: Two commenters disagreed with our proposal to revise the definition of a home health agency for purposes of Medicaid reimbursement to indicate that in order to participate in Medicaid, the agency must meet Medicare requirements for participation as well as any additional standards the State may wish to apply that are not in conflict with Federal requirements.

Response: Under this provision a State would have the option of imposing additional standards on home health agencies for participation in Medicaid beyond the Medicare conditions of participation. Our intention in revising the home health agency definition is to afford States greater flexibility in

establishing Medicaid program requirements tailored to their own specific needs. This will enable States to conform existing State and Federal requirements but by no means mandates that additional requirements be established.

Comment: One commenter indicated that our proposed revision to § 440.70(c) would erroneously preclude home health services from being provided to ICF/MR residents regardless of whether those services are not otherwise available.

Response: We proposed to make a technical revision to § 440.70(c) to remove an obsolete reference to subparts F and G of part 442. We agree with the commenter that our proposed revision would have the effect of precluding home health services from being made available to ICF/MR residents even when the services are not otherwise available. We have revised the language in § 440.70(c) to correct this error.

IV. Provisions of the Final Rule

We are adopting the proposed rule as final with some revisions. Specifically:

- We have revised § 440.70(c) to provide that a recipient's place of residence, for home health services, does not include a hospital, nursing facility, or ICF/MR, except for home health services in an ICF/MR that are not required to be provided by the facility under subpart I of part 483. We also have reinstated the example given.
- We have revised the definition of family member at proposed § 440.167(b) to provide that a family member is a legally responsible relative.
- In the proposed rule, we failed to include language currently located in existing § 440.170(f) in new § 440.167. Specifically, the introductory text of existing § 440.170(f) permits States to define personal care services differently for purposes of a section 1915(c) waiver. We have revised new § 440.167 to include this provision.

V. Impact Statement

A. Background

For proposed rules such as this, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless we certify that a final rule will not have a significant economic impact on a substantial number of small entities. For purposes of a RFA, States and individuals are not considered small entities. However, providers are considered small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any final rule that may have a significant impact on the operation of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 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.

We are not preparing a rural impact statement since we have determined, and we certify, that this final rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

This final rule revises the Medicaid regulations to incorporate the statutory requirements of section 1905(a)(24) of the Act concerning personal care services. In accordance with the statute, we are providing that the services must be: (1) Authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State; (2) provided by an individual who is qualified to provide the services and who is not a member of the individual's family; and (3) furnished in a home or other location.

In general, the provisions of this final rule are prescribed by section 1905(a)(24) of the Act, as added by section 13601(a)(5) of OBRA'93. The most significant change required under the statute is that, as of October 1, 1994, the settings in which States may elect to cover personal care services have been expanded to include locations outside the home. We believe that this statutory provision will increase Medicaid program expenditures regardless of whether or not we promulgate this rule. The primary discretionary aspect of this rule is the requirement that States electing to offer the personal care services benefit must cover the services in the home and may choose to cover them in any other location. As discussed in the proposed rule (61 FR 9406), we considered requiring States that elect to offer the personal care services benefit to cover the services in both the home and other locations. We also considered allowing States to cover the services either in the home or in other locations. However, we believe that the policy in this final rule is the most appropriate interpretation of the statute and gives States the discretion necessary to operate their programs in an efficient manner and in the best interest of their recipients.

As noted above, the major provisions of this final rule are required by the statute. Thus, costs associated with these regulations are the result of legislation, and this rule, in and of itself, has little or no independent effect or burden. However, to the extent that a legislative provision being implemented through rulemaking may have a significant effect on recipients or providers or may be viewed as controversial, we believe that we should address any potential concerns. In this instance, we believe it is desirable to inform the public of our estimate of the substantial budgetary effect of these statutory changes. The statutorily driven costs have been included in the Medicaid budget baseline. In addition, we anticipate that a large number of Medicaid recipients and providers, particularly home health agencies, will be affected. The expansion of settings where personal care services may be furnished represents an expansion of Medicaid benefits that, if exercised by States, will likely have significant effects, particularly on Medicaid recipients. Therefore, the following discussion constitutes a voluntary regulatory flexibility analysis.

B. Impact of New Personal Care Services Provision

1. Overview

This analysis addresses a wide range of costs and benefits of this rule. Whenever possible, we express impact quantitatively. In cases where quantitative approaches are not feasible, we present our best examination of determinable costs, benefits, and associated issues.

It is difficult to predict the economic impact of expanding the settings where personal care services may be covered under Medicaid to locations outside the home. We do not know the exact number and type of personal care services furnished by individual States or how much these services currently cost. Currently, approximately 32 States offer coverage for personal care services, and we do not have cost data from all of those States. States also differ in their definitions of personal care services and rules concerning who may furnish them. Since we do not have a full picture of the scope or cost of the different services, it is difficult for us to quantify the impact these changes will have. Other unknown factors regarding the future provision of personal care services include which States now offering the personal care services benefit will choose to cover services furnished outside the home, how many additional States will opt to offer coverage, how many Medicaid recipients will elect to use these

services in States in which the services have not been covered, and the type and costs of these specific services. We believe that the majority of those individuals who qualify for these services will elect to use this benefit. Thus, although costs to States will rise as they begin to pay for the additional services, there will be substantial benefits to some providers and to Medicaid recipients as described in detail below.

2. Effects Upon Medicaid Recipients

Permitting States that elect to offer the personal care services benefit the option of covering these services in locations outside the home will have a positive effect on recipients. In States where coverage has been provided only for personal care services in the home, this final rule may expand the types of personal care services available and/or the settings where recipients may receive these services. Expansion of personal care services or settings could help improve the quality of life for these recipients as well as for recipients who have not been receiving personal care services. It also could save money for some Medicaid recipients or their families since they would no longer have to pay for these services. No data are available on the number of recipients or family members who are currently paying for these services. However, since only 32 States currently pay for personal care services, we believe that a substantial number of recipients who receive these services are paying for them out of pocket.

3. Effects on Providers

By expanding the range of settings in which Medicaid will cover personal care services, we anticipate that this final rule will increase the demand for such services. We believe this effect will be viewed as beneficial to providers of personal care services. If the increase in demand for such services is sufficient, the number of providers of personal care services may increase.

4. Effects on Medicaid Program Expenditures

This final rule implements the provisions of section 1905(a)(24) of the Act by specifying that personal care services are an optional State plan benefit under the Medicaid program. The rule allows States the option to cover personal care services furnished in a home or other location, effective for services furnished on or after October 1, 1994. Table 1 below provides an estimate of the anticipated additional Medicaid program expenditures associated with furnishing these services outside the home, beginning on October 1, 1997. This estimate was made using various assumptions about increases in utilization by current recipients, adjusted for age, as well as assumptions about the induced utilization that may result from the availability of these services. We have assumed a utilization increase of 5 percent for the aged and 10 percent for the non-aged, and an overall induction factor of 10 percent. Given these assumptions, our estimate based on Federal budget projections is shown in Table 1, which also provides a breakdown of these costs. The first row of figures shows the Federal costs of providing this optional State plan benefit. The second row shows the Federal administrative costs associated with furnishing these services. We estimate the following costs to the Medicaid program:

TABLE 1.—PERSONAL CARE SERVICES OUTSIDE THE HOME

	Federal medicaid cost estimate (in millions) [1]				
	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
Services	$185	$440	$545	$685	$855
Admin. Costs	10	15	15	15	20
Total	195	455	560	700	875

[1] Figures are rounded to the nearest $5 million.

5. Effects on States

As stated above, the coverage of personal care services is optional except when such services are medically necessary to correct or ameliorate medical problems found as a result of a screen under the EPSDT program. Many States (approximately 18) currently do not cover optional personal care services. In those States that do offer the personal care services benefit, services furnished outside the home previously could not be covered. Therefore, there may be a substantial economic impact on States that decide to provide coverage for personal care services furnished outside the home. The varying State definitions of personal care services and rules concerning who may furnish them make it difficult to estimate accurately the potential increases in expenditures for those States that choose to expand coverage of personal care services to include services furnished outside the home. However, Table 2 includes estimated costs to States, which are based upon the same data and assumptions used to formulate the Federal expenditures shown in Table 1.

TABLE 2.—PERSONAL CARE SERVICES OUTSIDE THE HOME

	Federal medicaid cost estimate (in millions) [1]				
	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
Services	$140	$330	$415	$515	$645
Admin. Costs	5	10	10	20	20
Total	145	340	425	535	665

[1] Figures are rounded to the nearest $5 million.

C. Conclusion

The provisions of this final rule are required by section 1905(a)(24) of the Act. We believe that the provisions of this rule adding personal care services as an optional State plan benefit and expanding the possible settings for covering personal care services to locations outside the home will benefit providers, recipients, and their families.

As shown above in Tables 1 and 2, the costs to the Federal Government and States associated with paying for personal care services furnished outside the home are substantial. There may be some minor offsetting of costs if the number of admissions to nursing facilities decreases as a result of these provisions, but we have no data to determine the potential savings, if any. Regardless of any possible savings, the economic impact of these provisions is attributable to the statutory changes mandated by OBRA '93.

In accordance with the provisions of Executive Order 12866, this final rule was reviewed by the Office of Management and Budget.

This final rule has been classified as a major rule subject to congressional review. The effective date is November 10, 1997. If, however, at the conclusion of the congressional review process the effective date has been changed, HCFA will publish a document in the **Federal Register** to establish the actual effective date or to issue a notice of termination of the final rule action.

VI. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, agencies are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Section § 440.167 of this final rule contains requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. The rule requires States to amend their State plans to specify whether they will cover personal care services and in what locations they will provide the services. Public reporting burden for this collection of information is estimated to be 1 hour per State. A notice will be published in the **Federal Register** when approval is obtained. Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements should mail them directly to the following:

Health Care Financing Administration, Office of Financial and Human Resources, Management Planning and Analysis Staff, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21255–1850.

Any comments submitted on the information collection requirements must be received by these two offices on or before November 10, 1997, to enable OMB to act promptly on HCFA's information collection approval request.

List of Subjects in 42 CFR Part 440

Grant programs-health, Medicaid.

42 CFR part 440 is amended as set forth below:

PART 440—SERVICES: GENERAL PROVISIONS

1. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart A—Definitions

2. In § 440.70, the introductory text of paragraphs (a) and (b) are republished and paragraphs (a)(2), (b)(3), (c), and (d) are revised to read as follows:

§ 440.70 Home health services.

(a) ''Home health services'' means the services in paragraph (b) of this section that are provided to a recipient—

(1) * * *

(2) On his or her physician's orders as part of a written plan of care that the physician reviews every 60 days, except as specified in paragraph (b)(3) of this section.

(b) Home health services include the following services and items. * * *

(3) Medical supplies, equipment, and appliances suitable for use in the home.

(i) A recipient's need for medical supplies, equipment, and appliances must be reviewed by a physician annually.

(ii) Frequency of further physician review of a recipient's continuing need for the items is determined on a case-by-case basis, based on the nature of the item prescribed;

* * * * *

(c) A recipient's place of residence, for home health services, does not include a hospital, nursing facility, or intermediate care facility for the mentally retarded, except for home health services in an intermediate care facility for the mentally retarded that are not required to be provided by the facility under subpart I of part 483. For example, a registered nurse may provide short-term care for a recipient in an intermediate care facility for the mentally retarded during an acute illness to avoid the recipient's transfer to a nursing facility.

(d) ''Home health agency'' means a public or private agency or organization, or part of an agency or organization that meets requirements for participation in Medicare and any additional standards legally promulgated by the State that are not in conflict with Federal requirements.

* * * * *

3. A new § 440.167 is added to read as follows:

§ 440.167 Personal care services.

Unless defined differently by a State agency for purposes of a waiver granted under part 441, subpart G of this chapter—

(a) ''Personal care services'' means services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease that are—

(1) Authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State;

(2) Provided by an individual who is qualified to provide such services and who is not a member of the individual's family; and

(3) Furnished in a home, and at the State's option, in another location.

(b) For purposes of this section, ''family member'' means a legally responsible relative.

§ 440.170, [Amended]

4. § 440.170, paragraph (f) is removed and reserved.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program.)

Dated: June 26, 1997.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 97–24266 Filed 9–10–97; 8:45 am]

BILLING CODE 4120–01–P

federal register

Thursday
September 11, 1997

Part V

The President

Presidential Determination No. 97–31—Use of Section 614 To Provide Assistance to Colombia

Federal Register
Vol. 62, No. 176
Thursday, September 11, 1997

Presidential Documents

Title 3—

The President

Presidential Determination No. 97–31 of August 16, 1997

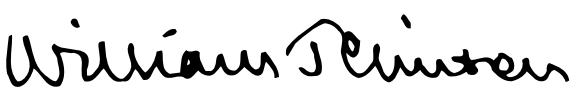
Use of Section 614 To Provide Assistance to Colombia

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 614(a)(2) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2364(a)(2) (the ''Act''), I hereby determine that it is vital to the national security interests of the United States to make sales and extend credits to Colombia of up to $30 million in Foreign Military Financing under the Arms Export Control Act, without regard to any provision of the law within the scope of section 614. I hereby authorize such making of sales and extensions of credit, including the expenditure of previously obligated Foreign Military Financing funds needed to finance such sales.

Pursuant to the authority vested in me by section 614(a)(1) of the Act, 22 U.S.C. 2364(a)(1), I hereby determine that it is important to the security interests of the United States to furnish up to $600,000 in Fiscal Year 1997 funds under Chapter 5 of part II of the Act for Colombia, without regard to any provision of the law within the scope of section 614. I hereby authorize the furnishing of such assistance.

You are authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register.**



THE WHITE HOUSE,
Washington, August 16, 1997.

[FR Doc. 97–24299
Filed 9–10–97; 8:45 am]
Billing code 4710–10–M

federal register

Thursday
September 11, 1997

Part VI

The President

Proclamation 7018—America Goes Back to School, 1997

Federal Register
Vol. 62, No. 176
Thursday, September 11, 1997

Presidential Documents

Title 3—

The President

Proclamation 7018 of September 8, 1997

America Goes Back to School, 1997

By the President of the United States of America

A Proclamation

Americans want the best for our children. We want them to live out their dreams, empowered with the tools they need to make the most of their lives and to build a future where America remains the world's beacon of hope and freedom and opportunity. To do this, we must all make improving the quality of education in America one of our highest priorities.

In my State of the Union Address earlier this year, I issued a call to action for American education to prepare our Nation for the 21st century. Working together, we must make our schools strong and safe, with clear standards of achievement and discipline and talented, dedicated teachers in every classroom. Every school and every State should adopt rigorous national standards, with national tests in 4th-grade reading and 8th-grade math to make sure our children master the basics. We must ensure that every student can read independently and well by the end of the 3rd grade. We must connect every classroom and library to the Internet by the year 2000 and help all students become technologically literate. We must modernize school buildings and expand school choice and accountability in public education. And we must encourage lifelong learning for all our citizens, from expanding Head Start programs to helping adults improve their education and skills.

These goals are ambitious, but they are crucial if we are to prepare for the challenges and possibilities of life in the 21st century. With the 1997 balanced budget agreement, we will begin to meet these goals by providing new resources to help children learn to read, the means to help connect every school to the Internet, and tens of billions of dollars in tax cuts to help families pay for college.

I urge all Americans to become actively involved in their local schools and colleges and to make a real commitment to support education improvement and give our children the kind of support they need to succeed. The Partnership for Family Involvement in Education is setting a powerful example in this endeavor. These partners—including the Department of Education and more than 3,000 schools, families, colleges and universities, community, cultural, and religious groups, businesses, elected officials and policymakers, and the men and women of our Armed Forces—have pledged their support for our initiative, ''America Goes Back to School: Answering the President's Call to Action.'' Through their dedication to our children, they are helping America's young people grow into responsible and productive citizens. They are proving that when communities unite, every student can achieve.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 8 through September 14, 1997, as a time when America Goes Back to School. I encourage parents, schools, community and State leaders, businesses, civic and religious organizations, and the people of the United States to observe this week with appropriate ceremonies and activities expressing support for high academic standards and meaningful involvement in schools and colleges and the students and families they serve.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.

William J. Clinton

[FR Doc. 97–24329
Filed 9–10–97; 8:45 am]
Billing code 3195–01–P

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National Oceanic and Atmospheric Administration

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National Highway Traffic Safety Administration

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