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Contents

Federal Register

Vol. 62, No. 221

Monday, November 17, 1997

Agency for Toxic Substances and Disease Registry
NOTICES
Superfund program:
Hazardous substances priority list (toxicological profiles), 61332–61335

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service
See Natural Resources Conservation Service
RULES
Privacy Act; implementation, 61207–61210
NOTICES
Privacy Act:
Systems of records, 61262–61268

Alcohol, Tobacco and Firearms Bureau
RULES
Firearms:
Arms, ammunition, and implements of war—
Defense articles and services from specified New Independent States of former Soviet Union and Yugoslavia; certain restrictions removed, etc., 61232–61235

Animal and Plant Health Inspection Service
RULES
Plant-related quarantine, domestic:
Imported plants and plant parts; interstate movement prohibition subsequent to importation, 61210–61213
Mexican fruit fly, 61213–61215

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 61335–61336
Meetings:
Injury Prevention and Control Advisory Committee, 61336
Vessel sanitation program; cruise ship inspections and ship construction and renovation consultation services; fees, 61336–61338

Commerce Department
See Export Administration Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Fiji, 61296–61297
Thailand, 61297

Commodity Futures Trading Commission
RULES
Reporting requirements:
Large trader reports; reporting levels changes, 61226–61228

Customs Service
RULES
Trademarks, trade names, and copyrights:
Anticounterfeiting Consumer Protection Act; disposition of merchandise bearing counterfeit American trademarks; civil penalties, 61231–61232
PROPOSED RULES
Customs relations with Canada and Mexico:
Designation of land border crossing locations for certain conveyances, 61251–61252

Defense Department
See Navy Department
NOTICES
Arms sales notification; transmittal letter, etc., 61297–61304
Meetings:
Defense Acquisition University Board of Visitors, 61304
Science Board task forces, 61304–61305

Education Department
RULES
Educational research and improvement:
Exemplary and promising programs designation; conduct standards and activities evaluation, 61428–61432
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 61305–61306
Meetings:
National Assessment Governing Board, 61306
Privacy Act:
Computer matching programs, 61306–61307

Energy Department
See Energy Research Office
See Federal Energy Regulatory Commission

Energy Research Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Financial assistance programs—
Environmental management science program; decontamination and decommissioning of facilities; research and support activities, 61307–61313

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Ohio et al., 61241–61247
Virginia, 61237–61241
Air quality implementation plans; approval and promulgation; various States:
Alabama, 61236

NOTICES
Meetings:
Children's Health Protection Advisory Committee, 61329

Export Administration Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 61269
Export privileges, actions affecting:
McNeil, William F., 61269–61270

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 61222–61223
McDonnell Douglas, 61223–61225
Class E airspace; correction, 61426
NOTICES
Meetings:
Aviation Rulemaking Advisory Committee, 61424

Federal Emergency Management Agency
RULES
Flood elevation determinations:
Indiana et al., 61247–61250
PROPOSED RULES
Flood elevation determinations:
Maine et al., 61259–61261
NOTICES
Disaster preparedness, mitigation, response, and recovery; government-to-government relationship:
American Indian and Alaska Native policy, 61329–61331

Federal Energy Regulatory Commission
RULES
Electric utilities (Federal Power Act):
Rate schedules filing—
Government land use; annual (1998 FY) fee schedule charges, 61228–61230
NOTICES
Electric rate and corporate regulation filings:
New England Power Pool et al., 61317–61321
Southern California Edison Co. et al., 61321–61327
Environmental statements; availability, etc.:
South Carolina Electric & Gas Co., 61327
Hydroelectric applications, 61327–61329
Applications, hearings, determinations, etc.:
American Ref-fuel Co. of Essex County et al., 61313
American Ref-Fuel Co. of Hempstead et al., 61313
Crossroads Pipeline Co., 61313–61314
East Tennessee Natural Gas Co., 61314
High Island Offshore System, 61314
Idaho Power Co., 61314
Kern River Gas Transmission Co., 61314–61315
Midwestern Gas Transmission Co., 61315
Northeast Energy Services, Inc., 61315
Questar Pipeline Co., 61315–61316
SEMASS Partnership et al., 61316
Tennessee Gas Pipeline Co., 61316
Trunkline Gas Co.; correction, 61426
Viking Gas Transmission Co., 61316–61317
West Texas Gas, Inc., 61317

Federal Maritime Commission
NOTICES
Complaints filed:
Pyramids International, Inc., 61331
Shipco Transport, Inc., 61331

Federal Reserve System
RULES
Freedom of Information Act; implementation
Federal Open Market Committee; information availability, 61217–61222
NOTICES
Banks and bank holding companies:
Change in bank control, 61332
Formations, acquisitions, and mergers, 61332
Permissible nonbanking activities, 61332

Federal Trade Commission
RULES
Trade regulation rules:
Leakproof, guaranteed leakproof, etc.; deceptive use as descriptive of dry cell batteries; CFR part removed, 61225–61226

Fish and Wildlife Service
NOTICES
Natural resource damage assessment plans; availability, etc.:
Grand Calumet River et al., IN, 61341

Food and Drug Administration
NOTICES
Human drugs:
New drug applications—
European Research Associates, Ltd., et al.; approval withdrawn, 61338–61339
Medical devices; premarket approval:
Osteonics Constrained Acetabular Insert, 61339

Forest Service
NOTICES
Meetings:
Southwest Washington Provincial Advisory Committee, 61268–61269

Geological Survey
NOTICES
Grant and cooperative agreement awards:
Lizardtech Co., 61341

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Immigration and Naturalization Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 61416

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Land Management Bureau
See National Park Service
See Reclamation Bureau

International Trade Administration
NOTICES
Antidumping:
Melamine from—
Japan, 61270–61271
Solid urea from—
Former German Democratic Republic, 61271–61276

Tapered roller bearings and parts, finished and unfinished, etc., from—
China, 61276–61294
Transition orders; schedule and grouping of five-year reviews; comment request, 61294–61295

International Trade Commission
PROPOSED RULES
Freedom of Information Act and Privacy Act; implementation, 61252–61259
NOTICES
Import investigations:
Integrated circuits and products containing same; correction, 61426

Justice Department
See Immigration and Naturalization Service
NOTICES
Personal Responsibility and Work Opportunity Reconciliation Act of 1996; implementation:
Verification of citizenship, qualified alien status and eligibility; interim guidance, 61344–61416

Land Management Bureau
NOTICES
Closure of public lands:
New Mexico, 61341
Meetings:
Resource advisory councils—
Butte District, 61342
Survey plat filings:
California, 61342
Idaho, 61342
Withdrawal and reservation of lands:
Oregon, 61342–61343

Medicare Payment Advisory Commission
NOTICES
Meetings, 61416–61417

National Communications System
NOTICES
Federal telecommunications standards:
Recommendations; approval for publication—
Video teleconferencing services at 56 to 1,920 kbits/s, 61417

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Combined Arts Advisory Panel, 61417

National Institutes of Health
NOTICES
Meetings:
National Eye Institute, 61339–61340
National Institute of Neurological Disorders and Stroke, 61340
Scientific Review Center special emphasis panels, 61340–61341

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
Mid-Atlantic Fishery Management Council, 61295
Permits:
Endangered and threatened species, 61295–61296

National Park Service
NOTICES
Meetings:
Petroglyph National Monument Advisory Commission, 61343

National Science Foundation
NOTICES
Meetings:
Computer and Information Science and Engineering Advisory Committee, 61417
Human Resource Development Special Emphasis Panel, 61417–61418
Mathematical and Physical Sciences Advisory Committee, 61418

Natural Resources Conservation Service
RULES
Wetlands protection; technical assistance policy removed, 61215–61217

Navy Department
NOTICES
Environmental statements; availability, etc.:
Base realignment and closure—
Naval Air Station Cecil Field, FL, 61305

Patent and Trademark Office
RULES
Patents:
Practice rules; simplification, clarification, and removal of unnecessary requirements
Correction, 61235–61236

Personnel Management Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 61418

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Reclamation Bureau
NOTICES
Environmental statements; notice of intent:
Klamath Project, OR and CA, 61343–61344
Westland Irrigation District, OR; boundary adjustment, 61344

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 61418–61419
Chicago Board Options Exchange, Inc., 61419–61421

Small Business Administration
NOTICES
License surrenders:
Pan Pac Capital Corp., 61421
Meetings:
Southeastern States Regional Fairness Board, 61421
Applications, hearings, determinations, etc.:
Intercontinental Capital Funding Corp., 61421
New England MESBIC, Inc., 61421

State Department
NOTICES
Arms Export Control Act:
Export licenses; Congressional notifications, 61421–61424

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Grand Trunk Western Railroad Inc., 61424

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Federal Aviation Administration
See Surface Transportation Board

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Customs Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 61424–61425

Separate Parts In This Issue

Part II
Department of Education, 61428–61432

Reader Aids
Additional information, including a list of telephone numbers, finding aids, reminders, and a list of Public Laws appears in the Reader Aids section at the end of this issue.

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

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
1.....61207
301 (2 documents) 61210, 61213
650.....61215

12 CFR
271.....61217

14 CFR
39 (2 documents) 61222, 61223
71.....61426

16 CFR
403.....61225

17 CFR
15.....61226

18 CFR
11.....61228

19 CFR
133.....61231
Proposed Rules:
123.....61251
201.....61252

27 CFR
47.....61232

34 CFR
701.....61428

37 CFR
1.....61235

40 CFR
52 (3 documents) 61236, 61237, 61241
81 (2 documents) 61237, 61241

44 CFR
65.....61247
67.....61248
Proposed Rules:
67.....61259

Rules and Regulations

Federal Register
Vol. 62, No. 221
Monday, November 17, 1997

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

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Administrative Regulations; Privacy Act Regulations

AGENCY: Office of the Secretary, Agriculture.

ACTION: Final rule.

SUMMARY: This rule exempts four systems of records from certain sections of the Privacy Act (5 U.S.C. 552a) pursuant to U.S.C. 552a(j). The previous list of exempt systems published in the **Federal Register** at 54 FR 39517, September 27, 1989, was omitted inadvertently from 7 CFR 1.122. In addition, this rule changes the list of Office of Inspector General (OIG) systems of records covered under those sections to reflect changes in the names of two of the systems of records, to add a third system which is being split-off from one of the other systems, and to include the investigative records portion of a fourth system.

These amendments are being made in conjunction with the notice of amendments to the USDA/OIG systems of records which is published elsewhere in today's issue of the **Federal Register**.

DATES: Effective November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Paula F. Hayes, Assistant Inspector General for Policy Development and Resources Management, Office of Inspector General, USDA, Washington, D.C. 20250–2310 (202–720–6979).

SUPPLEMENTARY INFORMATION: OIG has revised its systems of records in order to more accurately meet its recordkeeping practices and needs. The system formerly know as USDA/OIG–2, ''Intelligence Records,'' has been redesignated as ''Informant and Undercover Agent Records.'' The system previously designated as USDA/OIG–3 ''Investigative Files and Subject/Title Index,'' has been divided into two systems to be known as USDA/OIG–3, ''Investigative Files and Automated Investigative Indices System'' and USDA/OIG–4, ''OIG Hotline Complaint Records.'' And USDA/OIG–5, known as ''Management Information and Data Analysis System,'' has been renamed ''Consolidated Assignments, Personnel Tracking, and Administrative Information Network (CAPTAIN).''

These changes are not considered substantive because the basic records covered by the exemptions in 7 CFR 1.22 and 1.123 remain the same as before. The justifications for these exemptions were published as a proposed rule at 54 FR 11204–11206, March 17, 1989, and were further explained in a final rule published at 54 FR 39517, September 27, 1989.

The exemption revision applies to four Privacy Act systems of records: USDA/OIG–2, ''Informant and Undercover Agent Records;'' USDA/OIG–3, ''Investigative Files and Automated Investigative Indices System;'' USDA/OIG–4, ''OIG Hotline Complaint Records;'' and the Investigations Subsystem and Investigative Employee Time Records portions of USDA/OIG–5, ''Consolidated Assignments, Personnel Tracking, and Administrative Information Network (CAPTAIN).''

Pursuant to 5 U.S.C. 552a(k)(2), (5) and 552a(j)(2), exemption of records in four systems of records of OIG, USDA/OIG–2, USDA/OIG–3, USDA/OIG–4, and the Investigations Subsystem and Investigative Employee Time Records portions of USDA/OIG–5, is authorized to the extent that information in the systems pertains to criminal law enforcement. This includes, but is not limited to information complied for the purpose of identifying criminal offenders and alleged offenders and consisting of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; information compiled for the purpose of a criminal investigation, including reports of informants and investigators, that is associated with an identifiable individual; or reports of enforcement of the criminal laws from arrest or indictment through release from supervision.

The disclosure of information contained in the criminal investigative files, including the names of persons or agencies to whom the information has been transmitted, would substantially compromise the effectiveness of OIG investigations. Knowledge of such investigations could enable suspects to take such action as is necessary to prevent detection of criminal activities, conceal or destroy evidence, or escape prosecution. Disclosure of this information could lead to the intimidation of, or harm to, informants, witnesses, and their families, and could jeopardize the safety and well-being of investigative and related personnel and their families. The imposition of certain restrictions on the manner in which investigative information is collected, verified, or retained would significantly impede the effectiveness of OIG investigatory activities, and in addition could preclude the apprehension and successful prosecution of persons engaged in fraud or criminal activity.

Information in these systems is maintained pursuant to official Federal law enforcement and criminal investigation functions of the Office of Inspector General. The exemptions are needed to maintain the integrity and confidentiality of criminal investigations, to protect individuals from harm, and for the following reasons:

(1) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual named in the record at his/her request. These accountings must state the date, nature, and purpose of each disclosure of a record and the name and address of the recipient. Accounting for each disclosure would alert the subjects of an investigation to the existence of the investigation and the fact that they are subjects of the investigation. The release of such information to the subjects of an investigation would provide them with significant information concerning the nature of the investigation, and could seriously impede or compromise the investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(2) 5 U.S.C. 552a(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of the Act. Since these systems of records are being exempted from subsection (d) of the Act, concerning access to records, this section is inapplicable to the extent that these systems of records will be exempted from subsection (d) of the Act.

(3) 5 U.S.C. 552a(d) requires an agency to permit an individual to gain access to records pertaining to him/her, to request amendment to such records, to request a review of an agency decision not to amend such records, and to contest the information contained in such records. Granting access to records in these systems of records could inform the subject of an investigation of an actual or potential criminal violation, of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his/her activities, or the identity of confidential sources, witnesses, and law enforcement personnel, and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony, and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified security-sensitive, or confidential business information and could constitute an unwarranted invasion of the personal privacy of others.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. The application of this provision could impair investigations and law enforcement because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation, the investigator may obtain information which is incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation, the investigator may obtain information concerning the violation of laws other than those which are within the scope of his/her jurisdiction. In the interest of effective law enforcement, OIG investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for other law enforcement agencies.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of this provision could impair investigations and law enforcement by alerting the subject of an investigation or the existence of the investigation, thereby enabling the subject to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Moreover, in certain circumstances the subject of an investigation cannot be required to provide information to investigators, and information must be collected from other sources. Furthermore, it is often necessary to collect information from sources other than the subject of the investigation to verify the accuracy of the evidence collected.

(6) 5 U.S.C. 552a(e)(3) requires an agency to inform each person to whom it ask to supply information, on a form that can be retained by the person, of the authority under which the information is sought and whether disclosure is mandatory or voluntary; of the principal purposes for which the information is intended to be used; of the routine uses which may be made of the information and of the effects on the person, if any, of not providing all or any part of the requested information. The application of the provision could provide the subject of an investigation with substantial information about the nature of that investigation, which could interfere with the investigation. Moreover, providing such a notice to the subject of an investigation could seriously impede or compromise an undercover investigation by revealing its existence and could endanger the physical safety of confidential sources, witnesses, and investigators by revealing their identities.

(7) 5 U.S.C. 552a(e)(4) (G) and (H) requires an agency to publish a **Federal Register** notice concerning its procedures for notifying an individual, at his/her request, if the system of records contains a record pertaining to him/her, how to gain access to such a record, and how to contest its content. Since these systems of records are being exempted from subsection (f) of the Act, concerning agency rules, and subsection (d) of the Act, concerning access to records, these requirements are inapplicable to the extent that these systems of records will be exempted from subsection (f) and (d) of the Act. Although the systems would be exempt from these requirements. OIG has published information concerning its notification, access, and contest procedures because, under certain circumstances, OIG could decide it is appropriate for an individual to have access to all or a portion of his/her records in these systems of records.

(8) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a **Federal Register** notice concerning the categories of sources of records in the system of records. Exemption from this provision is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources and witnesses, and to avoid the disclosure of investigative techniques and procedures. Although the systems will be exempt from this requirement, OIG has published such a notice in broad generic terms.

(9) 5 U.S.C. 552a(e)(5) requires an agency to maintain its records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about the individual. Since the Act defines ''maintain'' to include the collection of information, complying with this provision could prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment it is collected. In collecting information for criminal law enforcement purposes, it is not possible to determine in advance what information is accurate, relevant, timely, and complete. Facts are first gathered and placed into a logical order to prove or disprove objectively the criminal behavior of an individual. Material which seems unrelated, irrelevant, or incomplete when collected can take on added meaning or significance as the investigation progresses. The restrictions of this provision could interfere with the preparation of a complete investigative report, thereby impeding effective law enforcement.

(10) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to

serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process a matter of public record. Complying with this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(11) 5 U.S.C. a(f)(1) requires an agency to promulgate rules which shall establish procedures where by an individual can be notified in response to his/her request if of any system of records named by the individual contain a record pertaining to him/her. The application of this provision could impede or compromise an investigation or prosecution if the subject of an investigation were able to use such rules to learn of the existence of an investigation before it could be completed. In addition, mere notice of the fact of an investigation could inform the subject and others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since these systems would be exempt from subsection (d) of the Act, concerning access to records, the requirements of subsection (F)(2) through (5) of the Act, concerning agency rules for obtaining access to such records, are inapplicable to the extent that these systems of records will be exempted from subsection (d) of the Act. Although these systems would be exempt from the requirements of subsection (f) of the Act, OIG has promulgated rules which establish Agency procedures because under certain circumstances, it could be appropriate for an individual to have access to all or a portion of his/her records in these systems of records.

(12) 5 U.S.C. 552a(g) provides for civil remedies if an agency fails to comply with the requirements concerning access to records under subsections (d)(1) and (3) of the Act; maintenance of records under subsection (e)(5) of the Act; and any other provision of the Act, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual. Since these systems of records would be exempt from subsections (c)(3) and (4), d, e(1), (2), (3) and 4(G) and (H), (e)(1) through (5) and (8) and (f) of the Act, the provisions of subsection (g) of the Act would be inapplicable to the extent that these systems of records will be exempted from those subsections of the Act.

Under 5 U.S.C. 552a(j)(2), the head of any agency may by rule exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the system of records is maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws and which consists of:

(a) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(b) Information compiled for the purpose of a criminal investigation including reports of informants and investigators, and associated with an identifiable individual; or

(c) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

Under 5 U.S.C. 552a(k) the head of an agency may exempt any system of records if the system of records is investigatory material within the scope of subsection (j)(2). Section 552(a)(k)(2) provides for the exemption of investigative material compiled for law enforcement purposes, provided however that if any individual is denied any right, privilege, or benefit that he would otherwise be entitled to by Federal law, or for which he could otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence. Exemption under 552a(k)(2) is necessary to the extent the records constitute investigatory material compiled for law enforcement purposes, to protect the investigatory process, and protect the identity of a confidential source. 552(a)(k)(5) allows for the exemption of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service. Exemption under 552(a)(k)(5) is necessary to the extent that the disclosure of such material would reveal the identity of a confidential source and to maintain access to sources necessary in making determinations of suitability for employment.

USDA/OIG–2, USDA/OIG–3, USDA/OIG–4, and the Investigations Subsystem and Investigative Employee Time Records portions of USDA/OIG–5, contain information of the type described above and are maintained by the Office of Inspector General, a component of USDA which performs as one of its principal functions activities pertaining to the enforcement of criminal laws. Authority for the criminal law enforcement activities of the Office of Inspector General is the Inspector General Act of 1978, 5 U.S.C. app. 3. That legislation authorizes the Office of Inspector General to conduct investigations relating to programs and operations of the Department of Agriculture.

The list of exempt systems contained in the **Federal Register** document at 54 FR 39517, September 27, 1989, and proposed at 59 FR 51389, October 11, 1994, is amended by this document.

List of Subject in 7 CFR Part 1

Privacy.

For the reasons set out in the preamble, 7 CFR, subtitle A, part 1, subpart G is amended as follows:

PART 1—ADMINISTRATIVE REGULATIONS

Subpart G—Privacy Act Regulations

1. The authority citation for subpart G continues to read as follows:

Authority: 5 U.S.C. 552a.

2. Sections 1.122 is amended by revising the list of exempt systems of records for the Office of Inspector General and 1.123 by adding the list of exempt systems of records for the Office of Inspector General to read as follows:

§ 1.122 General exemptions.

* * * * *

Office of Inspector General

Informant and Undercover Agent Records, USDA/OIG–2.

Investigative Files and Automated Investigative Indices System, USDA/OIG–3.

OIG Hotline Complaint Records, USDA/OIG–4.

Consolidated Assignments, Personnel Tracking, and Administrative Information Network (CAPTAIN), USDA/OIG–5.

§ 1.123 Specific exemptions.

* * * * *

Office of Inspector General

Informant and Undercover Agent Records, USDA/OIG–2.

Investigative Files and Automated Investigative Indices System, USDA/OIG–3.

OIG Hotline Complaint Records, USDA/OIG–4.

Consolidated Assignments, Personnel Tracking, and Administrative Information Network (CAPTAIN), USDA/OIG–5.

* * * * *

Done at Washington, DC., this 3rd day of November 1997.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 97–29606 Filed 11–14–97; 8:45 am]

BILLING CODE 3410–23–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 96–061–2]

RIN 0579–AA85

Interstate Movement of Imported Plants and Plant Parts

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are establishing a new generic domestic quarantine notice. This domestic quarantine notice provides that, subsequent to their importation, foreign plants and plant parts prohibited under our foreign quarantine notices from being imported into certain States or areas are also prohibited from being moved interstate into those States or areas. This action will clarify and strengthen our ability to enforce restrictions on the movement in commerce of imported plants and plant parts that present a risk of introducing foreign plant pests and diseases. In conjunction with this action, we are also removing a domestic quarantine notice that prohibits certain interstate movements of Unshu oranges, subsequent to their importation into the United States, because the new domestic quarantine notice makes a specific one for Unshu oranges unnecessary.

EFFECTIVE DATE: December 17, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8899.

SUPPLEMENTARY INFORMATION:

Background

The regulations at title 7, part 301, of the Code of Federal Regulations (CFR) contain domestic quarantine notices designed to prevent the spread of certain plant pests and diseases through the interstate movement of regulated articles. The regulations at 7 CFR 319 contain foreign quarantine notices designed to prevent the introduction of foreign plant pests and diseases through the importation of regulated articles into the United States.

Some of the foreign quarantine notices in part 319 include destination restrictions for specified imported plants and plant parts. That is, these notices allow specified foreign plants or plant parts to be imported into some parts of the United States but not into other specified States or areas because movement into those States or areas could present a plant pest or disease risk. However, only one domestic quarantine notice (7 CFR 301.83, ''Subpart-Unshu Oranges'') prohibits the subsequent movement of an imported plant or plant part into or through certain portions of the United States based on importation restrictions specified in a foreign quarantine notice (7 CFR 319.28, ''Subpart-Citrus Fruit'').

On October 2, 1996, we published in the **Federal Register** (61 FR 51376–51377, Docket No. 96–061–1) a proposal to amend the regulations in title 7 by establishing a new generic domestic quarantine notice in part 301. We stated that the proposed quarantine notice would prohibit the subsequent interstate movement of imported plants and plant parts into or through areas identified in a foreign quarantine notice as being a prohibited destination for the imported plants and plant parts.

In conjunction with the action just described, we also proposed to remove the domestic quarantine notice, ''Subpart-Unshu Oranges,'' contained in § 301.83. As mentioned previously, that subpart serves to reinforce the destination restrictions for imported Unshu oranges specified in the foreign quarantine notice ''Subpart-Citrus Fruit.'' The establishment of the generic domestic quarantine notice described above would make the prohibitions in ''Subpart-Unshu Oranges'' redundant and, therefore, no longer necessary.

We solicited comments concerning our proposal for 45 days ending November 18, 1996. We received four comments by that date. They were from an industry group, a scientific organization, and two State governments.

While we will discuss specific comments below, we believe several of the concerns expressed in the comments stemmed from confusion about the language we used in the proposed domestic quarantine notice. We regret any misunderstanding that resulted from the proposal as written and will attempt to explain more clearly in this document our goal in promulgating this regulation. We also are revising the proposed regulatory language to clarify it.

To begin, we would like to emphasize that this generic domestic quarantine notice adds no new quarantine restrictions; it simply reiterates in the domestic quarantine notices (title 7, part 301) restrictions that are already stated in the foreign quarantine notices (title 7, part 319). Therefore, this notice will have no effect on the legal importation or interstate transport of foreign plants or plant parts. What this domestic quarantine notice will do is clarify that shipping an imported plant or plant part interstate to an area of the United States that is a prohibited destination for that plant or plant part under a foreign quarantine notice is a violation of Federal regulations. Because this notice clearly states that such interstate movement of certain imported plants and plant parts is prohibited, we believe that this notice strengthens our ability to take regulatory action against persons who engage in such prohibited interstate transport.

This new quarantine notice logically places any regulations setting forth restrictions on the interstate movement of imported plants and plant parts in the domestic quarantine notices in part 301 of the regulations instead of in the foreign quarantine notices in part 319. Any member of the public who might check the CFR to determine whether the domestic movement of an imported plant or plant part is prohibited or restricted could not reasonably be expected to look for that information in the foreign quarantine notices. Placing this quarantine notice and prohibition on interstate movement in a more logical position in the CFR will increase public awareness of and accessibility to these restrictions in the regulations.

Specific Concerns

One commenter expressed concern that the language in the proposed domestic quarantine notice was ''vague and confusing and could easily result in misinterpretation as to its intent, especially where it states that the limited distribution areas are essentially quarantined areas.''

As our proposal was worded, areas of the United States into which a plant or plant part may be imported under part 319 would be quarantined with respect to that plant or plant part; all other areas of the United States would not be quarantined with respect to that plant or plant part, and movement of the plant or plant part would be prohibited into nonquarantined areas.

We recognize that designating as ''quarantined areas'' the States and areas into which the foreign plants or plant parts may move could be confusing to some people. Under many plant pest

quarantines, certain articles may not be moved from a quarantined area because there is an infestation in that area. The States and areas quarantined for a particular plant or plant part under the generic domestic quarantine notice will be ''quarantined'' because of the way in which our authorizing statute is written. According to 7 U.S.C. 161, the Secretary of Agriculture is authorized and directed to quarantine any portion of the United States he deems necessary to prevent the spread of a dangerous plant disease or insect infestation that is new to or not widely prevalent within the United States. Further, 7 U.S.C. 161 prohibits the interstate movement of any plants, plant parts, or other articles capable of carrying the disease or insect pest from any quarantined portion of the United States into or through any other part of the United States, except as prescribed by the Secretary of Agriculture.

We would like to illustrate how this authority is used in regard to the foreign quarantine notices in part 319. The purpose of the destination restrictions in the foreign quarantine notices that have such restrictions is to prevent the movement of an imported article that presents a risk of carrying a foreign plant pest or disease into an area of the United States where the pest or disease could become established. In the case of imported Unshu oranges, for example, all areas of the United States except for American Samoa, Arizona, California, Florida, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the Virgin Islands of the United States are quarantined. The listed States and territories are the primary citrus-producing areas of the United States. Because we want to prevent the possibility that imported Unshu oranges could introduce citrus canker (a disease of citrus) into the United States, we prohibit these oranges from being moved into U.S. citrus-production areas, where the disease could become established. Therefore, according to 7 CFR 301.83 and 319.28, imported Unshu oranges grown in Japan or on Cheju Island, Republic of Korea, may be moved only into quarantined areas of the United States (all areas of the United States except for American Samoa, Arizona, California, Florida, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the Virgin Islands of the United States).

Because of the way in which our statutory authority is written, the generic domestic quarantine notice will work in the same way as the Unshu orange quarantine: The areas into which a foreign plant or plant part *may* be moved are quarantined with respect to that plant or plant part, and any subsequent movement of the imported plant or plant part into nonquarantined areas is prohibited. However, as a result of the confusion generated by the language in the proposal, we are adding some introductory text to the quarantine notice in an attempt to make the rule more clear.

Some of the commenters expressed concern regarding the development of the destination restrictions on imported plants and plant parts contained in the foreign quarantine notices. One commenter questioned how the ''protected'' States and areas would be selected. Another commenter wanted us to make provision for several actions: Allowing exemptions to the restrictions for research purposes, consulting the scientific community during the selection process, conducting risk assessments of the imported plants and plant parts and associated plant pests, conducting periodic reviews of such plants and pests, and conducting reviews of taxonomic classifications.

We want to make clear that the process we follow to add a foreign plant or plant part to part 319 to allow the plant's or plant part's importation with or without destination restrictions will not change as a result of this rule. Moreover, we will not add to part 301 lists of plants or plant parts with domestic movement restrictions as a result of this rule. As stated previously, this proposed quarantine notice adds no new regulatory requirements; it simply restates in part 301 restrictions on interstate movement of plants and plant parts that have always been prohibited through the destination restrictions in part 319.

Before we add a foreign plant or plant part to part 319 to allow the plant's or plant part's importation, we publish in the **Federal Register** for public comment a proposal explaining our reasons for believing the plant or plant part could be imported under certain conditions without presenting a threat to the health of U.S. agriculture. All comments submitted are then carefully considered before we issue a final rule. If, after evaluating the comments received and all available scientific data, we believe the foreign plant or plant part presents a plant pest or disease risk to certain areas of the United States only, we may choose to add the plant or plant part to part 319 with destination restrictions and other risk-mitigation measures. (Destination restrictions are always only one part of a systems approach to pest and disease exclusion.) As part of this rulemaking process, we conduct periodic reviews and risk assessments of foreign plants and plant pests, track changes in taxonomy, and issue permits for movement of plants and plant parts for research purposes.

A couple of commenters raised concerns about enforcement of the proposed generic quarantine notice. The commenters were concerned that no additional enforcement mechanisms were provided in the notice and that enforcement would become the responsibility of the States.

It is true that no new enforcement mechanisms are included in the notice. They were not necessary, and no new enforcement responsibilities will devolve upon the States as a result of this action. Our goal in promulgating this action was simply to clarify our authority to take enforcement action, should the need arise, against persons who have moved imported plants or plant parts interstate in violation of destination restrictions in a foreign quarantine notice.

One commenter opposed the general concept of using limited distribution of an article as a means of mitigating pest or disease risk because enforcing restrictions on the distribution of commodities is difficult. We realize that some prohibited shipments, most often small shipments made by private citizens, may take place as the result of either ignorance of the regulations or purposeful deceit. However, limited distribution of a foreign plant or plant part is never the sole measure used to mitigate the pest or disease risks associated with importing the plant or plant part; destination restrictions are one of usually a series of risk-mitigation measures, or multiple safeguards, used to reduce a commodity's pest or disease risk to a negligible level. Moreover, we believe that the vast majority of commercial shippers try to abide by Federal requirements and that unscrupulous distributors are the exception rather than the norm.

One commenter requested that the proposed quarantine notice include a requirement that the shipping containers for plants and plant parts covered by the quarantine be labeled to indicate that reshipment to the restricted areas is prohibited. While the proposal includes no additional labeling requirements, the majority of foreign quarantine notices that have destination restrictions require that the containers carrying the product be labeled ''not for distribution in'' the restricted areas.

One commenter expressed concern that the proposed generic quarantine notice could infringe on a State's authority to restrict the entry from other States of plants and plant parts that present a plant pest risk to that State.

This quarantine notice will have no effect on a State's authority to regulate the interstate movement of domestic plants or plant parts. The Plant Quarantine Act (7 U.S.C. 151 *et seq.*) allows a State to regulate the interstate movement of plants and plant parts coming into that State from a State where a plant pest or disease exists until the Secretary of Agriculture promulgates a quarantine or regulation regarding the plant pest or disease. Once the Secretary acts by promulgating a quarantine or regulation regarding a plant pest or disease, the States are precluded, or preempted, from regulating for that particular plant pest or disease, except that they may have regulations that parallel the Federal quarantine or regulations. However, the new domestic quarantine notice does not establish any new quarantine or regulations affecting the interstate movement of domestic plants or plant parts.

With respect to imported plants and plant parts, our new domestic quarantine notice prohibits the subsequent interstate movement of imported plants or plant parts into States or areas named in part 319 as States or areas into which the plants or plant parts may not be imported. If part 319 allows a foreign plant or plant part to be imported into a State, that State does not have authority to refuse the plant or plant part entry, either directly from the port of arrival, or from another State. The Federal Government retains jurisdiction over all plants and plant parts while they are in foreign commerce. If the Secretary of Agriculture does not prohibit or restrict the importation of a plant or plant part, any such prohibition or restriction is deemed to be unnecessary. When foreign commerce ceases is a question of fact that must be addressed in each individual case. However, the Department of Agriculture has taken the position that fresh fruits and vegetables imported into the United States for immediate distribution and sale remain in foreign commerce until they are sold to the ultimate consumer. Other questions regarding when foreign commerce ceases must be addressed on a case-by-case basis and will be resolved based on the facts in each particular case.

For these reasons, a State may not legally prohibit the interstate movement of a foreign plant or plant part into the State if the plant or plant part is allowed importation into the State under part 319, whether or not the plant or plant part is considered to be in foreign commerce or in interstate commerce. If an imported plant or plant part is deemed to be in interstate commerce (which could happen with plants and plant parts other than fresh fruits and vegetables), a State may not enforce regulations that are different from the Department's regulations. Any State that believes it should or should not be included as a restricted destination in part 319 should present its case to the Administrator of the Animal and Plant Health Inspection Service (APHIS).

One commenter expressed concern that a State wishing to be included as a restricted destination in part 319 might be required first to conduct surveys to establish that the State is free of the pest of concern and then establish an official control program to prevent interstate movement of the pest into the State. The commenter was further concerned that this process could require funding and other resources that the State might not have.

We have no plans to require that, before a State may be considered for inclusion as a restricted destination in part 319, the State would need to conduct surveys to prove that it is free of a particular foreign pest or establish an official control program to prevent interstate movement of that pest into its jurisdiction. Any decision to include a State as a restricted destination in part 319 is based upon a risk assessment, conducted by the Department, that indicates that destination restrictions appear warranted to reduce the pest risk to susceptible crops within that State. The establishment of an official control program by a State would not be a prerequisite to a State's being listed as a restricted destination in part 319.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

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

We do not anticipate that this action will have a significant economic impact on any small entities. Imported plants and plant parts, including fruits and vegetables, that are prohibited from being imported into specified States or areas under our foreign quarantine notices are, under those same notices, prohibited from being distributed in those States or areas. This action clarifies and strengthens the agency's ability to enforce these restrictions.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no 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 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. A new subpart, Subpart-Imported Plants and Plant Parts, is added to part 301 to read as follows:

Subpart—Imported Plants and Plant Parts

Sec.

301.10 Definitions.
301.11 Notice of quarantine; prohibition on the interstate movement of certain imported plants and plant parts.

Subpart—Imported Plants and Plant Parts

§ 301.10 Definitions.

Move (moved, movement). Shipped, offered to a common carrier for shipment, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved.

State. Any State, territory, district, or possession of the United States.

§ 301.11 Notice of quarantine; prohibition on the interstate movement of certain imported plants and plant parts.

(a) In accordance with part 319 of this chapter, some plants and plant parts may only be imported into the United States subject to certain destination restrictions. That is, under part 319, some plants and plant parts may be imported into some States or areas of the United States but are prohibited from being imported into, entered into, or distributed within other States or areas, as an additional safeguard against the introduction and establishment of foreign plant pests and diseases.

(b) Under this quarantine notice, whenever any imported plant or plant part is subject to destination restrictions under part 319:

(1) The State(s) or area(s) into which the plant or plant part is allowed to be imported is quarantined with respect to that plant or plant part; and

(2) No person shall move any plant or plant part from any such quarantined State or area into or through any State or area not quarantined with respect to that plant or plant part.

Subpart—Unshu Oranges—[Removed and Reserved]

3. Subpart-Unshu Oranges, consisting of § 301.83, is removed and reserved.

Done in Washington, DC, this 10th day of November 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–30107 Filed 11–14–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97–113–1]

Mexican Fruit Fly Regulations; Addition of Regulated Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mexican fruit fly regulations by adding California to the list of quarantined States and by designating a portion of Los Angeles County, CA, as a regulated area. This action is necessary on an emergency basis to prevent the spread of the Mexican fruit fly to noninfested areas of the United States. This action restricts the interstate movement of regulated articles from the regulated area in California.

DATES: Interim rule effective November 10, 1997. Consideration will be given only to comments received on or before January 16, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–113–1, 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. 97–113–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236, (301) 734–8247; or e-mail: mstefan@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), is a destructive pest of citrus and many other types of fruit. The short life cycle of the Mexican fruit fly allows rapid development of serious outbreaks that can cause severe economic losses in commercial citrus-producing areas.

The Mexican fruit fly regulations (contained in 7 CFR 301.64 through 301.64–10 and referred to below as the regulations) were established to prevent the spread of the Mexican fruit fly to noninfested areas of the United States. The regulations impose restrictions on the interstate movement of regulated articles from the regulated areas. Prior to the effective date of this rule, Texas was the only State quarantined for the Mexican fruit fly.

Section 301.64–3 provides that the Deputy Administrator of the Animal and Plant Health Inspection Service (APHIS) for Plant Protection and Quarantine (PPQ) shall list as a regulated area each quarantined State, or each portion of a quarantined State, in which the Mexican fruit fly has been found by an inspector, in which the Deputy Administrator has reason to believe the Mexican fruit fly is present, or that the Deputy Administrator considers necessary to regulate because of its proximity to the Mexican fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Mexican fruit fly occurs. Less than an entire quarantined State is designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation that imposes restrictions on the intrastate movement of the regulated articles that are substantially the same as those that are imposed with respect to the interstate movement of the articles; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of the Mexican fruit fly.

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of PPQ reveal that portions of Los Angeles County, CA, are infested with the Mexican fruit fly. Specifically, on October 10, 1997, inspectors found one female Mexican fruit fly in a trap in a residential area of Los Angeles County; on October 20, 1997, inspectors found one male Mexican fruit fly in the same area; and, on October 22, 1997, inspectors detected larvae in the same area as the adult finds, indicating that an infestation exists. The Mexican fruit fly is not known to occur anywhere else in the continental United States except parts of Texas.

Accordingly, to prevent the spread of the Mexican fruit fly to other States, we are amending the regulations in § 301.64(a) by designating California as a quarantined State and in § 301.64–3(c) by designating as a regulated area a portion of Los Angeles County, CA. The regulated area is described in the rule portion of this document.

There does not appear to be any reason to designate any other portions of the quarantined State of California as a regulated area. Officials of State agencies of California have begun an intensive Mexican fruit fly eradication program in the regulated area in California. Also, California has adopted and is enforcing regulations imposing restrictions on the intrastate movement of certain articles from the regulated area that are substantially the same as

those imposed with respect to the interstate movement of regulated articles.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the Mexican fruit fly from spreading to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make the rule effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This rule restricts the interstate movement of regulated articles from a portion of Los Angeles County, CA. Within the regulated area there are approximately 804 small entities that may be affected by this rule. These include 1 farmers' market, 2 community gardens, 298 distributors, 1 food bank, 440 fruit sellers, 5 growers, 4 haulers, 27 nurseries, 11 packers, 7 processors, 1 swap meet, and 7 transient load carriers. These 804 entities comprise less than 1 percent of the total number of similar entities operating in the State of California. Additionally, these small entities sell regulated articles primarily for local intrastate, not interstate movement, so the effect, if any, of this regulation on these entities appears to be minimal.

The effect on those few entities that do move regulated articles interstate will be minimized by the availability of various treatments, that, in most cases, will allow these small entities to move regulated articles interstate with very little additional cost.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for the Mexican fruit fly program. The assessment provides a basis for the conclusion that the methods employed to eradicate the Mexican fruit fly will not present a risk of introducing or disseminating plant pests and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection 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 copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

§ 301.64 [Amended]

2. In § 301.64, paragraph (a) is amended by removing the phrase ''the State of Texas'' and adding ''the States of California and Texas'' in its place.

3. In § 301.64–3, paragraph (c) is amended by adding in alphabetical order an entry for ''California'' to read as follows:

§ 301.64–3 Regulated areas.

* * * * *

(c) * * *

California

Los Angeles County. That portion of Los Angeles County in the Boyle Heights area bounded by a line drawn as follows: Beginning at the intersection of Interstate Highway 101 and Alvarado Street; then northeast along Alvarado Street to Sunset Boulevard; then southeast along Sunset Boulevard to Echo Park Avenue; then northeast along Echo Park Avenue to Morton Avenue; then northeast along Morton Avenue to Morton Place; then southeast along Morton Place to Academy Road; then east along Academy Road to State Highway 110; then northeast along State Highway 110 to Via Marisol Avenue; then east along Via Marisol Avenue to Monterey Road; then south along Monterey Road to Huntington Drive; then northeast along Huntington Drive to Poplar Boulevard; then east along Poplar Boulevard to Fremont Avenue; then south along Fremont Avenue to Interstate Highway 10; then east along Interstate Highway 10 to Atlantic Boulevard; then south along Atlantic Boulevard to Newmark Avenue; then east along Newmark Avenue to Garfield Avenue; then south along Garfield Avenue to Slauson Avenue; then west along Slauson Avenue to Eastern Avenue; then south along Eastern Avenue to Gage Avenue; then west along Gage Avenue to Interstate Highway 710; then south along Interstate Highway 710 to Florence Avenue; then west along Florence Avenue to Central Avenue; then north along

Central Avenue to Slauson Avenue; then west along Slauson Avenue to Interstate Highway 110; then north along Interstate Highway 110 to Jefferson Boulevard; then northwest along Jefferson Boulevard to Hoover Street; then north along Hoover Street to Alvarado Street; then northeast along Alvarado Street to the point of beginning.

* * * * *

Done in Washington, DC, this 10th day of November 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–30106 Filed 11–14–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

7 CFR Part 650

Protection of Wetlands

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: Pursuant to Government Performance Results Act, the Natural Resources Conservation Service (NRCS) is removing obsolete, unnecessary, or redundant regulations from the Code of Federal Regulations. This action removes the regulations found at 7 CFR 650.26 concerning the NRCS wetland technical assistance policy.

EFFECTIVE DATE: November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Warren M. Lee (202) 720–3534.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This document does not meet the criteria for a significant regulatory action as specified in E.O. 12866.

Regulatory Flexibility Act

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

Environmental Evaluation

This final rule will have no significant effect on the human environment and is categorically exempt under 7 CFR 1b.3(a)(6), therefore neither an environmental assessment nor an environmental impact statement is required.

Paperwork Reduction Act

This rule does not contain reporting or record keeping requirements subject to the Paperwork Reduction Act.

Background

Pursuant to the Administration effort to review existing agency regulations and remove unnecessary regulations from the Code of Federal Regulations, the NRCS has determined that the regulation found at 7 CFR part 650.26, ''Protection of Wetlands,'' is unnecessary because the regulation addresses a matter of internal agency policy, does not regulate any member of the public, conflicts with agency implementation of the wetland conservation provisions of the Food Security Act of 1985, as amended, 16 U.S.C. 3801 *et seq.*, and utilizes a superseded classification of wetlands.

Executive Order 11990

Wetlands provide fish and wildlife habitats, maintain ground water supplies and water quality, protect shorelines from erosion, store floodwaters and trap sediments, and provide recreational and educational opportunities. Historically, wetlands have been converted at a rapid rate with the concomitant loss of the functions and values that they provide to the Nation. In some cases, activities of the Federal government contributed to the loss of the Nation's wetlands. To minimize adverse impacts on wetlands resulting from Federally-sponsored activities, President Carter in 1977 issued an Executive Order to protect wetlands. Executive Order 11990 established the policy that, to the extent authorized by law, the Executive Branch would avoid direct or indirect support of new construction in wetlands wherever there exists a practicable alternative.

Pursuant to the Soil Conservation and Domestic Allotment Act of 1935, 16 U.S.C. 590a *et seq.*, the Soil Conservation Service (SCS) of the United States Department of Agriculture provided technical assistance to landowners for the protection of natural resources on private lands. Technical assistance included the personnel and support resources needed to conduct planning and conservation practice survey, layout, design, installation and certification. Among activities conducted prior to 1977, SCS provided technical assistance related to the construction of drainage ditches and other structures that resulted in the conversion of wetlands.

Section 6 of Executive Order 11990 requires agencies to issue or amend their existing procedures to comply with the policies of the order, and accordingly, SCS revised its policy regarding technical assistance in 1977. These changes restricted the situations in which SCS employees could provide technical assistance to clients related to new construction in wetlands. In 1979, SCS codified the wetland technical assistance policy at 7 CFR 650.26. SCS modified this regulation in 1982 to enable SCS employees to provide assistance for new construction in wetlands when denial of such assistance would lead to ''detrimental consequences on soil and water resources or on human welfare and safety.'' 47 FR 34111 (August 6, 1982).

Since 1982, SCS updated its technical assistance policy several times, but such updates did not require amendments to the regulation at 7 CFR 650.26. Pursuant to Departmental reorganization in 1994, SCS was abolished and the Natural Resources Conservation Service (NRCS) assumed most of the statutory and regulatory responsibilities of the SCS, including the provision of technical assistance on private lands.

The Conflict With the Wetland Conservation Provisions

The wetland conservation provisions of the Food Security Act of 1985 (the 1985 Act), as amended, 16 U.S.C. 3801 *et seq.*, encourage participants in United States Department of Agriculture (USDA) programs to adopt land management measures that protect wetland functions and values by linking eligibility for USDA program benefits to farming practices on converted wetlands. In particular, the wetland conservation (WC) provisions of the 1985 Act provide that after December 23, 1985, a program participant is ineligible for certain USDA program benefits for the production of an agricultural commodity on a converted wetland, or after November 28, 1990, for the conversion of a wetland that makes the production of an agricultural commodity possible. The 1985 Act, however, affords relief to program participants who meet certain conditions identified under the 1985 Act by exempting such actions from the ineligibility provisions.

The current version of the wetland technical assistance rule, 7 CFR 650.26, allows NRCS to provide technical assistance to a producer that could place the producer in violation of the WC provisions. In particular, the rule allows NRCS personnel to provide technical assistance for certain construction in types 1 and 2 wetlands under the Circular 39 classification of wetlands. The wetland classification system in

Circular 39 was established by the Fish and Wildlife Service (FWS), United States Department of the Interior, and used by state and Federal agencies. Currently, the FWS and other agencies do not use Circular 39.

Many types 1 and 2 wetlands correlate with the NRCS definition of ''farmed wetlands''. A producer can be found ineligible for USDA program benefits if the drainage on farmed wetlands is increased beyond that which existed on or before December 23, 1985. Thus, under the current wetland technical assistance rule, NRCS could help design the drainage system that causes the producer to lose program benefits and also would violate Section 404 of the Clean Water Act if the drainage activities were not permitted by the Army Corps of Engineers.

The current version of the wetland technical assistance rule also hinders the ability of NRCS to assist producers with WC provisions compliance. Since December 23, 1985, program participants are farming in a more environmentally-oriented manner, resulting in more wetlands remaining available to perform the myriad of functions and values for the Nation. Meeting the objectives of the WC provisions, however, has been difficult for some producers. Wherever possible, USDA has helped individual program participants address their unique resource concerns in a manner that meets the requirements of the WC provisions.

The Federal Agriculture Improvement and Reform Act (the 1996 Act), enacted April 4, 1996, made several amendments to the WC provisions which were intended to increase USDA's ability to meet these producers' situations in a more flexible manner. These amendments provide producers who wish to convert a wetland with greater flexibility to mitigate the loss of wetland functions and values through restoration, enhancement, or creation of wetlands.

The WC provisions provide that a person may remain eligible for USDA program benefits even if their action results in the conversion of a wetland if the wetland functions and values are adequately mitigated, as determined by NRCS, and the mitigation: is in accordance with a mitigation plan approved by NRCS; is in advance of, or concurrent with, the wetland conversion; is not at the expense of the Federal government; occurs on lands in the same general area of the local watershed as the converted wetlands; is on lands for which the owner has granted an easement to USDA, and recorded the easement on public land records; and provides the equivalent functions and values that will be lost as a result of the wetland conversion. A person may also remain eligible for USDA program benefits if the action has been permitted by the Army Corps of Engineers after December 23, 1985, via the individual permit process.

This increased mitigation flexibility for producers creates confusion between NRCS responsibilities under the WC provisions and under the current technical assistance rules. Under the WC provisions, NRCS must approve a mitigation plan if the producer meets the requirements identified above, whether or not the impact to wetlands from the conversion activity could have been minimized or avoided. However, when NRCS delivers technical assistance, the current technical assistance rule applies. Accordingly, NRCS cannot provide technical assistance to a client for the conversion activity unless there is no practicable alternative to the construction and the proposed conversion actions includes all practicable measures to minimize harm to wetlands which may result from such use.

Since 1987, USDA has identified the threshold characteristics that define: when a wetland has been manipulated sufficiently to make the production of an agricultural commodity possible; when a wetland is ''converted;'' which conditions meet a particular exemption identified under the WC provisions; or when a producer has expanded the drainage system beyond that which existed prior to December 23, 1985. The current wetland technical assistance rule is outdated because it fails to recognize these distinctions, utilizes a superseded classification system, and describes identical terms differently from the current prevailing methodologies and scientific understanding of wetland systems.

The removal of this regulation will not have any effect on the public, any private enterprise, or any other Government agency. This action will result in the removal of an unnecessary regulation from the Code of Federal Regulations. As a matter related to internal agency management, the policies and procedures related to the subject matter of the wetland technical assistance rule is currently addressed through agency manuals, handbooks, and directives.

The Revised NRCS Wetland Technical Assistance Policy

It is the policy of NRCS to protect and promote wetland functions and values in all NRCS planning and application assistance. NRCS recognizes the beneficial and varied functional attributes of the different wetland types, and as such, strives to reconcile the need for wetland protection with that of promoting viable agricultural enterprises. NRCS supports the restoration, enhancement, creation, and preservation of wetlands as important and realistic components of comprehensive conservation plans, not only on a farm-by-farm basis, but also on a watershed or landscape basis. When providing technical assistance, NRCS will conduct an environmental evaluation, considering the objectives of the client in the context of environmental, economic, and other pertinent factors.

Upon conducting an environmental evaluation, NRCS will identify whether any practicable alternatives exist that will either adequately maintain or improve the wetland functions and values, or avoid or minimize the harm to wetlands. If practicable alternatives exist, NRCS will inform and advise the client of the available options and explain the benefits of conducting the desired activity in a manner that will achieve the objectives of the client, while adequately maintaining or improving the functions and values of wetland resources in the area.

If the client selects one of the practicable alternative options, NRCS may provide technical assistance for the conversion activity, as well as the development of a mitigation plan. If the findings of the environmental evaluation show that no practicable alternatives exist, NRCS may provide technical assistance which allows for the conversion of the wetland and develop a mitigation plan for compensation of the functions and values that were lost through the conversion activity. Prior to or concurrent with NRCS assistance, the client will obtain all necessary permits or approvals related to the conversion activity.

If the client chooses to pursue an activity other than a practicable alternative, NRCS should advise the client about eligibility criteria under the WC provisions of the Food Security Act, as amended.

The regulation at 7 CFR 650.26 defines wetlands in accordance with Circular 39 of the Fish and Wildlife Service, and not the current definition recognized by all Federal agencies with wetland responsibilities. Additionally, the former wetland technical assistance policy and regulation allowed NRCS employees to provide technical assistance to producers which placed such producers in violation of the wetland conservation provisions of the

Food Security Act of 1985, as amended (FSA). The removal of the regulation will prevent the implementation of inconsistent policies.

List of Subjects in 7 CFR Part 650.26

Technical Assistance, wetlands.

§ 650.26 [Removed]

In consideration of the above, 7 CFR part 650.26 is removed.

Signed at Washington, D.C. on November 6, 1997.

Paul W. Johnson,

Chief, Natural Resources Conservation Service.

[FR Doc. 97–29996 Filed 11–14–97; 8:45 am]

BILLING CODE 3410–16–P

FEDERAL RESERVE SYSTEM

12 CFR Part 271

[Docket No. R–0983]

Federal Open Market Committee; Rules Regarding Availability of Information

AGENCY: Federal Open Market Committee, Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Federal Open Market Committee (Committee) hereby amends its Rules Regarding Availability of Information (Rules) to reflect recent changes in the Freedom of Information Act (FOIA) as a result of the Electronic Freedom of Information Act Amendments (EFOIA).

EFFECTIVE DATE: December 17, 1997.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boutilier, Senior Counsel, (202/452–2418), or Stephen L. Siciliano, Special Assistant to the General Counsel for Administrative Law, (202/452–3920), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired only, contact Diane Jenkins, Telecommunications Device for the Deaf (TDD) (202/452–3544), Board of Governors of the Federal Reserve System, 20th and Constitution, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Last year, Congress passed the Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231, which amend the Freedom of Information Act, 5 U.S.C. 552. Among other things, EFOIA requires agencies to promulgate regulations that provide for expedited processing of requests for records. In addition to amendments intended to implement EFOIA, the Committee has updated its fee schedule and made other changes to streamline and clarify the Rules.

To implement these changes, the Committee published proposed amendments to the Rules on August 26, 1997 (62 FR 45178). The Committee received only one comment, submitted by an association established by news editors and reporters to defend First Amendment rights of the media. This comment requested two changes to the Committee's proposed rule—one specific change and one general change. Specifically, the association requested that the Secretary be given the discretion to waive the formal certification requirement for persons requesting expedited treatment of a FOIA request. The second, general suggestion was to incorporate the key mandates of EFOIA into the regulation, because ''future FOI officers and specialists at the Committee [may not] realize the additional requirements placed on them by this law if regulations do not make adherence necessary.'' After review of the comment, the Committee has made the specific change regarding the discretionary waiver of formal certification. With regard to the second comment, the Committee does not believe that the Rules need to be amended to reflect statutory provisions that are not required to be implemented by regulation. When a FOIA request is received, FOMC officers routinely work with attorneys in the Board's Legal Division who are familiar with the law and the procedural requirements. Furthermore, incorporating these changes into the regulation would add nothing to the public's understanding of FOIA and would unnecessarily lengthen and complicate the regulation at a time when all agencies are attempting to simplify and streamline their regulations. The following is a section-by-section discussion of the final amendments.

Section 271.1—Authority and Purpose

This section has been revised to state the statutory authority for promulgation of the Rules and the purpose of the Rules.

Section 271.2—Definitions

The definitions have been alphabetized and now include the definitions relating to the fee schedule that were previously in § 271.8.

Section 271.3—Published Information

No substantive changes have been made to this section.

Section 271.4—Records Available for Public Inspection and Copying

This new section describes the types of Committee records that are available in the reading room of the Board's Freedom of Information (FOI) Office. Pursuant to EFOIA, it also describes the Committee records available on the Board's website.

Section 271.5—Records Available to the Public on Request

This is a revision of existing § 271.4, which describes the types of records available upon request, and the procedures for making such a request.

Section 271.6—Processing Request

This is a new section that describes the Committee's procedures in processing requests for information and appeals of denials of such requests. This section also contains the procedures for expedited processing of requests. As noted above, this section has been modified to give the Secretary the discretion to waive the formal certification requirement for expedited processing in exceptional situations. It is expected that, as a routine matter, certification will be required. Nevertheless, where time is important and the certification is in fact a formality, then the Secretary has the discretion to waive that formality.

Section 271.7—Exemptions From Disclosure

This section combines the rules currently found in §§ 271.5 and 271.6, regarding deferred release of information and information that is exempt from release under FOIA.

Section 271.8—Subpoenas

There are no substantive changes to this section, except that it is renumbered from § 271.7 to § 271.8.

Section 271.9—Fee Schedules; Waiver of Fees

This section is renumbered from § 271.8 to § 271.9. The Committee has moved the definitions that were in this section to § 271.2, which contains the other definitions for this part. The fee schedule provisions have been revised to clarify that the processing time of a FOIA request does not begin in cases where advance payment is required until payment is received; or, where a person has requested a waiver of the fees, until the person agrees to pay the fees if the waiver request is denied. Additionally, the standards under which the Secretary may grant a request for waiver of fees have been modified to reflect the development of case law in this area. The rule provides for administrative appeal of a denial of a waiver request.

Regulatory Flexibility Act Analysis

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

List of Subjects in 12 CFR Part 271

Federal Open Market Committee, Freedom of information.

For the reasons set forth in the preamble, the Committee is revising 12 CFR part 271 to read as follows:

PART 271—RULES REGARDING AVAILABILITY OF INFORMATION

Sec.

271.1 Authority and purpose.
271.2 Definitions.
271.3 Published information.
271.4 Records available for public inspection and copying.
271.5 Records available to the public on request.
271.6 Processing requests.
271.7 Exemptions from disclosure.
271.8 Subpoenas.
271.9 Fee schedules; waiver of fees.

Authority: 5 U.S.C. 552; 12 U.S.C. 263.

§ 271.1 Authority and purpose.

(a) *Authority.* This part is issued by the Federal Open Market Committee (the Committee) pursuant to the Freedom of Information Act, 5 U.S.C. 552, and also pursuant to the Committee's authority under section 12A of the Federal Reserve Act, 12 U.S.C. 263, to issue regulations governing the conduct of its business.

(b) *Purpose.* This part sets forth the categories of information made available to the public and the procedures for obtaining documents and records.

§ 271.2 Definitions.

(a) *Board* means the Board of Governors of the Federal Reserve System established by the Federal Reserve Act of 1913 (38 Stat. 251).

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

(c) *Direct costs* mean those expenditures that the Committee actually incurs in searching for, reviewing, and duplicating documents in response to a request made under § 271.5.

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

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

(f) *Federal Reserve Bank* means one of the district Banks authorized by the Federal Reserve Act, 12 U.S.C. 222, including any branch of any such Bank.

(g) *Information of the Committee* means all information coming into the possession of the Committee or of any member thereof or of any officer, employee, or agent of the Committee, the Board, or any Federal Reserve Bank, in the performance of duties for, or pursuant to the direction of, the Committee.

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

(i) *Records of the Committee* includes rules, statements, decisions, minutes, memoranda, letters, reports, transcripts, accounts, charts, and other written material, as well as any materials in machine readable form that constitute a part of the Committee's official files.

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

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

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

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

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

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

(l)(1) *Search* means a reasonable search, by manual or automated means, of the Committee's official files and any other files containing records of the Committee as seem reasonably likely in the particular circumstances to contain documents of the kind requested. For purposes of computing fees under § 271.9, search time includes all time spent looking for material that is responsive to a request, including line-by-line identification of material within documents. Such activity is distinct from ''review'' of material to determine whether the material is exempt from disclosure.

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

§ 271.3 Published information.

(a) **Federal Register**. The Committee publishes in the **Federal Register**, in addition to this part:

(1) A description of its organization;

(2) Statements of the general course and method by which its functions are channeled and determined;

(3) Rules of procedure;

(4) Substantive rules of general applicability, and statements of general policy and interpretations of general applicability formulated and adopted by the Committee;

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

(6) General notices of proposed rulemaking.

(b) *Annual Report to Congress.* Each annual report made to Congress by the Board includes a complete record of the actions taken by the Committee during the preceding year upon all matters of policy relating to open market operations, showing the reasons

underlying the actions, and the votes taken.

(c) *Other published information.* From time to time, other information relating to open market operations of the Federal Reserve Banks is published in the *Federal Reserve Bulletin,* issued monthly by the Board, in the Board's annual report to Congress, and in announcements and statements released to the press. Copies of issues of the Bulletin and of annual reports of the Board may be obtained from the Publications Services of the Federal Reserve Board, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551 (pedestrian entrance is on C Street, N.W.). Subscription or other charges may apply.

§ 271.4 Records available for public inspection and copying.

(a) *Types of records made available.* Unless they were published promptly and made available for sale or without charge, certain records shall be made available for inspection and copying at the Board's Freedom of Information Office pursuant to 5 U.S.C. 552(a)(2).

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

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

(c) *Electronic records.* Information available under this section that was created on or after November 1, 1996, shall also be available on the Board's website, found at http://www.bog.frb.fed.us.

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

§ 271.5 Records available to the public on request.

(a) *Types of records made available.* All records of the Committee that are not available under §§ 271.3 and 271.4 shall be made available upon request, pursuant to the procedures in this section and the exceptions in § 271.7.

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

(2) The request shall be submitted in writing to the Secretary of the Committee, Federal Open Market Committee, 20th & C Street, N.W., Washington, D.C. 20551; or sent by facsimile to the Secretary of the Committee, (202) 452–2921. The request shall be clearly marked *FREEDOM OF INFORMATION ACT REQUEST.*

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

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

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

(3) A statement agreeing to pay the applicable fees, or a statement identifying any fee limitation desired, or a request for a waiver or reduction of fees that satisfies § 271.9(f).

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

§ 271.6 Processing requests.

(a) *Receipt of requests.* The date of receipt for any request, including one that is addressed incorrectly or that is referred to the Committee by another agency or by a Federal Reserve Bank, is the date the Secretary of the Committee actually receives the request.

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

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

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

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

(ii) The requester is a representative of the news media, as defined in § 271.2, and there is urgency to inform the public concerning actual or alleged Committee activity.

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

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

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

(2) Where the running of such time is suspended for payment of fees pursuant to § 271.9(b)(2);

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

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

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

(e) *Response to request.* In response to a request that satisfies § 271.5, an appropriate search shall be conducted of records of the Committee in existence on the date of receipt of the request, and a review made of any responsive information located. The Secretary shall notify the requester of:

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

(2) The reasons for the determination;

(3) The amount of information withheld;

(4) The right of the requester to appeal to the Committee any denial or partial

denial, as specified in paragraph (i) of this section; and

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

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

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

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

(h) *Appeal of denial of request.* Any person denied access to Committee records requested under § 271.5 may file a written appeal with the Committee, as follows:

(1) The appeal shall prominently display the phrase *FREEDOM OF INFORMATION ACT APPEAL* on the first page, and shall be addressed to the Secretary of the Committee, Federal Open Market Committee, 20th and C Street, N.W., Washington, D.C. 20551; or sent by facsimile to the Secretary of the Committee, (202) 452–2921.

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

(3) The Committee, or such member of the Committee as is delegated the authority, shall make a determination regarding any appeal within 20 working days of actual receipt of the appeal by the Secretary, and the determination letter shall notify the appealing party of the right to seek judicial review of such denial.

§ 271.7 Exemptions from disclosure.

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

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

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

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

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

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

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

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

(i) Memorandums;

(ii) Reports;

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

(iv) Records of deliberations of the Committee and of discussions at meetings of the Committee or its staff.

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

(7) *Information compiled for law enforcement purposes.* Any records or information compiled for law enforcement purposes, to the extent permitted under 5 U.S.C. 552(b)(7).

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

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

(c) *Discretionary release.* Except where disclosure is expressly prohibited by statute, regulation, or order, the Committee may authorize the release of records that are exempt from mandatory disclosure whenever the Committee or designated Committee members determines that such disclosure would be in the public interest.

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

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

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

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

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

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

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

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

§ 271.8 Subpoenas.

(a) *Advice by person served.* If any person, whether or not an officer or employee of the Committee, of the Board of Governors of the Federal Reserve System, or of a Federal Reserve Bank, has information of the Committee that may not be disclosed by reason of § 271.7 and in connection therewith is served with a subpoena, order, or other process requiring his personal attendance as a witness or the production of documents or information upon any proceeding, he should promptly inform the Secretary of the Committee of such service and of all relevant facts, including the documents and information requested and any facts that may be of assistance in determining whether such documents or information should be made available; and he should take action at the appropriate time to inform the court or tribunal that issued the process, and the attorney for the party at whose instance the process

was issued, if known, of the substance of this part.

(b) *Appearance by person served.* Except as disclosure of the relevant information is authorized pursuant to this part, any person who has information of the Committee and is required to respond to a subpoena or other legal process shall attend at the time and place therein mentioned and decline to disclose such information or give any testimony with respect thereto, basing his refusal upon this part. If, notwithstanding, the court or other body orders the disclosure of such information, or the giving of such testimony, the person having such information of the Committee shall continue to decline to disclose such information and shall promptly report the facts to the Committee for such action as the Committee may deem appropriate.

§ 271.9 Fee schedules; waiver of fees.

(a) *Fee schedules.* The fees applicable to a request for records pursuant to §§ 271.4 and 271.5 are set forth in Appendix A to this section. These fees cover only the full allowable direct costs of search, duplication, and review. No fees will be charged where the average cost of collecting the fee (calculated at $5.00) exceeds the amount of the fee.

(b) *Payment procedures.* The Secretary may assume that a person requesting records pursuant to § 271.5 will pay the applicable fees, unless the request includes a limitation on fees to be paid or seeks a waiver or reduction of fees pursuant to paragraph (f) of this section.

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

(2) *Advance payment.* The Secretary may require advance payment of any fee estimated to exceed $250. The Secretary may also require full payment in advance where a requester has previously failed to pay a fee in a timely fashion. The time period for responding to requests under § 271.6(d), and the processing of the request shall be suspended until the Secretary receives the required payment.

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

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

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

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

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

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

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

(f) *Waiver or reduction of fees.* A request for a waiver or reduction of the fees, and the justification for the waiver, shall be included with the request for records to which it pertains. If a waiver is requested and the requester has not indicated in writing an agreement to pay the applicable fees if the waiver request is denied, the time for response to the request for documents, as set forth in § 271.6(d), shall not begin until a determination has been made on the request for a waiver or reduction of fees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) *Determination by Secretary.* The Secretary shall make a determination on the request for a waiver or reduction of fees and shall notify the requester accordingly. A denial may be appealed to the Committee in accordance with § 271.6(h).

(g) *Employee requests.* In connection with any request by an employee, former employee, or applicant for employment, for records for use in prosecuting a grievance or complaint of discrimination against the Committee, fees shall be waived where the total charges (including charges for

information provided under the Privacy Act of 1974 (5 U.S.C. 552a) are $50 or less; but the Secretary may waive fees in excess of that amount.

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

Appendix A To § 271.9—Freedom of Information Fee Schedule

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

By order of the Federal Open Market Committee, November 7, 1997.

Donald L. Kohn,

Secretary of the Federal Open Market Committee.

[FR Doc. 97–29965 Filed 11–14–97; 8:45 am]

BILLING CODE 6210–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–55–AD; Amendment 39–10205; AD 97–23–16]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 777–200 series airplanes, that requires replacement of certain overhead electronics units (OEU) of the passenger address and entertainment communication systems with modified OEU's. This amendment is prompted by reports of smoke coming from the overhead panels near the passenger reading lights, which was caused by overheating of the transformers located in the OEU's. The actions specified by this AD are intended to prevent overheating of the transformers, which potentially could cause a fire in the transformer assembly and/or electronic components located in the OEU and could cause smoke to enter the passenger cabin.

DATES: Effective December 22, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 22, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the 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: Varun Khanna, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2082; fax (425) 227–1182.

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 Boeing Model 777–200 series airplanes was published in the **Federal Register** on April 4, 1997 (62 FR 16115). That action proposed to require replacement of certain overhead electronics units (OEU) of the passenger address and entertainment communication systems with modified OEU's.

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

One commenter supports the proposed rule.

Request To Extend the Compliance Time

One commenter requests that the compliance time for accomplishing the replacement of the OEU's be extended from the proposed 6 months to 12 months. The commenter contends that, even if it used two repair stations, it would still take an extraordinary effort and 8 to 9 months (best case) to accomplish the proposed replacement. The commenter points out that the 6-month compliance time also would result in schedule disruptions, which is a severe economic hardship on the airline.

The FAA does not concur with the commenter's request to extend the compliance time for accomplishment of the subject replacement. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of accomplishing the required replacement with an interval of time that parallels normal scheduled maintenance for the majority of affected operators. The manufacturer has advised that it has shipped replacement units to all affected operators and can provide sufficient units to enable operators to comply within 6 months, and that it is supplying the labor for accomplishment of the replacement. In addition, the FAA has been informed that certain operators have accomplished the subject replacement overnight on their fleet.

However, under the provisions of paragraph (c) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Conclusion

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

Cost Impact

There are approximately 46 Boeing Model 777–200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 16 airplanes of U.S. registry will be affected by this AD, that it will take approximately 209 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $200,640, or $12,540 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:

97–23–16 Boeing: Amendment 39–10205. Docket 97–NM–55–AD.

Applicability: Model 777–200 series airplanes, as listed in Boeing Alert Service Bulletin 777–23A0027, dated February 13, 1997; 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 (c) 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 overheating of the transformers of the overhead electronics units (OEU), which potentially could cause a fire in the transformer assembly and/or other electronic components of the OEU and could cause smoke to enter the passenger cabin, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace OEU's having part numbers (P/N) 285W0029–3, 285W0029–3 MOD A, and 285W0029–3 MOD B, of the passenger address and entertainment communication systems with modified OEU's having P/N's 285W0029–5, 285W0029–5 MOD A, and 285W0029–5 MOD B, in accordance with Boeing Alert Service Bulletin 777–23A0027, dated February 13, 1997.

Note 2: Boeing Component Service Bulletin 285W0029–23–01, dated February 13, 1997, describes procedures for reworking OEU's having P/N's 285W0029–3, 285W0029–3 MOD A, and 285W0028–3 MOD B, to a configuration having a dash number –5, and a MOD level marking (if applicable).

(b) As of the effective date of this AD, no person shall install an OEU having P/N 285W0029–3, 285W0029–3 MOD A, or 285W0028–3 MOD B, on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

(d) 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.

(e) The replacement shall be done in accordance with Boeing Alert Service Bulletin 777–23A0027, dated February 13, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on December 22, 1997.

Issued in Renton, Washington, on November 6, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–29823 Filed 11–14–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–17–AD; Amendment 39–10206; AD 97–12–02]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Helicopter Systems MD900 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing priority letter airworthiness

directive (AD), applicable to McDonnell Douglas Helicopter Systems (MDHS) Model MD900 helicopters, which prohibits flight or ground operations of helicopters with a certain adjustable collective drive link assembly (link assembly) installed. This amendment requires installation of a redesigned airworthy link assembly after which further operations are permitted. This amendment is prompted by recent incidents in which the link assembly failed during flight. The actions specified by this AD are intended to prevent failure of the link assembly, which could result in loss of control of the helicopter.

DATES: Effective December 2, 1997.

Comments for inclusion in the Rules Docket must be received on or before January 16, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–17–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Mr. Greg DiLibero, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5231, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On May 29, 1997, the FAA issued priority letter AD 97–12–02, applicable to MDHS Model MD900 helicopters with collective drive link assembly (link assembly) part number (P/N) 900C2010233–103 and P/N 900C2010233–105, installed, which prohibits flight or ground operations of the helicopters. That action was prompted by recent incidents in which the link assembly failed during flight. The link assembly is part of the primary collective flight control system. Based on these incidents and further testing by the manufacturer, the FAA determined that further operations with either affected link assembly installed constituted an unsafe condition. That condition, if not corrected, could result in failure of the link assembly and subsequent loss of control of the helicopter.

Since the issuance of that AD, MDHS has issued MDHS Service Bulletin (SB) No. SB900–055R1, dated June 5, 1997, for the installation of a redesigned link assembly. The FAA has determined that installation of redesigned link assembly, P/N 900C2010233–107, will correct the unsafe condition. Additionally, in AD 97–12–02, the FAA has noted that the applicability section incorrectly stated that the AD applied to Model MD900 helicopters with P/N 900C2010233–103 and P/N 900C2010233–105 installed. The AD should have stated that it applied to Model MD900 helicopters with P/N 900C2010233–103 or P/N 900C2010233–105 installed. This imprecision in word choice is corrected in this AD.

Since an unsafe condition has been identified that is likely to exist or develop on other MDHS Model MD900 helicopters of the same type design, this AD supersedes AD 97–12–02 to require installation of a redesigned link assembly. This AD also clarifies the applicability statement that could be incorrectly interpreted to mean that two link assemblies must be installed in order for the AD to be applicable.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–SW–17–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

97–12–02 McDonnell Douglas Helicopter Systems: Amendment 39–10206. Docket No. 97–SW–17–AD. Supersedes priority letter AD 97–12–02.

Applicability: Model MD900 helicopters, with adjustable collective drive link assembly (link assembly), part number (P/N) 900C2010233–103 or –105, 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 (b) 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 as indicated, unless accomplished previously.

To prevent failure of the link assembly, which could result in loss of control of the helicopter, accomplish the following:

(a) Before further flight, remove the link assembly, P/N 900C2010233–103 or –105, and replace with link assembly, P/N 900C2010233–107.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(c) Special flight permits will not be issued.

(d) This amendment becomes effective on December 2, 1997.

Issued in Fort Worth, Texas, on November 6, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–30058 Filed 11–14–97; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 403

Deceptive Use of ''Leakproof,'' ''Guaranteed Leakproof,'' Etc., As Descriptive of Dry Cell Batteries

AGENCY: Federal Trade Commission.

ACTION: Final rule; removal.

SUMMARY: The Federal Trade Commission (the ''FTC'' or ''Commission'') announces the repeal of the Trade Regulation Rule on Deceptive Use of ''Leakproof,'' ''Guaranteed Leakproof,'' Etc., as Descriptive of Dry Cell Batteries (''the Dry Cell Battery Rule'' or ''the Rule''), 16 CFR Part 403. The rulemaking record, changes in industry practice, and general voluntary compliance by the industry with the requirements of an American National Standards Institute standard for dry cell batteries, which has provisions similar to the Rule's, indicate that the Dry Cell Battery Rule is no longer necessary or in the public interest and should be repealed. This document contains a Statement of Basis and Purpose for repeal of the rule.

EFFECTIVE DATE: November 17, 1997.

ADDRESSES: Requests for copies of the Statement of Basis and Purpose should be sent to the Public Reference Branch, Room 130, Federal Trade Commission, Sixth Street and Pennsylvania Ave., N.W., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Neil Blickman, Attorney, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Sixth Street and Pennsylvania Ave., N.W., Washington, DC 20580, (202) 326–3038.

SUPPLEMENTARY INFORMATION:

Statement of Basis and Purpose

I. Background

On May 20, 1964, the Commission promulgated a trade regulation rule that states that in connection with the sale of dry cell batteries in commerce, the use of the word ''leakproof,'' the term ''guaranteed leakproof,'' or any other word or term of similar import, or any abbreviation thereof, in advertising, labeling, marking or otherwise, as descriptive of dry cell batteries, constitutes an unfair method of competition and an unfair or deceptive act or practice in violation of section 5 of the FTC Act (16 CFR 403.4). This rule was based on the Commission's finding that, despite efforts by dry cell battery manufacturers to eliminate electrolyte leakage, battery leakage and damage therefrom occurs from the use to which consumers ordinarily subject dry cell batteries.

The rule provides that manufacturers or marketers are not prohibited from offering or furnishing guarantees that provide for restitution in the event of damage from battery leakage, provided no representation is made, directly or indirectly, that dry cell batteries will not leak (16 CFR 403.5). The Rule further provides that in the event any person develops a new dry cell battery that he believes is in fact leakproof, he may apply to the Commission for an amendment to the rule, or other appropriate relief (16 CFR 403.6).

The Commission conducted an informal review of industry practices by examining the advertising, labeling and marketing of dry cell batteries available for retail sale. This review revealed no representations that the batteries were leakproof. The Commission's review, therefore, indicated general compliance with the Rule's provisions. Moreover, the Commission has no record of receiving any complaints regarding non-compliance with the Rule, or of initiating any law enforcement actions alleging violations of the Rule.

Additionally, the Commission's review indicated general voluntary compliance by the industry with the requirements of American National Standards Institute (''ANSI'') Standard C18.1M–1992 Dry Cells and Batteries—Specifications. The ANSI standard contains specifications for dry cell batteries, and requirements for labeling the products and their packages. The ANSI standard requires the following information to be printed on the outside of each battery (when necessary, the standard permits some of this information to be applied to the unit package): (1) The name or trade name of the manufacturer; (2) the ANSI/National Electronic Distributors Association number, or some other identifying designation; (3) year and month, week or day of manufacture, which may be a code, or the expiration of a guarantee period, in a clear readable form; (4) the nominal voltage; (5) terminal polarity; and (6) warnings or cautionary notes where applicable. See section 8.1 of ANSI Standard C18.1M–1992.

The ANSI standard recommends that dry cell battery manufacturers and sellers include on their products and packages several battery user guidelines and warnings that are relevant to this proceeding. They are: (1) Although batteries basically are trouble-free products, conditions of abuse or misuse can cause leakage; (2) failure to replace all batteries in a unit at the same time may result in battery leakage; (3) mixing batteries of various chemical systems, ages, applications, types or manufacturers may result in poor device performance and battery leakage; (4) attempting to recharge a non-rechargeable battery is unsafe because it could cause leakage; (5) reverse insertion of batteries may cause charging, which may result in leakage; (6) devices that operate on either household current or battery power may subject batteries to a charging current, which may cause leakage; (7) do not store batteries or battery-powered equipment in high-temperature areas;

and (8) do not dispose of batteries in fire. See section 7.5 of ANSI Standard C18.1M–1992. At a minimum, each dry cell battery and battery package inspected by Commission staff informed consumers that the batteries may explode or leak if recharged, inserted improperly, disposed of in fire, or mixed with different battery types.

Based on the foregoing, on March 25, 1997, the Commission published an Advance Notice of Proposed Rulemaking (''ANPR'') tentatively concluding that industry members that comply with the ANSI standard's point-of-sale disclosure requirements also comply with the Rule. Accordingly, the Commission tentatively determined that the Dry Cell Battery Rule is no longer necessary, and sought comments on the proposed repeal of the Rule until April 24, 1997. 62 FR 14050.

The only comment received in response to the ANPR was submitted by the National Electrical Manufacturers Association (''NEMA''), a trade association representing all major U.S. manufacturers of dry cell batteries.[1] NEMA supported repeal of the Commission's Dry Cell Battery Rule, indicating that it has been superseded effectively in the marketplace by ANSI Standard C18.1M–1992.[2]

After reviewing the comment submitted in response to the ANPR, and in light of ANSI Standard C18.1M–1992, on August 19, 1997, pursuant to the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 41–58, and the Administrative Procedure Act, 5 U.S.C. 551–59, 701–06, the Commission published a Notice of Proposed Rulemaking (''NPR'') initiating a proceeding to consider whether the Dry Cell Battery Rule should be repealed or remain in effect (62 FR 44099).[3] This rulemaking proceeding was undertaken as part of the Commission's ongoing program of evaluating trade regulation rules and industry guides to ascertain their effectiveness, impact, cost and need. This proceeding also responded to President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations. In the NPR, the Commission announced its determination, pursuant to 16 CFR 1.20, to use expedited procedures in this proceeding.[4] The NPR comment period closed on September 18, 1997. The Commission received no comments and no requests to hold an informal hearing.

II. Basis for Repeal of Rule

The Commission has decided to repeal the Dry Cell Battery Rule for the reasons discussed in the NPR. In sum, the Commission has reviewed the rulemaking record and determined that the practices that brought about the Rule, labeling or advertising dry cell batteries as being ''leakproof,'' are no longer common industry practices. In addition, general voluntary compliance by the industry with the requirements of ANSI Standard C18.1M–1992 Dry Cells and Batteries—Specifications assures compliance with the Rule. Although repealing the Dry Cell Battery Rule would eliminate the Commission's ability to obtain civil penalties for any future misrepresentations that dry cell batteries are leakproof, the Commission has determined that, in these circumstances, repealing the Rule would not impair the Commission's ability to act effectively. Any significant problems that might arise could be addressed on a case-by-case basis under section 5 of the FTC Act, 15 U.S.C. 45, either administratively or through section 13(b) actions, 15 U.S.C. 53(b), filed in federal district court. Prosecuting serious misrepresentations in district court allows the Commission to obtain injunctive relief as well as equitable remedies, such as redress or disgorgement. Accordingly, the Commission hereby announces the repeal of the Dry Cell Battery Rule.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–12, requires an analysis of the anticipated impact of the repeal of the rule on small businesses. The reasons for repeal of the Rule have been explained in this notice. Repeal of the rule would appear to have little or no effect on small businesses. Moreover, the Commission is not aware of any existing federal laws or regulations that would conflict with repeal of the Dry Cell Battery Rule. Further, no comments suggested any adverse effect on small business from repeal. For these reasons, the Commission certifies, pursaunt to section 605 of the RFA, 5 U.S.C. 605, that this action will not have a significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

The Dry Cell Battery Rule imposes no third-party disclosure requirements that constitute ''information collection requirements'' under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Since 1964, therefore, the Rule has imposed no paperwork burdens on marketers of dry cell batteries. In any event, repeal of the Dry Cell Battery Rule will permanently eliminate any burdens on the public imposed by the Rule.

List of Subjects in 16 CFR Part 403

Advertising, Dry cell batteries, Labeling, Trade practices.

PART 403—[REMOVED]

The Commission, under authority of Section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, amends chapter I of title 16 of the Code of Federal Regulations by removing Part 403.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–30111 Filed 11–14–97; 8:45 am]

BILLING CODE 6750–01–M

[1] The comment submitted in response to the ANPR was placed on the public record, and filed as document number B21969700001. In today's notice, the comment is cited as NEMA, #1.

[2] NEMA, #1.

[3] In accordance with section 18 of the FTC Act, 15 U.S.C. 57a, the Commission submitted the NPR to the Chairman of the Committee on Commerce, Science, and Transportation, United States Senate, and the Chairman of the Committee on Commerce, United States House of Representatives, 30 days prior to its publication in the **Federal Register**.

[4] These procedures included: publishing a Notice of Proposed Rulemaking; soliciting written comments on the Commission's proposal to repeal the Rule; holding an informal hearing, if requested by interested parties; receiving a final recommendation from Commission staff; and announcing final Commission action in the **Federal Register**.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 15

Changes in Reporting Levels for Large Trader Reports

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission) is amending its regulations to raise the nominal reporting level at which futures commission merchants, clearing members, foreign brokers, and traders must file large trader reports in Standard and Poors (S&P) 500 futures from 300 to 600 contracts. Levels for filing reports in the E-mini S&P 500 futures will remain at 300 contracts. The effect of this rule amendment is to maintain at current levels the amount of information the Commission receives concerning large traders in these contracts.

EFFECTIVE DATE: December 17, 1997.

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Commodity Futures Trading Commission, Division of

Economic Analysis, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, telephone (202) 418-5310.

SUPPLEMENTARY INFORMATION:

I. Background

Reporting levels are set in futures to ensure that the Commission receives adequate information to carry out its market surveillance programs. These are designed to detect and prevent market congestion and price manipulation and to enforce speculative position limits. In addition, the information serves as a basis to gauge overall hedging and speculative uses of the futures markets, use of the markets by foreign participants, and other matters of public concern.

Generally, Parts 17 and 18 of the regulations require reports from members of contract markets, FCMs, or foreign brokers (firms) and traders, respectively, when a trader holds a ''reportable position''; i.e., any open position held or controlled by a trader at the close of business in any one future of a commodity traded on any one contract market that is equal to or in excess of the quantities fixed by the commission in § 15.03 of the regulations.[1]

Recently, however, the Commission approved rule changes submitted by the Chicago Mercantile Exchange (CME) which reduce the size of the S&P futures contract from $500 to $250 per index point. To implement this change, the exchange doubled the size of existing open positions effective after the close of the market on October 31, 1997. This increased traders' position size relative to the Commission's current reporting level of 300 contracts, resulting in an increased reporting burden on the public and the processing of unneeded reports by the Commission. In order to maintain the current level of large trader information it receives, the Commission is raising the reporting level for S&P 500 futures from 300 to 600 contracts.

The CME also currently trades a smaller size futures contract on the S&P 500 index. This contract, termed the ''E-mini,'' is valued at $10 per index point and is currently subject to the same 300-contract reporting level as the larger contract. Since the Commission desires to maintain the reporting level for the small contract at 300, the S&P E-mini contract will be listed separately in § 15.03 of the regulations.

[1] Firms which carry accounts for traders who hold ''reportable positions'' are required to identify such accounts on a form 102 and report on the series '01 forms any reportable positions in the account, the delivery notices issued or stopped by the account and any exchanges of futures for physicals. Traders who own or control reportable positions are required to file annually a CFTC form 40 giving certain background information concerning their trading in commodity futures and, on call by the Commission, must submit a form 103 showing positions and transactions in the contract market specified in the call.

II. Related Matters

A. Notice and Comment

The Administrative Procedure Act, 5 U.S.C. 553(b), requires in most instances that a notice of proposed rulemaking be published in the **Federal Register**, and that opportunity for comment be provided when an agency promulgates new regulations. Section 553(b) sets forth an exception, however, when the agency for good cause finds (and incorporates the findings and a brief statement of its reasons) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

The Commission finds that notice and public comments on the rule changes announced herein are unnecessary, because the amendments are routine determinations necessitated by technical changes to a currently-traded contract. These routine determinations are made to adjust reporting levels, when such changes lead to the receipt by the Commission of a larger number of reports than is necessary for efficient surveillance of the market. In this regard, it should be further noted that these amendments do not establish any new obligations under the Commodity Exchange Act (Act). On the contrary, these changes simplify compliance with the Act by not changing persons' reporting obligations under the rules in question.

B. The Regulatory Flexibility Act (RFA)

The RFA, 5 U.S.C. 601 *et seq.*, requires that agencies consider the impact of those rules on small businesses. The Commission has previously determined that large traders and FCMs are not ''small entities'' for purposes of the RFA, 47 FR 18618–18621 (April 30, 1982). Therefore, the Chairperson, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act (PRA)

The PRA of 1995 (Pub. L. 104–13 (May 13, 1995)) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. While this final rule imposes no additional burden, the group of rules (3038–0009) of which this is a part has the following burden:

Average burden hours per response—0.3607
Number of respondents—6181
Frequency of response—Daily

Copies of the Office of Management and Budget approved information collection package associated with this rule may be obtained from Desk Officer, CFTC, Office of Management and Budget, room 10202, NEOB, Washington, DC 20503, (202) 395–7340.

List of Subjects in 17 CFR Part 15

Brokers, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act and, in particular, sections 4g, 4i, 5, and 8a of the Act, 7 U.S.C. 6g, 6i, 7, and 12a (1990), the Commission hereby amends chapter I of title 17 of the Code of Federal Regulations as follows:

PART 15—REPORTS—GENERAL PROVISIONS

1. The authority citation for part 15 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 5, 6a, 6c(a)–(d), 6f, 6g, 6i, 6k, 6m, 6n, 7, 9, 12a, 19, and 21; 5 U.S.C. 552 and 552(b).

2. Section 15.03 is revised to read as follows:

§ 15.03 Quantities fixed for reporting.

The quantities for the purpose of reports filed under Parts 17 and 18 of this chapter are as follows:

Commodity	Quantity
Wheat (bushels)	500,000
Corn (bushels)	750,000
Soybeans (bushels)	500,000
Oats (bushels)	500,000
Cotton (bales)	5,000
Frozen Concentrated Orange Juice	50
Soybean Oil (contracts)	175
Soybean Meal (contracts)	175
Live Cattle (contracts)	100
Feeder Cattle (contracts)	50
Hogs (contracts)	50
Sugar No. 11 (contracts)	300
Sugar No. 14 (contracts)	100
Cocoa (contracts)	100
Coffee (contracts)	50
Copper (contracts)	100
Gold (contracts)	200
Silver bullion (contracts)	150
Platinum (contracts)	50
No. 2 Heating Oil (contracts)	250
Crude Oil, Sweet (contracts)	300
Unleaded Gasoline (contracts)	150
Natural Gas	100
Long-Term U.S. Treasury Bonds (contracts)	500

Commodity	Quantity
GNMA (contracts)	100
Three-Month (13-Week) U.S. Treasury Bills (contracts)	150
Long-Term U.S. Treasury Notes (contracts)	500
Medium-Term U.S. Treasury Notes (contracts)	300
Short-Term U.S. Treasury Notes (contracts)	200
Three-Month Eurodollar Time Deposit Rates (contracts)	850
Thirty-Day Interest Rates (contracts)	100
One-Month Libor Rates (contracts)	100
Foreign Currencies (contracts)	200
U.S. Dollar Index (contracts)	50
Standard and Poor's 500 Stock Price Index (contracts)	600
Standard and Poor's 500 Stock Price Index, E-Mini (contracts)	300
New York Stock Exchange Composite Index (contracts)	50
Amex Major Market Index, Maxi (contracts)	100
Nikkei Stock Index (contracts)	50
Municipal Bonds (contracts)	100
Value Line Average Index (contracts)	50
All Other Commodities (contracts)	25

Issued in Washington, D.C., this 7th day of November 1997 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–29995 Filed 11–14–97; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 11

[Docket No. RM86–2–000]

Update of the Federal Energy Regulatory Commission's Fees Schedule for Annual Charges for the Use of Government Lands

Issued November 10, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; update of Federal land use fees.

SUMMARY: On May 8 ,1987, the Commission issued its final rule amending Part 11 of its regulations (Order No. 469, 52 FR 18201, May 14, 1987). The final rule revised the billing procedures for annual charges for administering Part I of the Federal Power Act, the billing procedures for charges for Federal dam and land use, and the methodology for assessing Federal land use charges.

In accordance with the Commission's regulations, the Commission by its designee, the Executive Director, is updating its schedule of fees for the use of government lands. The yearly update is based on the most recent schedule of fees for the use of linear rights-of-way prepared by the United States Forest Service. Since the next fiscal year will cover the period from October 1, 1997, through September 30, 1998, the fees in this notice will become effective October 1, 1997. The fees will apply to fiscal year 1998 annual charges for the use of government lands.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Fannie Kingsberry, Financial Services Division, Office of the Executive Director and Chief Financial Officer, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 219–2885.

SUPPLEMENTARY INFORMATION: In accordance with Section 11.2, 18 CFR, the land values included in this document will be published in the **Federal Register**. In addition, the Commission provides all interested persons an opportunity to inspect or copy contents of this document during normal business hours in Room 2A at the Commission's Headquarters, 888 First Street, N.E., Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397 if dialing locally or 1–800–856–3920 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS user assistance is available at 202–208–2474.

CIPS can also be accessed over the Internet by pointing your browser to the URL address: http://www.ferc.fed.us. Select the link to CIPS.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is also located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

List of Subjects in 18 CFR Part 11

Electric power, Reporting and recordkeeping requirements.

Christie McGue,

Executive Director and Chief Financial Officer.

Accordingly, the Commission, effective October 1, 1997, amends Part 11 of Chapter I, Title 18 of the Code of Federal Regulations, as set forth below.

PART 11—[AMENDED]

1. The authority citation for Part 11 continues to read as follows:

Authority: 16 U.S.C. 791a–825r; 42 U.S.C. 7101–7352.

2. In Part 11, Appendix A is revised to read as follows:

Appendix A to Part II—Fee Schedule For FY 1998

State	County	Rate per acre
ALABAMA	ALL COUNTIES	$24.43
ARKANSAS	ALL COUNTIES	18.34
ARIZONA	APACHE, COCHISE, GILA, GRAHAM, LA PAZ, MOHAVE, NAVAJO, PIMA, YAVAPAI, YUMA, COCONINO NORTH OF COLORADO RIVER.	6.10
	COCONINO SOUTH OF COLORADO RIVER, GREENLEE, MARICOPA, PINAL, SANTA CRUZ.	24.43
CALIFORNIA	IMPERIAL, INYO, LASSEN, MODOC, RIVERSIDE, SAN BERNARDINO	12.22

State	County	Rate per acre
	SISKIYOU	18.34
	ALAMEDA, ALPINE, AMADOR, BUTTE, CALAVERAS, COLUSA, CONTRA COSTA, DEL NORTE, EL DORADO, FRESNO, GLENN, HUMBOLDT, KERN, KINGS, LAKE, MADERA, MARIPOSA, MENDOCINO, MERCED, MONO, NAPA, NEVADA, PLACER, PLUMAS, SACRAMENTO, SAN BENITO, SAN JOAQUIN, SANTA CLARA, SHASTA, SIERRA, SOLANO, SONOMA, STANISLAUS, SUTTER, TEHAMA, TRINITY, TULARE, TUOLUMNE, YOLO, YUBA.	30.55
	LOS ANGELES, MARIN, MONTEREY, ORANGE, SAN DIEGO, SAN FRANCISCO, SAN LUIS OBISPO, SAN MATEO, SANTA BARBARA, SANTA CRUZ, VENTURA.	36.67
COLORADO	ADAMS, ARAPAHOE, BENT, CHEYENNE, CROWLEY, ELBERT, EL PASO, HUERFANO, KIOWA, KIT CARSON, LINCOLN, LOGAN, MOFFAT, MONTEZUMA, MORGAN, PUEBLO, SEDGWICK, WASHINGTON, WELD, YUMA.	6.10
	BACA, DOLORES, GARFIELD, LAS ANIMAS, MESA	12.22
	MONTROSE, OTERO, PROWERS, RIO BLANCO, ROUTT, SAN MIGUEL.	12.22
	ALAMOSA, ARCHULETA, BOULDER, CHAFFEE, CLEAR CREEK, CONEJOS, COSTILLA, CUSTER, DENVER, DELTA, DOUGLAS, EAGLE, FREMONT, GILPIN, GRAND, GUNNISON, HINSDALE, JACKSON, JEFFERSON, LAKE, LA PLATA, LARIMER, MINERAL, OURAY, PARK PITKIN, RIO GRANDE, SAGUACHE, SAN JUAN, SUMMIT, TELLER.	24.43
CONNECTICUT	ALL COUNTIES	6.10
FLORIDA	BAKER, BAY BRADFORD, CALHOUN, CLAY, COLUMBIA, DIXIE, DUVAL, ESCAMBIA, FRANKLIN, GADSDEN, GILCHRIST, GULF, HAMILTON, HOLMES, JACKSON, JEFFERSON, LAFAYETTE, LEON, LIBERTY, MADISON, NASSAU, OKALOOSSA, SANTA ROSA, SUWANNEE, TAYLOR, UNION, WAKULLA, WALTON, WASHINGTON.	36.67
	ALL OTHER COUNTIES	61.10
GEORGIA	ALL COUNTIES	36.67
IDAHO	CASSIA, GOODING, JEROME, LINCOLN, MINIDOKA, ONEIDA, OWYHEE, POWER, TWIN FALLS.	6.10
	ADA, ADAMS, BANNOCK, BEAR LAKE, BENEWAH, BINGHAM, BLAINE, BOISE, BONNER, BONNEVILLE, BOUNDARY, BUTTE, CAMAS, CANYON, CARIBOU, CLARK, CLEARWATER, CUSTER, ELMORE, FRANKLIN, FREMONT, GEM, IDAHO, JEFFERSON, KOOTENAI, LATAH, LEMHI, LEWIS, MADISON, NEZ PERCE.	18.34
	PAYETTE, SHOSHONE, TETON, VALLEY, WASHINGTON	18.34
KANSAS	ALL OTHER COUNTIES	6.10
	MORTON	12.22
ILLINOIS	ALL COUNTIES	18.34
INDIANA	ALL COUNTIES	30.55
KENTUCKY	ALL COUNTIES	18.34
LOUISIANA	ALL COUNTIES	36.67
MAINE	ALL COUNTIES	18.34
MICHIGAN	ALGER, BARAGA, CHIPPEWA, DICKINSON, DELTA, GOGEBIC	18.34
	HOUGHTON, IRON, KEWEENAW, LUCE, MACKINAC, MARQUETTE, MENOMINEE, ONTONAGON, SCHOOLCRAFT.	18.34
	ALL OTHER COUNTIES	24.43
MINNESOTA	ALL COUNTIES	18.34
MISSISSIPPI	ALL COUNTIES	24.43
MISSOURI	ALL COUNTIES	18.34
MONTANA	BIG HORN, BLAINE, CARTER, CASCADE CHOUTEAU, CUSTER, DANIELS, McCONE, MEAGHER, DAWSON, FALLON, FERGUS, GARFIELD.	6.10
	GLACIER, GOLDEN VALLEY, HILL, JUDITH BASIN, LIBERTY, MUSSELSHELL, PETROLEUM, PHILLIPS, PONDERA, POWDER RIVER, PRAIRIE, RICHLAND, ROOSEVELT, ROSEBUD, SHERIDAN, TETON, TOOLE, TREASURE, VALLEY, WHEATLAND, WIBAUX, YELLOWSTONE.	6.10
	BEAVERHEAD, BROADWATER CARBON, DEER LODGE, FLATHEAD, GALLATIN, GRANITE, JEFFERSON, LAKE, LEWIS & CLARK, LINCOLN, MADISON, MINERAL MISSOULA, PARK, POWELL, RAVALLI, SANDERS, SILVER BOW.	18.34
	STILLWATER SWEET GRASS	18.34
NEBRASKA	ALL COUNTIES	6.10
NEVADA	CHURCHILL, CLARK, ELKO, ESMERALDA, EUREKA, HUMBOLDT, LANDER, LINCOLN, LYON, MINERAL, NYE, PERSHING, WASHOE, WHITE PINE.	3.05
	CARSON CITY, DOUGLAS, STOREY	30.55

State	County	Rate per acre
NEW HAMPSHIRE	ALL COUNTIES	18.34
NEW MEXICO	CHAVES, CURRY, DE BACA, DONA ANA, EDDY, GRANT, GUADELUPE.	6.10
	HARDING, HIDALGO, LEA, LUNA, MCKINLEY, OTERO, QUAY, ROOSEVELT, SAN JUAN, SOCORRO, TORRANCE.	6.10
	RIO ARRIBA, SANDOUAL, UNION	12.22
	BERNALILLO, CATRON, CIBOLA, COLFAX, LINCOLN, LOS ALAMOS, MORA, SAN MIGUEL, SANTA FE, SIERRA, TAOS, VALENCIA.	24.43
NEW YORK	ALL COUNTIES	24.43
NORTH CAROLINA	ALL COUNTIES	36.67
NORTH DAKOTA	ALL COUNTIES	6.10
OHIO	ALL COUNTIES	24.43
OKLAHOMA	ALL OTHER COUNTIES	6.10
	BEAVER, CIMARRON, ROGER MILLS, TEXAS	12.22
	LE FLORE, MC CURTAIN	18.34
OREGON	HARNEY, LAKE, MALHEUR	6.10
	BAKER, CROOK, DESCHUTES, GILLIAM, GRANT, JEFFERESON, KLAMATH, MORROW, SHERMAN UMATILLA, UNION, WALLOWA.	12.22
	WASCO, WHEELER	12.22
	COOS, CURRY, DOUGLAS, JACKSON, JOSEPHINE	18.34
	BENTON, CLACKAMAS, CLATSOP, COLUMBIA, HOOD RIVER, LANE, LINCOLN, LINN, MARION, MULTNOMAH, POLK, TILLAMOCK, WASHINGTON, YAMHILL.	24.43
PENNSYLVANIA	ALL COUNTIES	24.43
PUERTO RICO	ALL	36.67
SOUTH DAKOTA	BUTTE, CUSTER, FALL RIVER, LAWRENCE	18.34
	MEAD, PENNINGTON	18.34
	ALL OTHER COUNTIES	6.10
SOUTH CAROLINA	ALL COUNTIES	36.67
TENNESSEE	ALL COUNTIES	24.43
TEXAS	CULBERSON, EL PASO, HUDSPETH	6.10
	ALL OTHER COUNTIES	36.67
UTAH	BEAVER, BOX ELDER, CARBON, DUCHESNE, EMERY, GARFIELD, GRAND, IRON, JAUB, KANE, MILLARD, SAN JUAN, TOOELE, UINTAH, WAYNE.	6.10
	WASHINGTON	12.22
	CACHE, DAGGETT, DAVIS, MORGAN, PIUTE, RICH, SALT LAKE, SANPETE, SEVIER, SUMMIT, UTAH, WASATCH, WEBER.	18.34
VERMONT	ALL COUNTIES	24.43
VIRGINIA	ALL COUNTIES	24.43
WASHINGTON	ADAMS, ASOTIN, BENTON, CHELAN, COLUMBIA, DOUGLAS, FRANKLIN, GARFIELD, GRANT, KITTITAS, KLICKITAT, LINCOLN, OKANAGAN, SPOKANE.	12.22
	WALLA WALLA, WHITMAN, YAKIMA	12.22
	FERRY, PEND OREILLE, STEVENS	18.34
	CALLAM, CLARK, COWLITZ, GRAYS HARBOR, ISLAND, JEFFERSON, KING, KITSAP, LEWIS, MASON, PACIFIC, PIERCE, SAN JUAN, SKAGIT, SKAMANIA, SNOHOMISH, THURSTON, WAHKIAKUM, WHATCOM.	24.43
WEST VIRGINIA	ALL COUNTIES	24.43
WISCONSIN	ALL COUNTIES	18.34
WYOMING	ALBANY, CAMPBELL, CARGON, CONVERSE, GOSHEN, HOT SPRINGS, JOHNSON, LARAMIE, LINCOLN, NATRONA, NIOBRARA, PLATTE, SHERIDAN, SWEETWATER, FREMONT, SUBLETTE, UINTA, WASHAKIE.	6.10
	BIG HORN, CROOK, PARK, TETON, WESTON	18.34
ALL OTHER ZONES		6.66

[FR Doc. 97–30082 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 133

RIN 1515–AC10

[T.D. 97–91]

Anticounterfeiting Consumer Protection Act: Disposition of Merchandise Bearing Counterfeit American Trademarks; Civil Penalties

AGENCY: Customs Service, Treasury.

ACTION: Interim regulations.

SUMMARY: This document amends the Customs Regulations on an interim basis to implement two statutory changes contained in the Anticounterfeiting Consumer Protection Act of 1996 (ACPA) enacted by Congress to protect consumers and American businesses from counterfeit copyrighted and trademarked products. In general, the amendments made by the ACPA are designed to help Customs fight counterfeiting more effectively by enhancing its information base to interdict illicit shipments of trademarked merchandise, by strengthening the civil remedies available to intellectual property owners harmed by counterfeiting, and by providing the government with additional tools to address intellectual property violations. The provisions of the ACPA addressed in this document concern the government disposition of merchandise bearing counterfeit American trademarks, and the imposition of civil penalties on any person who directs, assists financially or otherwise, or aids and abets the importation of counterfeit goods.

DATES: Interim rule effective November 17, 1997; comments must be submitted by January 16, 1998.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

For Entry Questions—Jerry Laderberg, Entry and Carrier Rulings Branch, (202) 927–2320, Office of Regulations and Rulings;

For Penalties and Other Legal Questions—Charles Ressin, Penalties Branch, (202) 927–2344, or John Atwood, Intellectual Property Rights Branch, (202) 927–2330, Office of Regulations and Rulings.

SUPPLEMENTARY INFORMATION:

Background

Finding that counterfeit products cost American businesses an estimated $200 billion each year worldwide, Congress enacted the Anticounterfeiting Consumer Protection Act of 1996 (ACPA) to make sure that Federal law adequately addresses the scope and sophistication of modern counterfeiting. *See,* S. Rpt. No. 177, 104th Cong., 1st Sess. (1995), *reprinted in* (1996) 6 U.S.C.C.&A.N. 1074. On July 2, 1996, the President signed the ACPA into law (Pub. L. 104–153, 110 Stat. 1386). The ACPA was designed to provide important weapons against counterfeiters in four principal areas. First, it increases criminal penalties for counterfeiting and allows law enforcement to fight counterfeiters at the organizational level by making trafficking in counterfeit goods or services an offense under the Racketeer Influenced and Corrupt Organizations (RICO) Act, by providing increased imprisonment terms, criminal fines, and asset forfeiture against those involved in criminal counterfeiting enterprises. Second, the legislation enhances law enforcement's ability to fight counterfeiting more effectively by increasing the involvement of all levels of law enforcement and expanding their power to seize counterfeit goods and the tools of the counterfeit trade. Third, the legislation helps stem the flow of counterfeit goods by making it easier to find imported counterfeit goods and making it more difficult for seized goods to reenter the stream of commerce. Lastly, the ACPA, in part, strengthens the hand of businesses harmed by counterfeiters by updating existing statutes and providing additional civil penalties and remedies against counterfeiters.

Section 14 of the ACPA directs the Secretary of the Treasury to prescribe such regulations or amendments to existing regulations as may be necessary to implement and enforce particular provisions of the ACPA. Accordingly, Customs will amend its regulations as a result of the enactment of sections 8, 9, 10, 11, and 12 of the ACPA, and these changes will be implemented in several **Federal Register** documents. This document concerns sections 9 and 10 of the ACPA.

Section 9 of the ACPA pertains to government disposition of merchandise bearing American trademark information and amends section 526(e) of the Tariff Act of 1930, as amended, (19 U.S.C. 1526(e)) to ensure that counterfeits of American products are routinely destroyed, unless there is no public safety risk and the trademark owner agrees to some other disposition of the merchandise. Thus, section 9 of the ACPA makes the destruction of forfeited counterfeit merchandise the general rule, which is necessary to ensure that counterfeited merchandise is not returned to the violator who could simply redistribute the counterfeit goods. The provisions of section 526(e) are provided for, in part, at § 133.52(c) of the Customs Regulations (19 CFR 133.52(c)), which is amended by revising the introductory text of paragraph (c) and the texts of paragraphs (c)(1) through (c)(3), and removing the provisions of paragraph (c)(4).

Section 10 of the ACPA pertains to civil penalties and further amends section 526 of the Tariff Act of 1930 (19 U.S.C. 1526) by adding a new subsection (f). New subsection (f) provides for civil fines on persons involved in the importation of merchandise bearing a counterfeit American trademark and are in addition to any other civil or criminal penalty or other remedy authorized by law. The fine may be imposed on any person who directs, assists financially or otherwise, or aids and abets the importation of merchandise for sale or public distribution that is seized pursuant to 19 U.S.C. 1526(e). For the first seizure, the fine imposed can be an amount up to the value of the merchandise as if it were genuine, based on the manufacturer's suggested retail price (MSRP). For subsequent seizures, the fine imposed can be an amount up to twice the value of the merchandise as if it were genuine, based on the MSRP. This provision has two primary purposes. First, it will provide a deterrent to counterfeiting in cases in which resources are not available to bring a criminal case. Second, it makes penalties related to imported counterfeit products at least as stringent as those penalties applied to counterfeits made in this country. For the purposes of mitigation of these civil fines, Customs has decided to apply the guidelines for remission contained in the Appendix of Customs Directive 4400–07 (January 26, 1988). As there are currently no Customs Regulations that provide for civil fines for those involved in the

importation of counterfeit trademark goods, a new § 133.25 is created to implement the provisions of section 526(f).

Comments

Before adopting these interim regulatory amendments as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd floor, Washington, DC.

Inapplicability of Notice and Public Comment, Delayed Effective Date Requirement, the Regulatory Flexibility Act, and Executive Order 12866

Pursuant to 5 U.S.C. 553(b)(B), it has been determined that it would be contrary to the public interest to issue this rule with notice and public procedures because the rule implements statutory provisions enacted to protect trademark owners and the public from imported merchandise bearing a counterfeit American trademark. For this reason, and pursuant to 5 U.S.C. 553(d)(3), good cause exists to make this rule effective immediately without a 30-day delayed effective date. Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. This document does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

List of Subjects in 19 CFR Part 133

Copyrights, Counterfeit goods, Customs duties and inspection, Imports, Penalties, Prohibited merchandise, Reporting and recordkeeping requirements, Restricted merchandise, Seizures and forfeitures, Trademarks, Trade names, Unfair competition.

Amendments to the Regulations

For the reasons stated above, part 133 of the Customs Regulations (19 CFR part 133), is amended on an interim basis as set forth below:

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

1. The general authority citation for part 133 continues to read as follows:

Authority: 17 U.S.C. 101, 601, 602, 603; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

* * * * *

2. A new § 133.25 is added to read as follows:

§ 133.25 Civil fines for those involved in the importation of counterfeit trademark goods.

In addition to any other penalty or remedy authorized by law, Customs may impose a civil fine on any person who directs, assists financially or otherwise, or aids and abets the importation of merchandise bearing a counterfeit American trademark as follows:

(a) *First violation*. For the first seizure of such merchandise, the fine imposed shall not be more than the domestic value of the merchandise, (*see*, § 162.43(a) of this chapter), as if it had been genuine, based on the manufacturer's suggested retail price of the merchandise at the time of seizure.

(b) *Second and subsequent violations*. For the second and any subsequent seizure of such merchandise, the fine imposed shall not be more than twice the value of the merchandise as if it had been genuine, as determined by the manufacturer's suggested retail price of the merchandise at the time of seizure.

3. Section 133.52 is amended by revising paragraph (c) as follows:

§ 133.52 Disposition of forfeited merchandise.

* * * * *

(c) *Articles bearing a counterfeit trademark*. Merchandise forfeited for violation of the trademark laws shall be destroyed, unless it is determined that the merchandise is not unsafe or a hazard to health and the Commissioner of Customs or his designee has the written consent of the U.S. trademark owner, in which case the Commissioner of Customs or his designee may dispose of the merchandise, after obliteration of the trademark, where feasible, by:

(1) Delivery to any Federal, State, or local government agency that, in the opinion of the Commissioner or his designee, has established a need for the merchandise; or

(2) Gift to any charitable institution that, in the opinion of the Commissioner or his designee, has established a need for the merchandise; or

(3) Sale at public auction, if more than 90 days has passed since the forfeiture and Customs has determined that no need for the merchandise has been established under paragraph (c)(1) or (c)(2) of this section.

George J. Weise,

Commissioner of Customs.

Approved: July 3, 1997.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 97–30048 Filed 11–14–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 47

[T.D. ATF–393; 97–455]

RIN: 1512–AB62

Removal of Restrictions on Importation of Defense Articles From Specified New Independent States of the Former Soviet Union and Yugoslavia and To Amend the Term ''Military Firearms and Ammunition''

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule removes the following States of the former Soviet Union from the list of countries from which the import of defense articles into the United States is proscribed: Georgia, Kazakstan, Kyrgyzstan, Moldova, Russian Federation, Turkmenistan, Ukraine, and Uzbekistan. The rule also restricts the importation of certain firearms and ammunition located or manufactured in any of the above countries or previously manufactured in the Soviet Union to conform to limitations contained in an agreement between the United States and the Russian Federation and in accordance with advice from the Department of State. The final rule specifies the firearms that are allowed to be imported from these countries as well as ammunition that may not be imported from these countries. The final rule also revises the list of proscribed countries to reflect the lifting of the embargo on importation of defense articles and defense services from the states of the former Yugoslavia, except for Serbia and Montenegro. Finally, the regulations are being revised to require applications to import parts of military firearms or ammunition of United States manufacture to be submitted with statements certifying that the parts were not furnished to a foreign government under a foreign assistance or sales program of the United States.

DATES: The amendments to 27 CFR 47.52 are effective November 17, 1997. The amendment to 27 CFR 47.52(c) was effective December 20, 1996.

Applicability dates. Removal of the Russian Federation from the list of proscribed countries was applicable April 5, 1996. Removal of Georgia, Kazakstan, Kyrgyzstan, Moldova, Turkmenistan, and Uzbekistan was applicable August 12, 1996. Removal of Ukraine was applicable September 10, 1996. Lifting of the embargo on importation of defense articles, other than heavy weapons, ammunition therefor, mines, military aircraft and helicopters from a number of the states of the country formerly known as Yugoslavia was applicable March 14, 1996. Lifting of restrictions on the importation of the remainder of defense articles and defense services from a number of the states of the former Yugoslavia was applicable July 12, 1996.

FOR FURTHER INFORMATION CONTACT: Scott Mendoza, Specialist, Firearms and Explosives Imports Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927–8320.

SUPPLEMENTARY INFORMATION: The Arms Export Control Act of 1976 (AECA), 22 U.S.C. 2778, gives the President of the United States the authority to control the import and export of defense articles and defense services.

Executive Order 11958 of January 18, 1977, as amended (42 FR 4311), delegated the authority to control exports of defense articles and defense services to the Secretary of State. The Executive Order also delegated to the Secretary of the Treasury the authority to control the import of such articles and services. However, as stated in 27 CFR 47.55, ATF is guided by the views of the Departments of State and Defense on matters affecting world peace and the external security and foreign policy of the United States.

New Independent States of the Former Soviet Union

By letter dated April 5, 1996, the Secretary of State advised the Director, ATF, that, under the authority of Section 38 of the AECA it is no longer the policy of the United States to deny licenses, other approvals, exports and imports of defense articles and defense services destined for or originating in the Russian Federation (Russia). The State Department requested that the Director implement this decision immediately with respect to his authority over imports under Section 38 of the AECA and amend the regulation at 27 CFR 47.52(a) to reflect this change in foreign policy. On April 29, 1996, ATF published in the **Federal Register** a Statement of Policy announcing this change in foreign policy (Notice No. 821, 61 FR 18678).

The April 5, 1996, letter also informed ATF that an agreement between the United States and the Russian Federation on exports of firearms and ammunition from the Russian Federation to the United States (the Agreement) was signed on April 3, 1996, and entered into force on that date. The letter stated that carrying out such an agreement and keeping out unacceptable types of munitions from the United States are United States foreign policy concerns. On this basis, the State Department advised the Department of the Treasury to exercise its authority under the AECA by denying applications to import firearms and ammunition located or manufactured in Russia or previously manufactured in the Soviet Union that would be inconsistent with the Agreement. The State Department advised Treasury that the foregoing did not apply to conditional imports of firearms and ammunition that would serve as samples for purposes of determining whether the items are of a type authorized for importation under the Agreement.

The Agreement provides that Russia shall not allow the exportation to the United States of firearms other than those specified in Annex A to the Agreement and will prohibit exportation to the United States of ammunition specified in Annex B to the Agreement. The Agreement also provides that new types of firearms and ammunition manufactured after February 9, 1996, may not be exported by Russia under the Agreement unless the parties agree in writing to amend the Agreement accordingly. The Agreement, including Annexes A and B, was published in its entirety in Notice No. 821.

By letter dated June 24, 1996, the Secretary of State requested that ATF deny applications to import firearms located or manufactured in the non-Russian newly independent states of the former Soviet Union (NIS) that are not listed in Annex A to the Agreement, once those countries have been removed from the proscribed countries list. The letter further requested that ATF deny applications to import ammunition located or manufactured in the non-Russian NIS that is listed in Annex B to the Agreement, once those countries have been removed from the proscribed countries list. The letter stated that, for purposes of this request, the non-Russian NIS should be considered as Armenia, Azerbaijan, Belarus, Georgia, Kazakstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine and Uzbekistan. The letter advised that the State Department would notify ATF when a decision had been made to remove from the list of proscribed countries any of the NIS listed above.

By letter dated August 12, 1996, the Secretary of State notified the Director, ATF, that the State Department had removed Georgia, Kazakstan, Kyrgyzstan, Moldova, Turkmenistan, and Uzbekistan from the list of proscribed countries in 22 CFR Part 126. The letter stated that it is no longer the policy of the United States to deny licenses or other approvals for exports and imports of defense articles and defense services destined for or originating in these countries, except as provided in the June 24, 1996, letter. Consistent with ATF's authority over the importation of defense articles and defense services, the Secretary of State requested that ATF amend the list of proscribed countries in 27 CFR Part 47 to reflect this change in foreign policy.

By letter dated September 10, 1996, the Secretary of State advised the Director, ATF, that the Department of State had removed Ukraine from the list of proscribed countries in 22 CFR Part 126. The letter stated that it is no longer the policy of the United States to deny licenses or other approvals for exports and imports of defense articles and defense services destined for or originating in Ukraine, except as provided in the June 24, 1996, letter. The letter requested that ATF exercise its authority over the importation of defense articles and defense services and amend 27 CFR Part 47 to reflect this change in foreign policy.

The regulations in 27 CFR 47.52 have been amended to remove all the above NIS from the list of countries from which defense articles and defense services may not be imported. The regulations have also been amended to indicate that firearms may be imported from these countries only if they are listed in Annex A to the Agreement and that ammunition may be imported only if it is not listed in Annex B to the Agreement. The regulations also provide that firearms and ammunition manufactured in the NIS may not be imported from any location unless they are listed in Annex A, in the case of firearms, or not listed in Annex B, in the case of ammunition.

Importation of Defense Articles and Defense Services From States of the Former Yugoslavia

The States of Bosnia and Herzegovena, Croatia, Federal Republic of Yugoslavia (Serbia and Montenegro), Macedonia, and Slovenia were created with the dissolution of Yugoslavia.

Effective March 14, 1996, the Department of State announced a partial lifting of the suspension of licenses and approvals to export or otherwise transfer defense articles and defense services to the states of the former Yugoslavia, except Serbia and Montenegro, pursuant to section 38 of the AECA. The Department of State advised ATF that the suspension remained in place for all states of the former Yugoslavia with regard to importation of heavy weapons, ammunition therefor, mines, military aircraft and helicopters.

The Department of State subsequently advised ATF that, effective July 12, 1996, the remainder of the restrictions on importation of defense articles and defense services from the states of the former Yugoslavia, except Serbia and Montenegro, had been lifted (See 61 FR 36625, July 12, 1996). The State Department amended its regulations concerning exports of defense articles and defense services and requested that ATF amend the regulations in 27 CFR Part 47 to reflect this change in foreign policy.

The list of proscribed countries in 27 CFR 47.52(a) is being revised to replace the listing of Yugoslavia with the names of the former states still subject to import restrictions, i.e., the Federal Republic of Yugoslavia (Serbia and Montenegro). Accordingly, ATF will approve applications to import defense articles from Bosnia and Herzegovena, Croatia, Macedonia, and Slovenia.

Importation of Parts of Military Firearms or Ammunition of United States Manufacture

By letter dated December 20, 1996, the Department of State requested that ATF amend the regulations in 27 CFR 47.57(c) to require that applications to import parts of military firearms or ammunition of United States manufacture include statements certifying that the parts were not furnished to a foreign government under a foreign assistance or sales program of the United States. The letter advised ATF that the Department of State believes that the importation of such parts must be subject to their review to be consistent with the law and Department of State policy.

The regulations in 27 CFR 47.57(c) are being revised to delete the current exemption for component parts of firearms and ammunition.

Executive Order 12866

Because the amendments to 27 CFR Part 47 involve a foreign affairs function of the United States, Executive Order 12866 does not apply.

Administrative Procedure Act

Under 27 CFR 47.54, amendments made to 27 CFR Part 47 are excluded from the rulemaking provisions of 5 U.S.C. 553 because this Part involves a foreign affairs function of the United States. Accordingly, it is not necessary to issue this Treasury Decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitations in 5 U.S.C. 553(d).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis are not applicable to this final rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law. 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Compliance With 5 U.S.C. Chapter 8

In accordance with 5 U.S.C. 808(2), ATF has found that, consistent with guidance from the Department of State and for reasons of the foreign policy of the United States, notice and public procedure under 5 U.S.C. 801 are unnecessary, impracticable, and contrary to the public interest.

Drafting Information

The principal author of this document is Scott Mendoza, Specialist, Firearms and Explosives Imports Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 47

Administrative practice and procedure, Arms and munitions, Arms control, Authority delegation, Chemicals, Customs duties and inspection, Imports, Penalties, Reporting and recordkeeping requirements, Scientific equipment, Seizures and forfeitures.

Authority and Issuance

Accordingly, 27 CFR Part 47 is amended as follows:

PART 47—IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR

Paragraph 1. The authority citation for Part 47 continues to read as follows:

Authority: 22 U.S.C. 2778.

Par. 2. Section 47.52 is amended by revising paragraph (a); by redesignating paragraphs (b), (c), and (d) as paragraphs (d), (e), and (f); by removing ''paragraph (c)'' in the first sentence of redesignated paragraph (f) and adding in its place ''paragraph (e)''; and by adding new paragraphs (b) and (c) to read as follows:

§ 47.52 Import restrictions applicable to certain countries.

(a) It is the policy of the United States to deny licenses and other approvals with respect to defense articles and defense services originating in certain countries or areas. This policy applies to Cuba, Iran, Iraq, Libya, Mongolia, North Korea, Sudan, Syria, Vietnam, and some of the states that comprised the former Soviet Union (Armenia, Azerbaijan, Belarus, and Tajikistan). This policy applies to countries or areas with respect to which the United States maintains an arms embargo (e.g., Burma, China, the Federal Republic of Yugoslavia (Serbia and Montenegro), Haiti, Liberia, Rwanda, Somalia, Sudan, UNITA (Angola), and Zaire). It also applies when an import would not be in furtherance of world peace and the security and foreign policy of the United States.

Note: Changes in foreign policy may result in additions to and deletions from the above list of countries. The ATF will publish changes to this list in the **Federal Register**. Contact the Firearms and Explosives Imports Branch at (202) 927–8320 for current information.

(b) Notwithstanding paragraph (a) of this section, the Director shall deny applications to import into the United States the following firearms and ammunition:

(1) Any firearm located or manufactured in Georgia, Kazakstan, Kyrgyzstan, Moldova, Russian Federation, Turkmenistan, Ukraine, or Uzbekistan, and any firearm previously manufactured in the Soviet Union, that is not one of the models listed below:

(i) Pistols/Revolvers:

(A) German Model P08 Pistol.

(B) IZH 34M, .22 caliber Target Pistol.

(C) IZH 35M, .22 caliber Target Pistol.

(D) Mauser Model 1896 Pistol.

(E) MC–57–1 Pistol.

(F) MC–1–5 Pistol.

(G) Polish Vis Model 35 Pistol.

(H) Soviet Nagant Revolver.

(I) TOZ 35, .22 caliber Target Pistol.

(ii) Rifles:

(A) BARS–4 Bolt Action Carbine.

(B) Biathlon Target Rifle, .22LR caliber.

(C) British Enfield Rifle.

(D) CM2, .22 caliber Target Rifle (also known as SM2, 22 caliber).

(E) German Model 98K Rifle.

(F) German Model G41 Rifle.

(G) German Model G43 Rifle.

(H) IZH–94.

(I) LOS–7 Bolt Action Rifle.

(J) MC–7–07.

(K) MC–18–3.

(L) MC–19–07.

(M) MC–105–01.

(N) MC–112–02.

(O) MC–113–02.

(P) MC–115–1.

(Q) MC–125/127.

(R) MC–126.

(S) MC–128.

(T) Saiga Rifle.

(U) Soviet Model 38 Carbine.

(V) Soviet Model 44 Carbine.

(W) Soviet Model 91/30 Rifle.

(X) TOZ 18, .22 caliber Bolt Action Rifle.

(Y) TOZ 55.

(Z) TOZ 78.

(AA) Ural Target Rifle, .22LR caliber.

(BB) VEPR Rifle.

(CC) Winchester Model 1895, Russian Model Rifle;

(2) Ammunition located or manufactured in Georgia, Kazakstan, Kyrgyzstan, Moldova, Russian Federation, Turkmenistan, Ukraine, or Uzbekistan, and ammunition previously manufactured in the Soviet Union, that is 7.62X25mm caliber (also known as 7.63X25mm caliber or .30 Mauser); or

(3) A type of firearm the manufacture of which began after February 9, 1996.

(c) The provisions of paragraph (b) of this section shall not affect the fulfillment of contracts with respect to firearms or ammunition entered or withdrawn from warehouse for consumption in the United States on or before February 9, 1996.

* * * * *

Par. 3. Section 47.57(c) is amended by removing the last sentence.

Signed: August 22, 1997.

John W. Magaw,

Director.

Approved: August 29, 1997.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary, (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 97–29595 Filed 11–14–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

RIN 0651–AA80

Changes to Patent Practice and Procedure; Correction

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule; correction.

SUMMARY: The Patent and Trademark Office (PTO) published a notice of final rulemaking entitled ''Changes to Patent Practice and Procedure'' in the **Federal Register** of October 10, 1997 (62 FR 53131). This document clarifies some of the comments, corrects a typographical error, and removes an incorrect paragraph.

EFFECTIVE DATE: December 1, 1997.

FOR FURTHER INFORMATION CONTACT: Hiram H. Bernstein or Robert W. Bahr, Senior Legal Advisors, by telephone at (703) 305–9285; or by mail addressed to: Box Comments—Patents, Assistant Commissioner for Patents, Washington, DC 20231 marked to the attention of Mr. Bernstein; or by facsimile to (703) 308–6916.

SUPPLEMENTARY INFORMATION: The PTO published a notice of final rulemaking entitled ''Changes to Patent Practice and Procedure'' in the **Federal Register** of October 10, 1997 (62 FR 53131). The comments on the changes to 37 CFR 1.16, 1.121, and 1.193 contained errors. In addition, the amendment to 37 CFR 1.17(q) contained a typographical error and the amendment to 37 CFR 1.121(a)(4) should have been withdrawn. This document clarifies the comments, corrects the typographical error, and removes an incorrect paragraph.

In the Changes to Patent Practice and Procedure notice of final rulemaking that was published in the **Federal Register** of October 10, 1997 (62 FR 53131), make the following changes:

1. On page 53134, second column, lines 7–10, delete the following sentence:

Section 1.16 is amended to add new paragraphs (m) and (n) including the unassociated text following paragraphs (d) and (l).

2. On page 53154, first column, lines 6–10, change the sentence—

The ability to provide directions to the Office for the handwritten deletion of five words or less for each claim does not encompass deletion of equations, charts or other non-word material.

to—

An equation, chart or other non-word material should not be amended by an instruction to delete (or add) only a part of the equation, chart, or non-word material. Rather, it should be amended by an instruction to delete the entire equation, chart, or non-word material and to add in its place the equation, chart or other non-word material to be substituted for the material that was deleted.

3. On page 53154, first column, lines 29–36, delete the following paragraph:

Paragraph (a)(4) of § 1.121 requires that any amendment presented in a substitute specification must be presented under the provision of this section either prior to or concurrent with the submission of the substitute specification. The paragraph contains material from canceled § 1.115.

4. On page 53168, second column, lines 8–12, change the sentences—

Thus, the Office does not consider such a rejection to constitute a ''new ground of rejection'' within the meaning of § 1.193(b). Nevertheless, § 1.193(b)(2) * * *.

to—

Thus, the Office does not consider such a rejection to constitute a ''new ground of rejection'' within the meaning of § 1.193(a). Nevertheless, § 1.193(a)(2) * * *.

§ 1.17 [Corrected]

5. Section 1.17 on page 53183, first column, correct paragraph (q) to read as follows:

§ 1.17 Patent application processing fees.

* * * * *

(q) For filing a petition to the Commissioner under a section listed below which refers to this paragraph—50.00.

§ 1.41—to supply the name or names of the inventor or inventors after the filing date without a cover sheet as prescribed by § 1.51(c)(1) in a provisional application.

§ 1.48—for correction of inventorship in a provisional application.

§ 1.53—to accord a provisional application a filing date or to convert a nonprovisional application filed under § 1.53(b) to a provisional application under § 1.53(c).

* * * * *

6. Section 1.121 on page 53193, first column, correct paragraph (a)(4) to read as follows:

§ 1.121 Manner of making amendments.

(a) * * *

(4) [Reserved]

* * * * *

Date: November 6, 1997.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 97–30118 Filed 11–14–97; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–036–1 9715; FRL–5922–4]

Revocation of the Section 182(f) Oxides of Nitrogen (NO_X) Exemption Granted to the Birmingham Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; informational notice.

SUMMARY: The EPA has rescinded its previous approval of the State of Alabama's exemption from NO_X provisions for the Birmingham marginal nonattainment area. The exemption was originally approved by EPA in 1993. It is now rescinded because the conditions which formed the basis of the original approval no longer exist; and there is no other showing from the State of Alabama that reductions of NO_X would not contribute to attainment of the ozone standard for the area.

EFFECTIVE DATE: This action was effective September 19, 1997.

ADDRESSES: Comments may be mailed to Kimberly Bingham at the EPA Region 4 address listed below. Copies of the material submitted by the Alabama Department of Environmental Management (ADEM) may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104.

Alabama Department of Environmental Management, 1751 Congressman W. L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Regulatory Planning Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303. The telephone number is (404) 562–9038.

SUPPLEMENTARY INFORMATION:

Section 182(f)(1)(A) of the Clean Air Act (CAA) provides for an exemption from New Source Review (NSR) offsets for NO_X emissions in ozone nonattainment areas where a state shows and EPA agrees that additional NO_X reductions would not contribute to attainment of the ozone standard in that area. At the time of the request submitted by the State of Alabama through the Alabama Department of Environmental Management (ADEM), the Birmingham area was required to attain the National Ambient Air Quality Standards (NAAQS) for ozone by November 15, 1993. Given this deadline, offsets from new sources of NO_X emissions applying for a permit to locate in the Birmingham area after November 15, 1992, would not in practice have been achieved prior to the expected ozone attainment date. Based on this information, the EPA determined that the application of the NO_X provisions would not have contributed to the timely attainment of the ozone standard and, therefore, approved the NO_X exemption for the Birmingham area. (58 FR 45439). Moreover, the area had ambient air quality data that demonstrated attainment of the ozone NAAQS on November 15, 1993.

Accordingly, on August 30, 1993, the EPA announced in the **Federal Register** (58 FR 45439) that it had determined, pursuant to the State's request according to the provisions of section 182(f) of the CAA, that additional reductions of NO_X would not contribute to attainment of the NAAQS for ozone in the Birmingham nonattainment area. In that same notice, the EPA approved a request from ADEM for an exemption from the CAA requirements for NSR offsets for NO_X. In addition to exempting the Birmingham ozone nonattainment area from NO_X NSR, this action also exempted the Birmingham ozone nonattainment area from applicable transportation and general conformity requirements for NO_X in accordance with 58 FR 62188 and 58 FR 63214. Because the EPA previously issued an area wide exemption under section 182(f) of the CAA, Region 4 acknowledged on November 21, 1994, that additional exemptions from the conformity requirements automatically applied to the Birmingham area.

On March 16, 1995, ADEM submitted a request for redesignation of the Birmingham marginal ozone nonattainment area to attainment status. However, prior to the close of the administrative record on the redesignation request, the Birmingham area registered a violation of the ozone standard on August 18, 1995. EPA proposed disapproval of the redesignation request and the associated maintenance plan on April 30, 1997. On September 19, 1997, EPA published in the **Federal Register**, a final rulemaking which disapproved the ozone redesignation request for the Birmingham area (See 62 FR 49154). In light of the fact that the Birmingham area continued to violate the NAAQS for ozone in 1996, the EPA could no longer conclude that additional NO_X reductions would not contribute to attainment of the ozone standard for this area. For those reasons, the NO_X exemption for the Birmingham marginal ozone nonattainment area has been revoked.

This determination was made as of the effective date of the redesignation disapproval, September 19, 1997, because the basis of the disapproval is the violation of the ozone NAAQS. A letter dated September 11, 1997, provided ADEM official notification that the waiver for Birmingham would be revoked as of the aforementioned date.

As a result of the NO_X waiver being rescinded for the Birmingham marginal ozone nonattainment area, the State will be required to implement New Source Review for major stationary sources of NO_X. Furthermore, the State will no longer have a waiver for the Birmingham ozone nonattainment area which exempts the area from CAA requirements to satisfy the general and transportation conformity requirements for NO_X. Consequently, the Birmingham Metropolitan Planning Organization and the Alabama Department of Transportation must demonstrate that the future long-range transportation plan (LRTP) and the transportation improvement program (TIP) conformity analyses satisfy the applicable VOC and NO_X requirements in section 93.109 of the transportation conformity rule, as amended on August 15, 1997. The approved conformity determination for the existing 2015 LRTP demonstrated that the ''Action'' scenarios for 2005 and 2015 will have NO_X emissions over the respective ''Baseline'' scenarios. Without an NO_X waiver, any new LRTP and/or TIP for the Birmingham area which shows such increases would not satisfy the emission reduction requirements of section 93.119 of the transportation conformity rule and would not be in conformance with the Alabama State Implementation Plan.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 31, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 97–30137 Filed 11–14–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[VA062–5030 and VA080–5030; FRL–5921–3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation Request, Maintenance Plan and Mobile Emissions Budget for the Richmond Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the redesignation request and two State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. On July 26, 1996, the Commonwealth of Virginia's Department of Environmental Quality submitted a maintenance plan as a revision to the SIP and a request to redesignate the Richmond moderate ozone nonattainment area from nonattainment to attainment. EPA's action is based upon the Commonwealth's submittal satisfying all five criteria for redesignation in the Clean Air Act (the Act), including the fact that the Richmond area has more than three years of complete, quality-assured ambient air monitoring data which demonstrates that the 1-hour .12 part per million (ppm) National Ambient Air Quality Standard (NAAQS) for ozone has been attained. The Richmond area has continued to attain the standard while its redesignation request was pending before the Agency. On July 30, 1996, the Commonwealth submitted another revision to the SIP modifying the mobile source emission budgets in the Richmond area maintenance plan in support of the area's transportation plans for the period after the year 2015. EPA is redesignating the Richmond ozone nonattainment area from nonattainment to attainment and approving the maintenance plan and mobile source emissions budget as revisions to the Virginia SIP.

EFFECTIVE DATE: This final rule is effective on December 17, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney, Ozone/Carbon Monoxide and Mobile Sources Section at (215) 566–2092. Questions may also be addressed via e-mail, at the following address: Gaffney.Kristeen@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

I. Background

On June 13, 1997, EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia (62 FR 38856). The NPR proposed approval of the redesignation request, maintenance plan and mobile source emissions budget for the Richmond moderate ozone nonattainment area. The redesignation request and maintenance plan were submitted as SIP revisions by the Commonwealth of Virginia on July 26, 1996. The mobile source emissions budget was submitted as a SIP revision on July 30, 1996. The SIP revisions establish a maintenance plan for Richmond, including contingency measures, which provides for continued attainment of the ozone NAAQS until the year 2007, and adjust the mobile source emissions budget established in the maintenance plan for Richmond to support the area's long-range transportation plans in the horizon years 2015 and beyond. This action is being taken under sections 107 and 110 of the Clean Air Act.

On July 18, 1997, EPA promulgated a new NAAQS for ozone, replacing the 1-hour .12 ppm standard with an 8-hour 0.08 ppm standard (62 FR 38856). EPA is in the process of developing guidance and proposed rules to implement the new ozone standard based on a Presidential Directive signed on July 16, 1997, and published in the **Federal Register** on July 18, 1997. Today's action is a redesignation to attainment for the Richmond area of the 1-hour .12 ppm ozone standard and approval of the maintenance plan and mobile source emissions budget as they relate to the 1-hour standard only. EPA's decision to redesignate Richmond to attainment and approve the related SIP revisions is based on the requirements of section 107 of the Act and existing EPA policy and guidance as they pertain to the 1-hour standard. Today's decision does not in any way make a determination regarding Richmond's attainment status for the newly promulgated 8-hour .08 ppm ozone standard. Decisions regarding the attainment status of areas for the new 8-hour .08 ppm ozone NAAQS will be conducted by EPA at a later date.

II. Outstanding Requirements

The June 13, 1997 NPR proposed approval of the redesignation to attainment of the Richmond area based on certain contingencies, as discussed in the NPR. Specifically, it was necessary for EPA to complete rulemaking on several outstanding Clean Air Act requirements for the Richmond area before final rulemaking on the redesignation request could be completed. These requirements, as outlined in the proposed rulemaking, are: (1) the determination of nonapplicability of certain requirements of the Act including reasonable further progress (RFP) and the attainment demonstration; (2) final approval of the proposed nitrogen oxides (NO_X) reasonably available control technology (RACT) waiver for the Richmond area; and (3) SIP approval of 12 source-specific volatile organic compound (VOC) reasonably available control technology (RACT) SIP revisions. Final EPA action has been completed for each of these requirements, as discussed below, and EPA finds that all the applicable requirements of the Act necessary for redesignations have been met for the Richmond area.

1. EPA's determination of nonapplicability of certain requirements of the Act for the Richmond area, specifically section 182(b)(1) (RFP, including the 15% plan, and attainment demonstration) and section 172(c)(9) (contingency measures) was proposed on June 13, 1997. The final determination was published in the **Federal Register** on October 6, 1997 (62 FR 52029).

2. EPA's final rulemaking to waive the NO_X RACT requirements of section 182(f) of the Act in the Richmond area was published in the **Federal Register** on July 21, 1997 (62 FR 38922).

3. EPA published final approval of 12 source specific VOC RACT SIP submittals in the **Federal Register** on October 14, 1997 (62 FR 53234 and 62 FR 53242). The approval of these 12 source specific VOC RACT approvals fulfills the section 182(a)(2) and 182(b)(2) requirements of the Act to impose RACT on major sources of VOCs in the nonattainment area.

III. Response to Public Comments

Two letters were received submitting public comments on the NPR. One letter of support for EPA's proposed action to redesignate Richmond was received from Virginia Power (July 14, 1997). The second letter was received from the New

York State Department of Environmental Conservation (NYSDEC), which submitted adverse comments regarding EPA's proposed action on the redesignation request and maintenance plan. Below are EPA's responses to the comments received in NYSDEC's letter.

Comment #1

NYSDEC disagrees with EPA's statement in the NPR that the Richmond area has met all relevant requirements of the Act that were due as of July 26, 1996, the date Virginia submitted its redesignation request. Specifically, NYSDEC states that the Commonwealth of Virginia missed the ''November 15, 1995'' statutory deadline for implementing the NO_X RACT requirements of the Act and continues to be delinquent.[1] It was noted that the Commonwealth of Virginia responded to EPA's July 8, 1994 finding of failure to submit a NO_X RACT SIP for the Richmond area with a petition for an exemption from the NO_X RACT requirement submitted on December 18, 1995. NYSDEC states that this December 18, 1995 petition was well after the mandated date of November 15, 1993 for submittal of a NO_X RACT SIP and after the mandatory implementation date. NYSDEC concludes that ''[t]herefore, not implementing NO_X RACT in the Richmond area was not an option.'' NYSDEC states that it is not a relevant factor that Richmond is now attaining the ozone NAAQS because the Richmond area has avoided implementing the NO_X RACT requirements of the Act. NYSDEC objects to the proposed approval of the redesignation request on the grounds that the area failed to implement RACT on major sources of NO_X.

Response #1

According to section 107(d)(3)(E) of the Act, five requirements must be met in order for EPA to redesignate an area from nonattainment to attainment:

1. The area must have attained the applicable NAAQS;
2. The area must have met all applicable requirements under section 110 and part D of the Act;
3. The area must have a fully approved SIP under section 110(k) of the Act;
4. The air quality improvement must be permanent and enforceable; and
5. The area must have a fully approved maintenance plan pursuant to section 175A of the Act.

The commenter asserts that the obligation to meet all applicable requirements includes the NO_X RACT requirements of part D, section 182(f) of the Act for controls on major sources of NO_X in the Richmond area. The commenter claims that Virginia's failure to implement NO_X RACT controls by November 15, 1995 disqualifies it from redesignation. This argument has been invalidated because EPA, subsequent to the proposed approval of the redesignation, has granted Virginia's request under section 182(f) for an exemption from this requirement. Therefore, the NO_X RACT requirement is no longer applicable to the Richmond area.

On December 18, 1995, the Commonwealth submitted a petition under section 182(f) of the Act to exempt the Richmond ozone nonattainment area from the NO_X RACT requirement. The exemption petition was based on ambient air monitoring data from 1993–1995 which demonstrated attainment of the 1-hour .12 ppm ozone standard. EPA proposed approval of the NO_X RACT exemption petition for the Richmond area in the **Federal Register** on March 19, 1996 (61 FR 11170). Moreover, in a separate **Federal Register** notice published on the same day, EPA made an interim final determination that stayed and deferred the implementation of sanctions which had started for this area by issuance of a July 8, 1994 EPA findings letter because the Commonwealth, contingent upon continued attainment of the ozone NAAQS, had corrected the deficiency of failing to submit the NO_X RACT rules (61 FR 11162). In conjunction with EPA's proposed approval of the NO_X waiver petition, on September 6, 1996, the Commonwealth withdrew from further EPA review the May 16, 1995 and July 17, 1995 draft NO_X RACT control SIPs submitted to EPA. EPA's proposed approval of the redesignation request and maintenance plan for Richmond was based, in part, on EPA's proposed approval of the NO_X exemption petition. As was stated in the July 13, 1997 NPR, ''although EPA is proposing approval of the Richmond redesignation request in today's action, EPA must complete final rulemaking action on the NO_X waiver before the area can be finally redesignated.'' On July 21, 1997, EPA published final approval of an exemption from the NO_X RACT requirement for the Richmond area contingent upon air quality monitoring that demonstrates continued attainment of the ozone NAAQS (62 FR 38922). This final approval waives NO_X RACT as an applicable requirement in the Richmond area for as long as the area attains the 1-hour ozone standard.

The commenter's assertion that Virginia missed a May 15, 1995 statutory deadline for implementing the NO_X RACT requirements in Richmond is irrelevant in light of EPA's final approval of the NO_X RACT exemption petition. NO_X RACT was not implemented in the Richmond area because the area had attained the standard, without needing the additional reductions of NO_X. EPA has approved the exemption of NO_X RACT for the Richmond area, and therefore, the area meets the section 182(f) requirements of the Act and has a fully-approved SIP that meets the requirements of section 107 of the Act for the purposes of redesignating the area to attainment.

EPA has not required NO_X RACT SIP revisions in approving redesignation requests in a number of other areas where it has granted section 182(f) NO_X waivers at the time of or before the redesignation of an area. See 61 FR 20462–20468 (May 7, 1996); 59 FR 49361 (September 28, 1994); and 60 FR 12459 (March 7, 1995). Please refer to these rulemakings for additional explanation of EPA's interpretation of the NO_X RACT requirements for areas attaining the ozone standard.

Comment #2

NYSDEC also disagrees with EPA's determination that the Commonwealth of Virginia has a fully approved SIP for the Richmond area under section 110(a)(2). Section 110(a)(2)(D) requires SIPs to contain adequate provisions to assure that the emissions activity of one state does not adversely affect another state from attaining the ozone NAAQS. NYSDEC states that EPA regional oxidant modeling and the regional modeling done through the Ozone Transport Assessment Group (OTAG)[2] indicate that emissions of NO_X from stationary sources upwind of the Ozone Transport Region contribute to increased ozone levels in the Northeast, including New York State.

Response #2

As stated above, for an area to be redesignated to attainment it must meet all the requirements applicable to the area under section 110. Section 110(a)(2)(D) requires that the SIP

[1] Actually, section 182(b)(2) of the Act specifies that RACT is to be implemented not later than May 15, 1995. The discrepancy in dates does not substantively affect the commenters argument.

[2] OTAG was established approximately 2 years ago to undertake an assessment of the regional transport problem and develop solutions. OTAG was a collaborative process conducted by the affected States and also included representatives from EPA, environmental groups, industry and the public.

contain adequate provisions prohibiting any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will contribute significantly to nonattainment in or interfere with maintenance by any other state with respect to any NAAQS. This provision applies by its terms to all SIPs for each pollutant covered by a NAAQS and for all areas, regardless of their attainment designation. In other words, this provision applies to both nonattainment and attainment areas. EPA's decision to provide the NO_X RACT waiver under section 182(f) for any area or redesignate any area to attainment would not shield that state from the obligation, in response to a SIP call under section 110 by EPA, for NO_X emission reductions, if evidence such as photochemical grid modeling shows that NO_X emissions contribute significantly to downwind nonattainment or maintenance problems in another state.

On October 10, 1997, Administrator Browner signed a Notice of Proposed Rulemaking to issue a SIP call under section 110(k)(5) to reduce NO_X emissions which contribute to regional transport of ozone in the Northeastern portion of the country. This Notice of Proposed Rulemaking will be published shortly in the **Federal Register**. This proposed SIP call is being issued in accordance with section 110(k)(5) and 110(a)(2)(D) of the Act. The SIP call, as proposed, will require 22 states (including the Commonwealth of Virginia) and the District of Columbia to submit, as SIP revisions, control measures to reduce statewide NO_X emissions to ensure that emission reductions are achieved as needed to comply with section 110(a)(2)(D)'s provisions on interstate transport of ozone. This action reflects the technical work done by OTAG and other pertinent regional and urban scale analyses of ozone transport. The proposed rulemaking establishes statewide emissions budgets that the 22 states and the District of Columbia need to achieve to reduce the boundary condition concentrations of ozone and its precursors within a specified timeframe and require the submission of SIP controls to achieve those reductions. EPA is taking comment on this proposed rulemaking for 120 days. Final action on the section 110 SIP call that takes into consideration public comments received on the proposal is not expected to occur until 1998.

Redesignating the Richmond area to attainment under section 107 of the Act will in no way relieve the Commonwealth of Virginia from any future obligations to secure additional NO_X reductions in the Richmond area which may result from any final action EPA takes under section 110(a)(2)(D) and 110(k)(5). EPA has interpreted section 107(d)(3)(E) to permit the Agency, when reviewing requests for redesignation, to rely on a prior SIP approval as establishing compliance with section 110 of the Act. EPA approved the Virginia SIP as meeting the requirements of section 110 [45 FR 55180, August 19, 1980; 45 FR 66789, October 8, 1980; and 45 FR 85748, December 30, 1980].

A memorandum to EPA Regional Offices from John Calcagni, dated September 4, l992, describes procedures that EPA regions should use to evaluate requests to redesignate areas to attainment status. The memo states on page 3:

> An area cannot be redesignated if a required element of its plan is the subject of a disapproval; a finding of failure to submit or to implement the SIP; or partial, conditional, or limited approval. However, this does not mean that earlier issues with regard to the SIP will be reopened. Regions should not reconsider those things that have already been approved and for which the Clean Air Act Amendments did not alter what is required.

Prior to the 1990 Amendments, the predecessor to section 110(a)(2)(D) provided that SIPs must contain provisions ''prohibiting any stationary source within the State from emitting any air pollutant in amounts which will: (1) prevent attainment or maintenance by any other State of any such national primary or secondary ambient air quality standard.'' Section 110(a)(2)(E). The 1990 amendments to the Act clarified the section by providing that SIPS must contain provisions prohibiting emissions in amounts that ''contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard.'' Section 110(a)(2)(D)(i)(I). This change codified the interpretation EPA had long given to the section. See *Air Pollution Control District* v. *EPA*, 739 F.2d 1071 (6th Cir. 1984). In 1992, EPA reviewed the amended section 110(a)(2)(D) and concluded that the 1990 Amendments merely incorporated the Agency's longstanding interpretation. See General Preamble, 57 FR 13556.

Section 110(n)(1) also states that provisions in SIPs that were approved before the 1990 Amendments shall remain in effect unless the Amendments require changes to the provisions. Thus, EPA is not obligated to reexamine the SIP provision previously approved under section 110 in the context of a redesignation rulemaking.

Based on its technical assessment that the issue of ozone transport should be addressed regionally, EPA is implementing section 110(a)(2)(D) by exercising its authority to issue SIP calls on a regional basis. EPA has not issued a final rulemaking finding that the SIP applicable to Richmond does not meet the requirements of section 110(a)(2)(D) of the Act.

Comment #3

NYSDEC also submitted several comments that were pertinent to EPA's proposed rulemaking to approve a NO_X RACT exemption for the Richmond area [March 19, 1996, 61 FR 11170]. NYSDEC believes that the NO_X RACT exemption request has been inappropriately segregated from and does not address the section 110(a)(2)(D) requirements of the Act. Further NYSDEC states that any NO_X exemption petition would also be invalid because section 110(a)(2)(D) prohibits granting an exemption from NO_X RACT pursuant to section 182(f) of the Act where there is evidence that the exemption would interfere with attainment of a NAAQS in another state.

Response #3

In the July 21, 1997 final rulemaking action on the NO_X exemption petition, EPA responded to similar adverse comments received that section 110(a)(2)(D) prohibits granting exemptions pursuant to section 182(f) where there is evidence that granting of the exemption would interfere with attainment of the ozone NAAQS in downwind areas [62 FR 38925]. In EPA's final rulemaking approving the exemption, EPA made the determination that the section 110(a)(2)(D) and 182(f) provisions must be considered independently and would not shield a state from complying with a SIP call issued by EPA pursuant to section 110 of the Act. EPA's rationale for making this determination can be found in the July 21, 1997 final approval of the NO_X exemption petition for the Richmond area and will not be restated here.

IV. Final Action

EPA has evaluated the Commonwealth's redesignation request for Richmond for consistency with the Act, EPA regulations, and EPA policy. EPA believes that the redesignation request and monitoring data demonstrate that this area has attained the 1-hour .12 ppm ozone standard. In addition, EPA has determined that the redesignation request meets the

requirements of section 107(d)(3)(E) and the policy set forth in the General Preamble and policy memoranda for area redesignations, and today is approving Virginia's redesignation request for Richmond, submitted on July 26, 1996. Furthermore, EPA is approving into the Virginia SIP the required maintenance plan, because it meets the requirements of section 175A of the Act, and the mobile source emissions budget for the Richmond area. Other specific requirements of redesignations and maintenance plans and the rationale for EPA's approval action were explained in the July 13, 1997 proposed rulemaking and will not be restated here.

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

V. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

Redesignation of an area to attainment under section 107(d)(3)(E) of the Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. EPA certifies that the approval of the redesignation request will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates

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

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

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. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of EPA's approval of the Richmond redesignation request, maintenance plan and mobile emissions budget must be filed in the United States Court of Appeals for the appropriate circuit by January 16, 1998. 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 proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirement.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: November 5, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(119) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(119) The ten year ozone maintenance plan for the Richmond, Virginia ozone nonattainment area submitted by the Virginia Department of Environmental Quality on July 26, 1996:

(i) Incorporation by reference.

(A) Letter of July 26, 1996 from the Virginia Department of Environmental Quality transmitting the 10 year ozone maintenance plan for the Richmond moderate ozone nonattainment area.

(B) The ten year ozone maintenance plan including emission projections, control measures to maintain attainment and contingency measures for the Richmond ozone nonattainment area adopted on July 26, 1996.

(ii) Additional material.

(A) Remainder of July 26, 1996 Commonwealth submittal pertaining to the redesignation request and maintenance plan referenced in paragraph (c)(119)(i) of this section.

3. Section 52.2424 is amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 52.2424 Motor vehicle emissions budgets.

* * * * *

(b) Motor vehicle emissions budget for the Richmond maintenance area adjusting the mobile emissions budget

contained in the maintenance plan for the horizon years 2015 and beyond adopted on July 30, 1996 and submitted by the Virginia Department of Environmental Quality on July 30, 1996.

PART 81—[AMENDED]

4. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671.

Subpart C—Section 107 Attainment Status Designations

4. In § 81.347 the ''Virginia—Ozone'' table is amended by revising the entry for ''Richmond Area'' to read as follows:

§ 81.347 Virginia.

* * * * *

VIRGINIA—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Richmond Area:				
Charles City County (part).....	12/17/97	Attainment.		
Beginning at the intersection of State Route 156 and the Henrico/Charles City County Line, proceeding south along State Route 5/156 to the intersection with State Route 106/156, proceeding south along Route 106/156 to the intersection with the Prince George/Charles City County line, proceeding west along the Prince George/Charles City County line to the intersection with the Chesterfield/Charles City County line, proceeding north along the Chesterfield/Charles City County line to the intersection with the Henrico/Charles City County line, proceeding north along the Henrico/Charles City County line to State Route 156.				
Chesterfield County, Colonial Heights, Hanover County, Henrico County, Hopewell, Richmond.				
* * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.

[FR Doc. 97–30138 Filed 11–14–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[OH107–3; KY94–9717a; FRL–5922–5]

Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Ohio; Kentucky

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On May 27, 1997, USEPA extended the attainment date for the Cincinnati-Hamilton interstate, moderate ozone nonattainment area from November 15, 1996 to November 15, 1997 utilizing ''direct final rulemaking'' procedures. On July 28, 1997, USEPA withdrew the direct final rule due to the receipt of adverse comments. In this action USEPA is responding to public comments received in response to the proposed rule and announcing that it is extending the attainment date for the Cincinnati-Hamilton interstate moderate ozone nonattainment area from November 15, 1996 to November 15, 1997. This extension is based in part on monitored air quality readings for the national ambient air quality standard (NAAQS) for ozone during 1996. The USEPA is also revising the table in the Code of Federal Regulations concerning ozone attainment dates in this area.

EFFECTIVE DATE: This extension becomes effective December 17, 1997.

ADDRESSES: The Kentucky SIP revision is available for inspection at the following addresses:

Environmental Protection Agency, Atlanta Federal Center, Region 4 Air Planning Branch, 61 Forsyth Street S.W., Atlanta, Georgia 30303–3104.

Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

The Ohio SIP revision is available for inspection at the following addresses:

Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Ohio EPA, Division of Air Pollution Control, 1800 Watermark Drive, Columbus, OH 43215.

FOR FURTHER INFORMATION CONTACT: Joseph M. LeVasseur at the USEPA Region 4 address listed above or Randolph O. Cano at Region 5 at the address listed above. (It is recommended that you contact Joseph M. LeVasseur at (404) 562-9035 before visiting the Region 4 office.) (It is recommended that you contact Randolph O. Cano at (312) 886–6036 before visiting the Region 5 office.)

SUPPLEMENTARY INFORMATION:

Request for Attainment Date Extension for the Cincinnati-Hamilton Metropolitan Moderate Ozone Nonattainment Area

On November 7, 1996, the Ohio Environmental Protection Agency (Ohio EPA) requested a one-year attainment date extension for the Ohio portion of the Cincinnati-Hamilton moderate ozone nonattainment area which consists of Hamilton, Butler, Clermont and Warren Counties in Ohio. Similarly, on November 15, 1996, the Kentucky Natural Resources and Environmental Protection Cabinet (KNREPC) requested

a one-year attainment date extension for the Kentucky portion of the Cincinnati-Hamilton moderate ozone nonattainment area which consists of Kenton, Boone and Campbell Counties. Since this area was classified as a moderate ozone nonattainment area, the statutory ozone attainment date, as prescribed by section 181(a) of the Clean Air Act (CAA), is November 15, 1996. The submittals requested that the attainment date be extended to November 15, 1997. On May 27, 1997 (62 FR 28634), USEPA extended the attainment date for the Cincinnati-Hamilton interstate, moderate ozone nonattainment area from November 15, 1996 to November 15, 1997 utilizing ''direct final rulemaking'' procedures. On July 28, 1997 (62 FR 40280), USEPA withdrew the direct final rule due to the receipt of adverse comments. In this action USEPA is responding to public comments received in response to the proposed rule and announcing that it is extending the attainment date for the Cincinnati-Hamilton interstate moderate ozone nonattainment area from November 15, 1996 to November 15, 1997. This extension is based in part on monitored air quality readings for the ozone national ambient air quality standard (NAAQS) during 1996.

CAA Requirements and USEPA Actions Concerning Designation and Classification

Section 107(d)(4) of the CAA requires the States and USEPA to designate areas as attainment, nonattainment, or unclassifiable for ozone as well as other pollutants for which national ambient air quality standards (NAAQS) have been set. Section 181(a)(1) requires that ozone nonattainment areas be classified as marginal, moderate, serious, severe, or extreme, depending on their air quality. In a series of **Federal Register** documents, USEPA completed this process by designating and classifying all areas of the country for ozone. See, e.g., 56 FR 58694 (Nov. 6, 1991); 57 FR 56762 (Nov. 30, 1992).

Areas designated nonattainment for ozone are required to meet attainment dates specified under the CAA. The Cincinnati-Hamilton ozone nonattainment area was designated nonattainment and classified moderate for ozone pursuant to 56 FR 58694 (Nov. 6, 1991). By this classification, its attainment date became November 15, 1996. A discussion of the attainment dates is found in 57 FR 13498 (April 16, 1992) (the General Preamble).

CAA Requirements and USEPA Actions Concerning Meeting the Attainment Date

Section 181(b)(2)(A) requires the Administrator, within six months of the attainment date, to determine whether ozone nonattainment areas attained the NAAQS. For ozone, USEPA determines attainment status on the basis of the expected number of exceedances of the NAAQS over the most recent three-year period. See General Preamble, 57 FR 13506. In the case of moderate ozone nonattainment areas, the three-year period is 1994–1996. CAA section 181(b)(2)(A) further states that, for areas classified as marginal, moderate, or serious, if the Administrator determines that the area did not attain the standard by its attainment date, the area must be reclassified upward (bumped-up).

A review of the actual ambient air quality ozone data from the USEPA Aerometric Information Retrieval System (AIRS), shows that a number of air quality monitors located in the Cincinnati-Hamilton ozone nonattainment area recorded exceedances of the NAAQS for ozone during the three-year period from 1994 to 1996. At one of these monitors, Warren County, OH, the number of expected exceedances was 2.0 per year, for 1994 and 1995. Because these exceedances averaged more than 1.0 over the three-year period, they constitute a violation of the ozone NAAQS for the Cincinnati-Hamilton area during this three-year period. Thus, the area did not meet the November 15, 1996 attainment date.

However, CAA section 181(a)(5) provides an exemption from these bump-up requirements. Under this exemption, USEPA may grant up to two, one-year extensions of the attainment date under specified conditions:

Upon application by any State, the Administrator may extend for one additional year (hereinafter referred to as the ''Extension Year'') the date specified in table 1 of paragraph (1) of this subsection if—

(A) The State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

(B) No more than one exceedance of the NAAQS level for ozone has occurred in the area in the year preceding the Extension Year.

No more than two one-year extensions may be issued for a single nonattainment area.

The USEPA interprets this provision to authorize the granting of a one-year extension under the following minimum conditions:

(1) The State requests a one-year extension,

(2) All requirements and commitments in the USEPA-approved SIP for the area have been complied with, and

(3) The area has no more than one measured exceedance of the NAAQS at each monitor in the area during the year that includes the attainment date (or the subsequent year, if a second one-year extension is requested).

TABLE 1.—EXCEEDANCES OF THE OZONE AIR QUALITY STANDARD IN THE CINCINNATI-HAMILTON AREA 1994 TO 1996

Site	County/state	Year	Exceedances measured	Expected exeedances
Oxford[1]	Butler, OH	1994	0	0.0
Middletown	Butler, OH	1994	0	0.0
Middletown	Butler, OH	1995	2	2.0
Middletown	Butler, OH	1996	1	1.0
Hamilton	Butler, OH	1994	0	0.0
Hamilton	Butler, OH	1995	1	1.0
Hamilton	Butler, OH	1996	0	0.0
4430 SR 222	Clermont, OH	1994	1	1.0
4430 SR 222	Clermont, OH	1995	1	1.0
4430 SR 222	Clermont, OH	1996	0	0.0
11590 Grooms Rd	Hamilton, OH	1994	0	0.0
11590 Grooms Rd	Hamilton, OH	1995	0	0.0
11590 Grooms Rd	Hamilton, OH	1996	0	0.0
6950 Ripple Rd	Hamilton, OH	1994	0	0.0
6950 Ripple Rd	Hamilton, OH	1995	1	1.0
6950 Ripple Rd	Hamilton, OH	1996	0	0.0

TABLE 1.—EXCEEDANCES OF THE OZONE AIR QUALITY STANDARD IN THE CINCINNATI-HAMILTON AREA 1994 TO 1996—Continued

Site	County/state	Year	Exceedances measured	Expected exeedances
Cincinnati	Hamilton, OH	1994	0	0.0
Cincinnati	Hamilton, OH	1995	1	1.0
Cincinnati	Hamilton, OH	1996	0	0.0
Lebanon	Warren, OH	1994	2	2.0
Lebanon	Warren, OH	1995	2	2.0
Lebanon	Warren, OH	1996	0	0.0
KY 338	Boone, KY	1994	0	0.0
KY 338	Boone, KY	1995	0	0.0
KY 338	Boone, KY	1996	0	0.0
Dayton	Campbell, KY	1994	0	0.0
Dayton	Campbell, KY	1995	0	0.0
Dayton	Campbell, KY	1996	1	1.0
Covington	Kenton, KY	1994	0	0.0
Covington	Kenton, KY	1995	1	1.0
Covington	Kenton, KY	1996	1	1.0

[1] This site was shutdown after 1994, so no data are available for 1995 and 1996.

In both extension requests Ohio and Kentucky indicated that they satisfied the attainment date extension criteria in as much as no monitors in the Cincinnati-Hamilton area monitored more than one exceedance each during 1996. The 1996 monitoring data has been quality controlled and quality assured, as has been the data for 1994 and 1995. These data are summarized in Table 1. An examination of the data indicates that three of the ten monitors recorded one exceedance each during 1996.

Both Ohio and Kentucky certified that they are implementing the ozone State Implementation Plans (SIPs) for the area. USEPA conducted a review of the ozone SIPs, as contained in 40 CFR part 52 and USEPA's electronic version of the SIP, and believes that the States are implementing the USEPA approved ozone SIPs. Additionally, USEPA has not made a finding of failure to implement the SIPs for the area. This supports the States' certification that the area is implementing its SIPs.

Ohio is implementing the requirements of the approved Ozone SIP. Regarding implementation of the vehicle inspection and maintenance (I/M) program, Ohio enacted legislation authorizing the I/M program and adopted regulations for the operation of the program. The USEPA approved the program on April 4, 1995 (see 60 FR 16989). The State of Ohio awarded a contract for program operations, and on January 2, 1996, Ohio began testing vehicles in the Cincinnati area. The enactment of legislation, adoption of regulations, and the capital investment in structures and equipment to perform testing meets the implementation test. While the Cincinnati program has been suspended due to program performance problems, Ohio is in compliance with CAA implementation requirements. The Ohio Stage II vapor recovery program is being implemented in the Cincinnati area. The State is also collecting emissions statements from sources in the area. The State is implementing its SIP for conformity. Also, the area is implementing its approved SIP which includes a program for controlling volatile organic compound (VOC) emissions from stationary sources. This includes the Non-Control Technique Guideline Reasonably Available Control Technique requirements approved within the past several years for the following plants in the Ohio portion of the area: Steelcraft Manufacturing Co., Chevron USA Inc., International Paper Co., Morton Thiokol, Armco Steel Co., Formica Corp., PMC Specialties Group, Hilton Davis Co., Monsanto Co., and Proctor and Gamble.

Kentucky is implementing the requirements of its approved ozone SIP for the Cincinnati-Hamilton interstate area. The Kentucky portion of the area is implementing its program for controlling oxides of nitrogen (NO_X) and VOC emissions from stationary sources.

Proposed Rule and Responses to Comments

The USEPA published a direct final rule to approve the attainment date extension request for the Cincinnati-Hamilton moderate ozone nonattainment area in the May 27, 1997 (62 FR 28634), **Federal Register**. This action was accompanied by a proposed rule (62 FR 28650). Because USEPA received comments adverse to this action, the direct final rule was withdrawn. The comments received are summarized below along with USEPA's responses. Copies of all comments have been placed in the docket file and are available for public review.

Comment 1: Ohio has failed to comply with the CAA implementation requirements under sec. 181 (a)(5)(B): ''no more than one exceedance of the NAAQS level for ozone has occurred in the area in the year preceding the Extension Year.'' The USEPA's proposal states that ''a review of the ozone data for the area indicates the area has monitored no more than one exceedance of the NAAQS at any monitor during 1996.'' Section 181 (a)(5)(B) states that one exceedance be allowed in the area, not one exceedance be allowed per monitor.

USEPA Response: Appendix H to Part 50.9 of Title 40 of the *Code of Federal Regulations* provides for review of the data from each monitor individually as opposed to adding up all of the individual monitor exceedances across the region to determine whether or not the area meets the air quality test for an extension. This is consistent with the process that USEPA uses to evaluate whether or not an area attained the ozone standard by its attainment date. For instance in the Cincinnati/Northern Kentucky area, USEPA reviewed the monitoring data collected for 1994 through 1996 at each of the ten monitors in the seven county multi-state area to determine whether or not the area attained the ozone standard by November 15, 1996. This review showed that the Lebanon monitor located in Warren County was in violation of the ozone standard. This resulted in the entire multi-state area having failed to attain the ozone standard by 1996.

In determining whether or not to extend the attainment date from 1996 to 1997, USEPA reviewed the ozone

monitoring data for 1996 at each monitoring site in the area to see if any of the sites recorded more than one exceedance of the ozone standard during 1996 (see table 1). The results of this review showed that while three of the monitors recorded an exceedance during 1996, none of the monitors recorded more than one exceedance. The monitors' exceedances were not added up to see if they were more than one, which is consistent with how USEPA evaluates data to determine if an area attained the standard by 1996. Therefore, the Cincinnati/Northern Kentucky area meets the monitoring requirements for an extension to November 15, 1997.

Comment 2: A fourth exceedance in three years was monitored at the Middletown monitoring site. Therefore, the area is in violation of the NAAQS for ozone and now qualifies for serious nonattainment so it does not meet the requirements for an extension.

USEPA Response: The criteria in section 181(a)(5) of the CAA requires that in order for an area to be eligible for an extension not more than one exeedance of the NAAQS for ozone may be monitored in the year prior to the extension year. The year prior to the extension year, in this case, is 1996. The ambient air monitoring data for the area shows that not more than one exeedance occurred in 1996 at any monitoring site in the area (see table 1). Therefore, the area satisfies the air quality requirements for an extension. The preliminary air monitoring data for 1997 shows no indication that any monitor recorded more than one exceedance.

Comment 3: Section 181 (a)(5) states that an extension may be granted if ''(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan.'' The State committed to an I/M program in their submitted SIP. The I/M program began, but was suspended on August 20, 1996, and is not expected to resume until at least after the 1997 ozone season. Additionally, the I/M program has not yet made a full cycle (a full cycle takes two years to complete). No program was implemented that would take the place of the 18 ton/day reduction which the I/M program was to provide.

USEPA Response: Ohio is implementing the I/M requirements of the SIP. The State of Ohio awarded a contract for program operations, and on January 2, 1996, Ohio began testing vehicles in the Cincinnati area. The enactment of legislation, adoption of regulations, and the capital investment in structures and equipment to perform testing meets the implementation test.

The State of Ohio has been working to resume automobile testing in the Cincinnati area. The program was suspended, due to program performance requirements. However, the State has been actively working to get the program back up and running in the area. It is reasonable to allow the State the opportunity to improve the performance of the program and to allow sufficient time to get the program operational again. It is expected that the program will be operational in January 1998.

Comment 4: The extension proposal states that Stage II vapor recovery program is fully implemented, however, according to the Hamilton County Department of Environmental Services approximately 225 warning letters are issued annually to facilities whose vapor recovery devices were delinquent upon inspection. Since the area only has about 500 facilities, it is likely not achieving the required reductions.

USEPA Response: Ohio has implemented the Stage II gasoline vapor control program in the Ohio portion of the Cincinnati ozone nonattainment area. Subsequent to the beginning of the program, inspections have been carried out by the local Department of Environmental Services (DOES). These inspections have uncovered a number of deficiencies at some of the facilities inspected prompting warning letters to facility owners. The warning letters represent a concerted effort on the part of the DOES to encourage full compliance with requirements of the Stage II program. The DOES sent 291 warning letters to gasoline dispensing facilities for a number of different deficiencies. The warning letters do not necessarily mean that the facility is not complying with all of the required elements of the Stage II rule. Of all of the letters sent, 143 letters were sent to stations because of recordkeeping deficiencies as opposed to a control equipment problem. Of the remaining 148 letters, there were 431 physical problems such as a leaking nozzle or damaged hoses, cited out of approximately 10,000 gasoline dispensing nozzles in the four Ohio counties. Some of the nozzles, for example, were cited for multiple defects. These deficiencies represent 4.3 percent or less of the nozzles having some type of problem. This indicates that for the vast majority of the facilities visited, the Stage II control equipment is operational and the stage II program is being adequately implemented in the area.

Comment 5: The interstate area continues to violate the standard while claiming its Transportation Improvement Program (TIP) will meet the standards. The Ohio Indiana Kentucky Regional Planning Commission predicts that the area's TIP will conform, but fails to meet the standard each year. This is perhaps due to the use of outdated data and modeling (from the 1960's) for determining conformity with the TIP.

USEPA Response: The CAA requires the TIP to conform to the SIP. For the Cincinnati/Northern Kentucky area this means that the area must perform a build/no build analysis on its transportation plan to show that its volatile organic compound (VOC) and oxides of nitrogen emissions (NOx) will not increase if the transportation projects are built. Additionally as part of this conformity demonstration the emissions resulting from building projects outlined in the TIP must be shown not to exceed the emissions levels that are planned for in the SIP. For Cincinnati/Northern Kentucky this calls for comparing the projected TIP emissions to the emissions in the 15% rate of progress (ROP) plan submitted by the State of Ohio to USEPA. The ROP plan provides for an emissions reduction in VOC that the area is required to meet on its way toward achieving the NAAQS. This level of emissions will result in improved air quality, but not necessarily air quality that will attain the NAAQS. The current SIP does not provide for the reductions or a specific emissions level (attainment target) in order to reach attainment of the NAAQS. Until this level is set the TIP is only required to meet the Rate of Progress (ROP) emissions targets and the build/no build test. The State has been implementing its SIP for conformity in the Cincinnati area by ensuring that the TIP meets the ROP test. Therefore, the area satisfied the SIP implementation requirement for receiving an attainment date extension.

While the interstate area is in violation of the standard, it is eligible for an attainment date extension because it meets the air quality test of no more than one exceedance at each monitor in the area.

Comment 6: The proposed extension does not include any requirements that will bring the area into compliance. Therefore, it is not reasonable to expect that a one-year extension will improve the area's air quality.

USEPA Response: Section 181(a)(5) of the CAA authorizes the Administrator to provide a one-year extension of time to attain the ozone NAAQS upon State application as long as two requirements are met. The State must have complied with all requirements and commitments pertaining to the area in the applicable

implementation plan. No more than one exceedance of the NAAQS level may have occurred in the extension area in the year proceeding the extension year. A second one-year extension may be granted if the requirements can be met the following year.

Congress likely intended the extension year as a period to evaluate the effectiveness of the control strategy prior to developing additional emission control measures. Over the course of the extension year, the Federal Motor Vehicle Emissions Control Program (FMVECP) will reduce mobile source emissions as older, more polluting motor vehicles were replaced by newer, less polluting motor vehicles. Providing an additional year for the FMVECP to operate will provide sufficient additional emission reductions bringing the area closer toward achieving attainment.

Comment 7: The scientific and medical evidence shows that levels of ozone in the area are unhealthy. The purpose of the CAA is to protect the environment and public health, and to prevent damage from air pollution. If the USEPA grants the area an extension, it would fail to enforce the CAA, and betray its mission to protect human health and the environment.

USEPA Response: As stated above, section 181(a)(5) authorizes the Administrator to grant a one-year extension of the ozone attainment date upon application by the State if the two conditions discussed above are met. In granting such an extension, the Administrator is clearly within the scope of authority granted him by the CAA. In as much as the extension is authorized by the CAA, it should be considered consistent with the goals and objectives of the CAA. The extension may allow the area to reach attainment without incurring the additional costs that would result from reclassification to a serious area.

Comment 8: The commenter states that an extension can only be granted upon state submittal of an approvable 15% plan. The areas current 15% plan is no longer valid because its I/M program has been suspended. The commenter requests further explanation of the suspension and a schedule for reimplementing the I/M program prior to any final action on the attainment date extension.

USEPA Response: In order to be granted an extension, the States are required to implement their SIPs for the Cincinnati/Northern Kentucky area. Neither Ohio nor Kentucky has 15% plans that are federally approved into the State Implementation Plans for the area. Therefore, the status of the 15% plan is not relevant to the question of whether or not the States are implementing their SIP since it is not part of the federally approved SIP. In regards to the I/M program, which is a part of the federally approved SIP for Ohio, it is expected that the program will be operational in January 1998. The State is actively working to improve the performance of the program and to restart the I/M program.

Comment 9: Implementation of NO_X Reasonably Available Control Technology (RACT) for major sources in the Ohio portion of the nonattainment area is over a year late. Concerns regarding this tardiness have been repeatedly expressed in letters addressed to USEPA. New York State Department of Environmental Conservation requests that pertinent NO_X requirements of the CAA be addressed expeditiously through revisions to the Ohio SIP.

USEPA Response: USEPA responded to the letters from the State of New York in three letters dated October 10, 1996, October 30, 1996, and January 17, 1997. In USEPA's correspondence with the State of New York, USEPA stated that it would publish a proposed rule in the **Federal Register** to provide the community with an opportunity to comment on removing the Cincinnati area's monitoring-based NO_X waiver and to comment on what ''reasonable time'' may be necessary to allow major stationary sources subject to the reasonably available control technology requirements to purchase install and operate the required controls.

Along with the USEPA's efforts in this regard, it should be noted that on October 10, 1997, USEPA Administrator Carol Browner signed a proposed rulemaking to require emissions reductions, including NO_X, in Ohio and twenty-one other states in order to reduce the effects on attainment caused by the interstate transport of ozone, which is clearly the issue that New York in its correspondence sought to have the USEPA address. The proposal reiterates USEPA's view that ozone pollution is a regional as well as a local problem. As USEPA has pointed out to New York in it's response letters, the State's concerns are more appropriately addressed through a process dealing with resolving the regional ozone pollution problem, particularly long-range transport. However, section 182(f), which authorizes the granting of NO_X waivers, focuses only on the effects of reducing NO_X in local nonattainment areas, like Cincinnati, while the provisions of section 110(a)(2)(D), the main statutory basis for the proposed action, are specifically intended to address the kinds of interstate problems exemplified by long-range ozone transport. The USEPA notes that the requirements of the proposed ''SIP call'' action if finalized would apply both to areas with approved NO_X waiver petitions and areas without such petitions. That is, any nonattainment area with NO_X waiver petitions approved by USEPA in the past or in the future are not proposed to be exempt from that action.

Comment 10: A commenter stated that the area should not be granted an extension because of existing air pollution problems that cause adverse health effects. Emission controls should be more strict. The area should not be given more time to comply because it is not enforcing current rules, and is not doing anything to solve current air pollution problems.

USEPA Response: As stated above, the one-year extension is authorized by the CAA for areas that meet the extension requirements. This gives the area an additional year to realize the benefits of the controls that are currently in place and the effects FMVECP on reducing automobile emissions. The CAA allows areas that qualify for an extension to request an attainment date extension instead of being reclassified upward to serious and implementing more emission controls. The area is enforcing its current controls as described in the above responses.

USEPA Final Action

USEPA has determined that the requirements for a one-year extension of the attainment date have been fulfilled as follows:

(1) Ohio and Kentucky have formally submitted the attainment date extension requests.

(2) Ohio and Kentucky are implementing the USEPA-approved SIPs.

(3) A review of actual ozone ambient air quality data for the Cincinnati-Hamilton area indicates that the area has monitored no more than one exceedance of the NAAQS at any monitor during 1996. Therefore, USEPA is approving the attainment date extension requests for the Cincinnati-Hamilton moderate ozone nonattainment area from November 15, 1996 to November 15, 1997.

Therefore, USEPA approves the Ohio and Kentucky attainment date extension requests for the Cincinnati-Hamilton ozone nonattainment area. As a result, the Kentucky Control Strategy for Ozone which is codified at 40 CFR 52.930 and the Ohio Control Strategy for Ozone which is codified at 40 CFR 52.1885 are being amended to record these attainment date extensions. The chart in

40 CFR 81.318 entitled ''Kentucky-Ozone'' is being modified to reflect USEPA's approval of Kentucky's attainment date extension request. The chart in 40 CFR 81.336 entitled ''Ohio-Ozone'' is also being modified to reflect USEPA's approval of Ohio's attainment date extension request.

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

Administrative Requirements

A. Executive Order (E.O.) 12866

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA 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.

Extension of an area's attainment date under the CAA does not impose any new requirements on small entities. Extension of an attainment date is an action that affects a geographical area and does not impose any regulatory requirements on sources. USEPA certifies that the approval of the attainment date extension will not affect a substantial number of small entities.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, USEPA 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 USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated 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 imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Audit Privilege and Immunity Law

Nothing in this action should be construed as making any determination or expressing any position regarding Ohio's audit privilege and immunity law (Sections 3745.70—3745.73 of the Ohio Revised Code.) The USEPA will be reviewing the effect of the Ohio audit privilege and immunity law on various Ohio environmental programs, including those under the CAA. The USEPA will take appropriate action(s), if any, after thorough analysis and opportunity for Ohio to state and explain its views and positions on the issues raised by the law. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any Ohio CAA program resulting from the effect of the audit privilege and immunity law. As a consequence of the review process, the regulations subject to the action taken herein may be disapproved, Federal approval for the CAA program under which they are implemented may be withdrawn, or other appropriate action may be taken, as necessary.

E. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, USEPA 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 this **Federal Register**. This rule is not a ''major rule'' as defined by section 804(2).

F. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 16, 1998. 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 to grant Ohio and Kentucky an extension to attain the ozone NAAQS in the Cincinnati-Hamilton ozone nonattainment area as defined in 40 CFR 81.318 and 40 CFR 81.336 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Ozone.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: November 5, 1997.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Dated: November 6, 1997.

Gail C. Ginsberg,

Acting Regional Administrator, Region 5.

Parts 52 and 81 of chapter I, title 40 of the Code of Federal Regulations are 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 S—Kentucky

2. Section 52.930 is amended by adding paragraph (d) to read as follows:

§ 52.930 Control strategy: Ozone.

* * * * *

(d) Kentucky's November 15, 1996, request for a one-year attainment date extension for the Kentucky portion of the Cincinnati-Hamilton metropolitan moderate ozone nonattainment area which consists of Kenton, Boone, and Campbell Counties is approved. The date for attaining the ozone standard in these counties is November 15, 1997.

Subpart KK—Ohio

3. Section 52.1885 is amended by adding paragraph (bb) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(bb) Ohio's November 7, 1996, request for a one-year attainment date extension

for the Ohio portion of the Cincinnati-Hamilton metropolitan moderate ozone nonattainment area which consists of Hamilton, Butler, Clermont and Warren Counties is approved. The date for attaining the ozone standard in these counties is November 15, 1997.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.318, the ''Kentucky—Ozone'' table is amended by revising the entry for the ''Cincinnati-Hamilton Area'' to read as follows:

§ 81.318 Kentucky.

* * * * *

KENTUCKY—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Cincinnati-Hamilton Area:				
Boone County		Nonattainment		Moderate.[2]
Campbell County		Nonattainment		Moderate.[2]
Kenton County		Nonattainment		Moderate.[2]
* * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.

* * * * *

3. In Section 81.336, the ''Ohio—Ozone'' table is amended by revising the entry for the ''Cincinnati-Hamilton Area'' to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Cincinnati-Hamilton Area:				
Butler County		Nonattainment		Moderate.[2]
Clermont County		Nonattainment		Moderate.[2]
Hamilton County		Nonattainment		Moderate.[2]
Warren County		Nonattainment		Moderate.[2]
* * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.

* * * * *

[FR Doc. 97–30136 Filed 11–14–97; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt

or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform.

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

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

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief Executive Officer of community	Effective date of modification	Community Number
Indiana: Allen (FEMA Docket No. 7225).	Unincorporated Areas	April 11, 1997, .. April 18, 1997, .. *Journal Gazette*	Mr. Edwin Rousseau, President of the Allen County Board of Commissioners, 1 East Main Street, Room 200, Fort Wayne, Indiana 46802.	April 4, 1997	180302 D
North Carolina: Durham (FEMA Docket No. 7197).	Unincorporated Areas	August 30, 1996,. September 6, 1996,. *The Herald-Sun*	Mr. David F. Thompson, Durham County Manager, 200 East Main Street, 2nd Floor, Durham, North Carolina 27701.	August 23, 1996	370085 G

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

Dated: October 31, 1997.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 97–30127 Filed 11–14–97; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
INDIANA	
Lebanon (City), Boone County (FEMA Docket No. 7172)	
New Reynolds Ditch:	
Approximately 1,200 feet upstream of confluence with Prairie Creek	*919
Approximately 80 feet upstream of Grant Drive	*939
Maps available for inspection at the Lebanon City Building, Inspector's Office, 201 East Main Street, Lebanon, Indiana	
MAINE	
Saco (City), York County (FEMA Docket No. 7199)	
Sawyer Brook:	
At upstream side of Sawyer Street	*63
Approximately 50 feet upstream of Therrien Avenue	*97
Atlantic Ocean (Saco Bay):	
Approximately 100 feet east of the intersection of King Avenue and Surf Street	*11
Approximately 225 feet east of the intersection of Oceanside Drive and Piney Woods Road	*13
Approximately 40 feet west of the intersection of Sunset Avenue and Surf Street	#1
Approximately 200 feet southeast of the intersection of Eastern Avenue and Bay Avenue	*13
Saco River (affected by Atlantic Ocean):	
At the intersection of Main Street and Camp Ellis Avenue	*10
Just downstream of Cataract Dam	*10
Goosefare Brook (affected by Atlantic Ocean):	
Approximately 1,500 feet west of the intersection of Green Avenue and Seaside Avenue	*10
Approximately 800 feet west of the intersection of Green Avenue and Seaside Avenue	*11
Approximately 75 feet downstream of Boston & Maine Railroad	*10
Unnamed Tributary to Scarborough River:	
Approximately 0.69 mile northeast of the intersection of Flag Road and Blue Star Memorial Highway to the downstream corporate limit	*9
Maps available for inspection at the Building Inspector's Office, City Hall, 300 Main Street, Saco, Maine.	
NORTH CAROLINA	
Wayne County (Unincorporated Areas), (FEMA Docket No. 7221)	
Mills Creek:	
Approximately 1,000 feet upstream of confluence with West Bear Creek	*95
Approximately 0.38 mile upstream of confluence with West Bear Creek	*97
Maps available for inspection at the Wayne County Planning Department, 224 East Walnut Street, Goldsboro, North Carolina	
PENNSYLVANIA	
Etna (Borough), Allegheny County (FEMA Docket No. 7223)	
Little Pine Creek West:	
At confluence with Pine Creek	*747
Approximately 600 feet upstream Greely Avenue	*763
Pine Creek:	
Confluence with Allegheny River	*736
Approximately 1,250 feet upstream of Grant Avenue	*751
Maps available for inspection at the Etna Borough Hall, 437 Butler Street, Pittsburgh, Pennsylvania	
Franklin Park (Borough), Allegheny County (FEMA Docket No. 7223)	
Pine Creek:	
Approximately 1,550 feet upstream of Meinert Road	*1,030
Approximately 0.43 mile upstream of Meinert Road	*1.033
Maps available for inspection at the Franklin Park Borough Hall, 2428 Rochester Road, Sewickley, Pennsylvania	
Hampton (Township), Allegheny County (FEMA Docket No. 7223)	
Gourdhead Run:	
At confluence with Pine Creek	*850
Approximately 0.62 mile upstream of Harts Run Road	*989
Harts Run:	
At confluence with Gourdhead Run	*925
Approximately 350 feet upstream of Harts Run Road	*1,034

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
McCaslin Run:	
At confluence with Gourdhead Run	*894
Approximately 320 feet upstream of McCully Road	*1,002
Montour Run No. 1:	
At confluence with Pine Creek	*939
Approximately 1.53 miles upstream of Wildwood Road	*990
Pine Creek:	
Approximately 1,500 feet downstream of State Route 8	*846
Approximately 160 feet upstream of Wildwood Road	*944
Crouse Run:	
At confluence with Pine Creek	*889
Approximately 50 feet downstream of Royalview Drive	*889
Maps available for inspection at the Hampton Township Hall, 3101 McCully Road, Allison Park, Pennsylvania	
Indiana (Township), Allegheny County (FEMA Docket No. 7223)	
Little Pine Creek East:	
Approximately 575 feet downstream of Saxonburg Boulevard	*897
Approximately 1,850 feet upstream of Klein Road	*955
Maps available for inspection at the Indiana Township Municipal Building, Route 910, Indianola, Pennsylvania	
McCandless (Township), Allegheny County (FEMA Docket No. 7223)	
Little Pine Creek West:	
Approximately 900 feet upstream of McIntyre Road	*1,015
Approximately 40 feet upstream of Babcock Boulevard	*1,060
Pine Creek:	
Approximately 650 feet downstream of Wildwood Road	*942
Approximately 1,800 feet upstream of Meinert Road	1,030
Maps available for inspection at the McCandless Township Hall, 9955 Grubbs Road, Wexford, Pennsylvania	
O'Hara (Township), Allegheny County (FEMA Docket No. 7223)	
Little Pine Creek East:	
Approximately 650 feet downstream of Saxonburg Boulevard	*799
Approximately 0.43 mile upstream of Browns Hill Road	*897
Maps available for inspection at the O'Hara Township Hall, 325 Fox Chapel Road, Pittsburgh, Pennsylvania	
Ross (Township), Allegheny County (FEMA Docket No. 7223)	
Little Pine Creek West:	
Approximately 0.39 mile downstream of Sutter Road	*978
Approximately 1,050 feet upstream of McIntyre Road	*1,015
Maps available for inspection at the Ross Township Hall, 5325 Perrysville Avenue, Pittsburgh, Pennsylvania	
Shaler (Township), Allegheny County (FEMA Docket No. 7223)	
Little Pine Creek East:	
At confluence with Pine Creek	*753
Approximately 750 feet upstream of Saxonburg Boulevard	*799
Little Pine Creek West:	
Approximately 850 feet upstream of confluence with Pine Creek	*747
Approximately 733 feet upstream of Clair Street	*975
Pine Creek:	
Approximately 375 feet upstream of Bridge Street	*738
Approximately 1,600 feet upstream of Elfinwild Road	*846
Maps available for inspection at the Shaler Township Building, 300 Wetzel Road, Glenshaw, Pennsylvania	
Sharpsburg (Borough), Allegheny County (FEMA Docket No. 7223)	
Pine Creek:	
Backwater area between Main Street and CONRAIL	*737
Maps available for inspection at the Sharpsburg Borough Office, 1021 North Canal, Pittsburgh, Pennsylvania	

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

Dated: October 31, 1997.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 97–30126 Filed 11–14–97; 8:45 am]

BILLING CODE 6718–04–P

Proposed Rules

Federal Register
Vol. 62, No. 221
Monday, November 17, 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 THE TREASURY

Customs Service

19 CFR Part 123

RIN 1515–AC12

Designated Land Border Crossing Locations for Certain Conveyances

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to allow Customs to designate certain land border crossing locations for specified traffic and merchandise. It is proposed to grant port directors the express authority to require that certain types of vehicles or vehicles carrying certain types of merchandise enter the United States only at designated locations within the jurisdiction of the port director. Allowing port directors to divert particular traffic to specific facilities equipped with appropriate inspection facilities will enable Customs to better balance its resources, reduce border crossing congestion, and more efficiently perform inspections of conveyances and imported merchandise while reducing risks to public health and safety.

DATES: Comments must be received on or before January 16, 1998.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, 3rd Floor, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ed Schack, Office of Field Operations, (202) 927–0251.

SUPPLEMENTARY INFORMATION:

Background

A port of entry, for Customs purposes, is any place that has been designated by Executive Order of the President, by order of the Secretary of the Treasury, or by Act of Congress as a place where a Customs officer is authorized to accept entries of merchandise, to collect duties, and to enforce the various provisions of the Customs and navigation laws. A Customs station, for Customs purposes, is any place, other than a port of entry, at which Customs officers or employees are stationed to enter and clear vessels, accept entries of merchandise, collect duties, and enforce the various provisions of the Customs and navigation laws of the United States. *See* 19 CFR 101.1. Regarding the entry of vehicles, pursuant to section 433 of the Tariff Act of 1930, as amended (19 U.S.C. 1433), vehicles may arrive in the United States only at border crossing points designated by the Secretary of the Treasury, and the person in charge of the vehicle, except as otherwise authorized by the Secretary, shall, immediately upon the vehicle's arrival, report the vehicle's arrival and present the vehicle and all persons and merchandise (including baggage) on board for inspection to the Customs officer at the Customs facility designated for that crossing point. Failure to report such arrival and make such presentation for inspection may result in the application of civil and criminal penalties, as provided under 19 U.S.C. 1436, in addition to other penalties applicable under other provisions of law. *See* 19 U.S.C. 1459 and 1497. Customs reporting and inspection requirements applicable to individuals and vehicles entering the United States at land border crossings are delineated at § 123.1, Customs Regulations (19 CFR 123.1).

Generally, entry into the United States may be accomplished at any designated border crossing point. However, certain vehicles or imported merchandise carried thereon could be processed more thoroughly, safely, and expeditiously by having the vehicle report to a particular border crossing point designed to handle the identified vehicle or merchandise, rather than by allowing the vehicle or merchandise to be entered at any border crossing point. Also, in the interests of improving cross-border traffic as well as Customs law enforcement effectiveness, there are some border crossing points that could provide better service by being restricted to noncommercial traffic and pedestrians. Customs port directors may wish to limit certain traffic in this manner for many reasons, including for purposes of reducing congestion at a particular border crossing point or for purposes of protecting public health and safety. For example, the rerouting of hazardous material cargoes to alternate facilities in less-populated areas within a port of entry or at Customs stations under the jurisdiction of the port director may offer a dual benefit for a heavily populated downtown area by relieving traffic congestion and removing the threat of a catastrophic hazardous material spill. In this regard, certain crossing facilities are better equipped than others to handle certain kinds of traffic, such as trucks carrying hazardous materials.

Accordingly, Customs proposes to amend § 123.1(b) of the Customs Regulations (19 CFR 123.1(b)) (relating to report of arrival and presentation requirements) to provide that port directors, for good cause, may require certain types of vehicles or vehicles that carry certain types of merchandise be routed to a particular border crossing facility within the jurisdiction of the port director. If a particular border crossing point is so designated by a port director, it is proposed that the port director will communicate this to the public by the same means already specified in paragraph (d) of § 123.1 for local instructions regarding report of arrival.

Comments

Before adopting this proposed regulation as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Inapplicability of the Regulatory Flexibility Act and Executive Order 12866

Pursuant to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendment will not have a significant economic impact on a substantial number of small entities. The proposed amendment provides for the expeditious processing of certain conveyances at designated locations within a port of entry or at Customs stations designed to best provide inspection services for the identified conveyances, and concerns issues of public health and safety. Accordingly, the proposed amendment is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. This amendment does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

Drafting Information: The principal author of this document was Gregory R. Vilders, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 123

Administrative practice and procedure, Canada, Common carriers, Customs duties and inspection, Entry of merchandise, Imports, International boundaries (Land border), Mexico, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

For the reasons stated above, it is proposed to amend Part 123 of the Customs Regulations (19 CFR part 123), as set forth below:

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The authority citation for Part 123 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1433, 1624; Section 123.1 also issued under 19 U.S.C. 1459;

* * * * *

2. In § 123.1, paragraph (b) is amended by adding two new sentences after the first sentence to read as follows:

§ 123.1 Report of arrival from Canada or Mexico and permission to proceed.

* * * * *

(b) *Vehicles.* * * * A port director, for good cause such as reducing traffic congestion or to protect public health and safety, may require certain types of vehicles or vehicles carrying certain types of merchandise to enter only at specified border crossing points within the jurisdiction of the port director. The port director shall communicate this requirement to the public by means of local instructions, as provided in paragraph (d) of this section. * * *

* * * * *

George J. Weise,

Commissioner of Customs.

Approved: September 24, 1997

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 97–30049 Filed 11–14–97; 8:45 am]

BILLING CODE 4820–20–P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

Revision of Public Notice, Freedom of Information Act, and Privacy Act Regulations, and Implementation of Electronic Freedom of Information Act Amendments of 1996

AGENCY: International Trade Commission.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The United States International Trade Commission (Commission) proposes to amend its rules of practice and procedure to make certain changes to rules relating to public notices, availability of information under the Freedom of Information Act (FOIA), and safeguarding of individual privacy under the Privacy Act of 1974 (Privacy Act). The intended effect of the changes is to implement the Electronic Freedom of Information Act Amendments of 1996 and otherwise to bring the rules into conformity with current Commission practices and procedures, and with current costs of providing services.

DATES: Comments must be submitted on or before Decemnber 17, 1997.

ADDRESSES: Written comments (original and 14 copies) concerning these proposed rule amendments may be submitted to the Secretary, U.S. International Trade Commission, 500 E. Street, SW, Washington, DC 20436.

FOR FURTHER INFORMATION: For further information contact the following persons in the Commission's Office of General Counsel: For the proposed Privacy Act and public notice rules amendments, Paul R. Bardos, telephone 202–205–3102; and for the proposed FOIA rules amendments, William W. Gearhart, telephone 202–205–3091. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties.

Public Notices

Commission rule § 201.10, which relates to public notices, currently provides that the Commission, *inter alia*, will publish a notice for every properly filed document that it receives, and that the Commission will furnish an announcement regarding notices to the Treasury Department for publication in *Treasury Decisions* and to the Department of Commerce for publication in *International Commerce*. The Commission seeks to bring the rule into conformity with current agency practice and eliminate both requirements. Because the Commission believes that it would be wasteful and unnecessary to provide public notice for every document filed, agency practice has been to not issue such notices. Nevertheless, the Commission will retain the discretion to provide public notification of properly filed documents as appropriate. The Commission no longer furnishes announcements of all public notices to Treasury and Commerce for further publication by those agencies and the agencies have not objected.

Freedom of Information Act

The Commission's Freedom of Information Act rules are set forth in subpart C of part 201 (currently 19 CFR 201.17 through 201.21). The Commission proposes to amend §§ 201.17, 201.18, and 201.20 to provide for expedited treatment of certain FOIA requests (as required by the Electronic Freedom of Information Act Amendments of 1996 (Pub.L. 104–231)), adjust its charges for search, review, and computer time to reflect current agency staff salary levels, and make certain other changes to clarify and update the rules.

More specifically, the Commission proposes to reorganize and amend § 201.17 of its rules to provide, in new paragraph (b), for expedited processing of FOIA requests under certain circumstances. The Commission also proposes to amend paragraph (a) of § 201.17 to state that FOIA requests will be processed in the order in which they

are filed, except when expedited processing has been requested and granted; and to advise the public that requests for agency publications can be made to the Publications Office within the Commission's Office of the Secretary and do not need to be submitted under FOIA. Finally, in new paragraph (c) the Commission would advise the public that it maintains a public reading room in the Office of the Secretary, through which the public can obtain access to agency records that the FOIA requires be made regularly available for public inspection and copying, including access in electronic form to agency records created on or after November 1, 1996. The purpose of these changes is to implement the requirements of section 8 of the Electronic Freedom of Information Act Amendments of 1996 and provide additional information on how the public can access records and how it can obtain certain agency records, such as agency publications, most expeditiously. These changes parallel rules on expedited processing recently promulgated by the U.S. Department of Justice. *See* proposed DOJ rules §§ 16.2 and 16.5, 62 FR 45185 (Aug. 26, 1997). Although these rules amendments are not yet in effect, the Commission is prepared currently to entertain requests for expedited treatment according to the procedures set out in the proposed amendments.

The Commission proposes to amend paragraph (b) of § 201.18 to provide that appeals to the Commission of denials of requests by the Secretary must be filed within 60 days of the date of the letter denying the request. This will give finality to the request process. The Commission would also delete the reference in the current rule to the right to file an appeal if a response to a FOIA request is not forthcoming within 10 days of the filing of the request. The Electronic FOIA Amendments have changed the 10-day response requirement to 20 days. A requester would still have the right to file an appeal if no response were forthcoming after 20 days.

The Commission proposes to amend paragraph (c) of § 201.18 for conformity to state that persons filing an appeal of a denial of a FOIA request may request expedited processing of that appeal, and that the request for expedited processing should conform with the process set out in § 201.17(b) of the rules.

Finally, the Commission proposes to amend § 201.20 to adjust the fees for search and review and computer time to reflect current agency personnel costs. The fees for searches will continue to reflect the distinction between lower grade clerical/professional and higher grade professional/managerial staff costs. They are based on January 1997 salary levels for GS–8, step 1, and GS 12, step 1, respectively, plus agency-paid benefits, as calculated by the Commission's Office of Finance and Budget. The Commission estimates that these are the average staff grades in each of these two categories of personnel likely to be doing such searches. The fees for computer searches and review are also based on salary level GS–12, step 1, plus agency-paid benefits, which the Commission estimates is the average staff grade of personnel likely to be doing such computer searches or review. Other Commission fees will remain the same: the Commission's copying charge will remain at 10 cents per page, and no fee will be charged unless the fee exceeds $25.00.

Privacy Act

The Commission's Privacy Act rules are set forth in subpart D of section 201 (currently 19 CFR 201.22 through 201.32). The proposed amendments to the Commission's Privacy Act rules are in response to a comprehensive review of the Commission's Privacy Act compliance conducted by the Commission's Office of Inspector General and Office of General Counsel. In general, the Commission proposes to update and clarify its Privacy Act rules and conform them to the Commission's new and revised systems of records. *See* 62 FR 23485 (April 30, 1997). Where appropriate, the Commission has also based several of the proposed amendments on the recently published proposed revisions to the Department of Justice's Privacy Act regulations. *See* 62 FR 45184 (Aug. 26, 1997).

For clarity, this notice sets forth the Commission's Privacy Act rules in their entirety although revisions are not proposed for every provision of the rules. Throughout the proposed rules, the Commission has changed all references from the ''Director of Personnel'' to ''Privacy Act Officer'' since the Director of Personnel is no longer the designated Privacy Act Officer. Where necessary, the Commission has made revisions to cross-references because new sections have been added and certain paragraphs have been deleted, and has made other minor changes of a typographical or stylistic nature.

The Commission proposes to amend § 201.22, governing the purpose and scope of the regulations, by deleting the current text of the rule and replacing it with language that would clarify that the Privacy Act rules apply only to those records of individuals found in systems of records governed by the Privacy Act maintained by the Commission that are retrieved by an individual's name or other personal identifier. The Commission also proposes to add a sentence to § 201.22 describing the scope of the rules, i.e., that the rules set forth procedures governing access to individual records, requests for amendment or correction of records, and requests for accounting of disclosures of records. These proposed changes were modeled on the Department of Justice's proposed changes to its Privacy Act regulations. *See* DOJ proposed rule § 16.40(a), 62 FR 45192 (Aug. 26, 1997).

The only change the Commission proposes for § 201.23, covering the definitions of the subpart, is to indicate that the Commission's Privacy Act Officer is now the Director of Administration, rather than the Director of Personnel.

Section 201.24 governs the procedures an individual must follow to request his or her records in a system of records. Paragraph (b) of that section currently requires an individual requesting records to furnish the name of the system(s) of records containing the requested records or reasonably describe the requested records. The Commission proposes to amend paragraph (b) to require that an individual ''whenever possible'' furnish the name of the system of records, reasonably describe the requested records, and also identify the time period in which the records were compiled. These revisions will enable the Commission to locate the requested records in the most efficient and quickest manner possible and are also in conformity with the Department of Justice's requirements for access to records. *See* DOJ proposed rule § 16.41(b), 62 FR 45192 (Aug. 26, 1997). The Commission proposes to clarify in paragraph (c) of section 201.24 that any denials of requests for access to records will be made in writing, which also is in accordance with the Department of Justice's proposed rules amendments. *See* DOJ proposed rule § 16.43(b), 62 FR 45193 (Aug. 26, 1997).

Section 201.25 governs the times, places, and requirements for identification of individuals making Privacy Act requests. As currently drafted, § 201.25(d) states that the Commission ''may'' provide for copies of an individual's records to be sent by mail under certain circumstances. The Commission proposes to revise that paragraph to entitle an individual to obtain access to his or her records by certified mail without first having to establish that the individual is unable to appear in person, as the rule currently

requires. That amendment would appear in paragraph (c) rather than (d). Proposed paragraph (d) contains the requirements for verification of identity, currently set forth in paragraph (c), and adds identification requirements for individuals requesting records by certified mail. Such requirements are consistent with the Department of Justice's proposed identification rules. *See* proposed DOJ rule § 16.41(d), 62 FR 45192 (Aug. 26, 1997).

With respect to § 201.26, governing disclosure of requested information to individuals, the Commission proposes to amend paragraph (a). The Commission proposes to revise the first sentence by explicitly requiring that the Privacy Act Officer inform an individual in writing that his or her request for access to the individual's records has been granted once the Privacy Act Officer has determined to grant a request for records. This change conforms more closely to the Department of Justice's proposed Privacy Act revisions. *See* proposed DOJ rule § 16.43(b), 62 FR 45193 (Aug. 26, 1997). The Commission proposes to amend the second sentence by deleting a cross-reference to paragraph (c) of § 201.32, since the Commission is proposing to delete that paragraph, and instead cross-reference to § 201.32 generally (governing exemptions to disclosure requirements).

The only change the Commission proposes to make in § 201.27, governing procedures for access to an individual's medical records, is to change all references from the Director of Personnel to the Privacy Act Officer.

In § 201.28(a), governing requests for correction or amendment of records, the Commission proposes to add certain requirements which have been modeled on the Department of Justice's proposed Privacy Act rules amendments. *See* DOJ proposed rule § 16.46(a), 62 FR 45194 (Aug. 26, 1997). If an individual requests an amendment to his or her records, the Commission proposes to require that the request identify each particular record in question and the system(s) of records wherein the records are located, specify the amendment requested, and specify the reasons why the records are not correct, relevant timely or complete. The Commission also proposes to have individuals submit any documentation that would be helpful in determining whether the requested amendment should be granted.

The Commission proposes to move current § 201.29, governing review by the Commission of requests for correction or amendment of records, and renumber it as § 201.30. The Commission proposes that current § 201.30, which governs disclosure of records to persons other than the individual to whom it pertains, would become § 201.29. The Commission proposes this reordering because it proposes to expand the section governing review by the Commission of requests for amendment (currently § 201.29) to add provision for Commission review of requests for access to records and requests for accounting of disclosure of records. It is thus more logical to have the section setting forth requests for an accounting of disclosure, which will be covered in proposed § 201.29, to precede the section on review by the Commission.

In addition to renumbering the section governing disclosure of records as § 201.29, the Commission proposes to make other amendments to that section. First, the Commission proposes to change the statutory reference in paragraph (a) of proposed § 201.29 from ''5 U.S.C. 552a(b)(1)–(b)(11)'' to ''5 U.S.C. 552a(b).'' In 1982, the Privacy Act was amended to add subsection (b)(12) (authorizing agencies to disclose bad-debt information to credit bureaus), which is not reflected in the current Commission rule. The Commission also proposes to include in § 201.29 a new paragraph setting forth procedures to be followed if an individual requests an accounting of disclosures made of his or her records. The procedures would be in conformity with those for other Commission Privacy Act requests such as requests for access to records and amendment of records. The Commission proposes to insert the provisions governing request procedures at paragraph (e) and redesignate current paragraph (e) as paragraph (f). Finally, the Commission proposes to rename the section ''Commission disclosure of individual records, accounting of record disclosures, and requests for accounting of record disclosures'' to reflect the expanded scope of the rule.

Under the proposed revisions, current § 201.29—entitled ''Commission review of request for correction or amendment to record''—would become § 201.30. The Commission proposes to expand the scope of that rule to include Commission review of denial of requests for access to records and denial of requests for an accounting of disclosure of records. Currently, the Commission rules contain no procedures for an individual to appeal to the Commission a denial by the Privacy Act Officer or Inspector General of a request for access or accountings of disclosure of records. The same appeal process would apply to all types of denials of requests under the Privacy Act rule. In addition, the Commission proposes to require an individual to make such an appeal within 60 days of receipt of the denial of a request by the Privacy Act Officer or Inspector General. These changes are consistent with the proposed Privacy Act rules amendments of the Department of Justice. *See* DOJ proposed rules §§ 16.45(a), 16.46(c), and 16.47(c), 62 FR 45194–45195 (Aug. 26, 1997). To reflect the expanded scope of section 201.30, the Commission proposes to change the name of the section from ''Commission review of request for correction or amendment to record'' to ''Commission review of requests for access to records, for correction or amendment of records, or for an accounting of record disclosures.''

In the rule governing fees for Privacy Act requests, § 201.31, the Commission will maintain its charge of $0.10 per page for copying an individual's Privacy Act records, but change the provision to require such fees only if the total cost of copying exceeds $25 rather than $0.50 as the rule currently provides. This would harmonize the Privacy Act's fees with the fees charged under FOIA procedures.

In addition, pursuant to 5 U.S.C. 552a(k), the Commission proposes to amend § 201.32, governing exemptions to certain Privacy Act requirements, by adding one exemption and deleting three exemptions currently set forth in the rules. The Commission proposes to delete three unnecessary general exemptions covering classified records, statistical records, and investigatory material compiled for determining suitability for employment, federal contracts, and other purposes. These exemptions are currently set forth at paragraphs (a), (b), and (c), respectively. Because these three exemptions are not applied to specific systems of records, as required by the Privacy Act, the Commission is proposing to delete them. The remaining two current exemptions covering Inspector General Investigative Files (General) and Inspector General Investigative Files (Criminal) will be retained and become paragraphs (a) and (b) of § 201.32, respectively. The Commission proposes to add an exemption for the system of records entitled ''Personnel Security Investigative Files Records'' from subsections (c)(3), (d), (e)(1), (e)(1)(G), (H) and (I), and (f) of the Privacy Act. For a complete description of the Personnel Security Investigative Files Records system, *see* 62 FR 23485–23496 (April 30, 1997). The Commission proposes to set forth this new exemption at paragraph (c), to protect from disclosure classified and other sensitive information.

Finally, the Commission proposes to add new § 201.33 entitled ''Employee conduct.'' This proposed rule would implement the requirement of the Privacy Act, set forth at 5 U.S.C. 552a(e)(9), that agencies establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of the Privacy Act.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 606(b)), the Commission hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed rules amendments set forth in this notice will not significantly affect any business or other entities, and thus are not likely to have a significant economic impact on a substantial number of small entities.

Executive Order 12866

The Commission has determined that the proposed rules amendments do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, Oct. 4, 1993) (EO) and thus do not constitute a significant regulatory action for purposes of the EO, since the revisions will not result in (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required.

Unfunded Mandates Reform Act of 1995

The proposed rules amendments will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

Small Business Regulatory Enforcement Fairness Act of 1996

The proposed rules amendments are not major rules as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121). The proposed amendments will not result in an annual effect on the economy of $100,000,000 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.

Contract With America Advancement Act of 1996

The proposed rules amendments are exempt from the reporting requirements of the Contract With America Advancement Act of 1996 (Pub. L. 104–121) because they concern rules ''of agency organization, procedure, or practice'' that do not substantially affect the rights or obligations of non-agency parties. *See* Contract With America Advancement Act, section 804(3)(c).

Paperwork Reduction Act

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

List of Subjects in 19 CFR Part 201

Administrative practice and procedure, Freedom of information, Privacy.

For the reasons set out in the preamble, the Commission proposes to amend 19 CFR part 201, subparts B, C, and D as follows:

PART 201—RULES OF GENERAL APPLICATION

1. It is proposed that the authority citation for part 201 continue to read as follows:

Authority: Sec. 335 of The Tariff Act of 1930 (19 U.S.C. 1335), and sec. 603 of the Trade Act of 1974 (19 U.S.C. 2482), unless otherwise noted.

2. It is proposed that § 201.10 be revised to read as follows:

§ 201.10 Public notices.

As required or appropriate, formal notice of the receipt of documents properly filed, of the institution of investigations, of public hearings, and of other formal actions of the Commission will be given by publication in the **Federal Register**. In addition to such publication of notice, a copy of each published notice will be posted at the Office of the Secretary of the Commission in Washington, DC, and, as appropriate, copies will be sent to press associations, to trade and similar organizations of producers and importers, and to others known to the Commission to have an interest in the subject matter.

3. It is proposed that § 201.17 be revised to read as follows:

§ 201.17 Procedures for requesting access to records.

(a) *Requests for records.* (1) A request for any information or record shall be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436 and shall indicate clearly both on the envelope and in the letter that it is a ''Freedom of Information Act Request.''

(2) Any request shall reasonably describe the requested record to facilitate location of the record. If the request pertains to a record that is part of the Commission's file in an investigation, the request should identify the investigation by number and name. A clear description of the requested record(s) should reduce the time required by the Commission to locate and disclose releasable responsive record(s) and minimize any applicable search and copying charges.

(3) Except as provided in paragraph (b) of this section, requests will be processed in the order in which they are filed.

(4) Requests for transcripts of hearings should be addressed to the official hearing reporter, the name and address of which can be obtained from the Secretary. A copy of such request shall at the same time be forwarded to the Secretary.

(5) Copies of public Commission reports and other publications can be requested by calling or writing the Publications Office in the Office of the Secretary. Generally, such publications can be obtained more quickly from this office. Certain Commission publications are sold by the Superintendent of Documents, U.S. Government Printing Office, and are available from that agency at the price set by that agency.

(6) A day-to-day, composite record will be kept by the Secretary of each request with the disposition thereof.

(b) *Expedited processing.* (1) Requests for records under paragraph (a)(1) of this section will be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within paragraph (b)(1)(ii) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within paragraph (b)(1)(ii) of this section also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within ten calendar days of receipt of a request for expedited processing, the Secretary will decide whether to grant it and will notify the requester of the decision. If a request for expedited treatment is granted, the request will be given priority and will be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

(c) *Public reading room*. The Commission maintains a public reading room in the Office of the Secretary for access to the records that the FOIA requires to be made regularly available for public inspection and copying. Reading room records created by the Commission on or after November 1, 1996, are available electronically. This includes a current subject-matter index of reading room records, which will indicate which records are available electronically.

4. It is proposed that paragraphs (b) and (c) of § 201.18 be revised to read as follows:

§ 201.18 Denial of requests, appeals from denial.

* * * * *

(b) An appeal from a denial of a request must be received within sixty days of the date of the letter of denial and shall be made to the Commission and addressed to the Chairman, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. Any such appeal shall be in writing, and shall clearly indicate both on the envelope and in the letter that it is a ''Freedom of Information Act Appeal.''

(c) Except when expedited treatment is requested and granted, appeals will be decided in the order in which they are filed, but in any case within twenty days (excepting Saturdays, Sundays, and legal holidays) unless an extension, noticed in writing with the reasons therefor, has been provided to the person making the request. Notice of the decision on appeal and the reasons therefor will be made promptly after a decision. Requests for expedited treatment should conform with the requirements in § 201.17(c) of this part.

5. It is proposed that paragraphs (b)(1)(ii) and (iii) and (b)(3)(i) of § 201.20 be revised to read as follows:

§ 201.20 Fees.

* * * * *

(b) *Charges*. * * *

(1) *Search*. * * *

(ii) For each quarter hour spent by agency personnel in salary grades GS–2 through GS–10 in searching for and retrieving a requested record, the fee shall be $4.00. When the time of agency personnel in salary grades GS–11 and above is required, the fee shall be $6.50 for each quarter hour of search and retrieval time spent by such personnel.

(iii) For computer searches of records, which may be undertaken through the use of existing programming, requester shall be charged the actual direct costs of conducting the search, although certain requesters (as defined in paragraph (c)(2) of this section) shall be entitled to the cost equivalent of two hours of manual search time without charge. These direct costs shall include the cost of operating a central processing unit for that portion of operating time that is directly attributable to searching for records responsive to a request, as well as the costs of operator/programmer salary apportionable to the search (at no more than $6.50 per quarter hour of time so spent).

* * * * *

(3) *Review*. (i) Review fees shall be assessed with respect to only those requesters who seek records for a commercial use, as defined in paragraph (j)(5) of this section. For each quarter hour spent by agency personnel in reviewing a requested record for possible disclosure, the fee shall be $6.50.

* * * * *

6. It is proposed that the authority citation for subpart D of part 201 read as follows:

Authority: 5 U.S.C. 552a.

7. It is proposed that subpart D of part 201 be revised to read as follows:

Subpart D—Safeguarding Individual Privacy Pursuant to 5 U.S.C. 552a

Sec.
201.22 Purpose and scope.
201.23 Definitions.
201.24 Procedures for requests pertaining to individual records in a records system.
201.25 Times, places, and requirements for identification of individuals making requests.
201.26 Disclosure of requested information to individuals.
201.27 Special procedures: Medical records.
201.28 Requests for correction or amendment of records.
201.29 Commission disclosure of individual records, accounting of record disclosures, and requests for accounting of record disclosures.
201.30 Commission review of requests for access to records, for correction or amendment to records, and for accounting of record disclosures.
201.31 Fees.
201.32 Specific exemptions.
201.33 Employee conduct.

Subpart D—Safeguarding Individual Privacy Pursuant to 5 U.S.C. 552a

§ 201.22 Purpose and scope.

This subpart contains the rules that the Commission follows under the Privacy Act of 1974, 5 U.S.C. 552a. The rules in this subpart apply to all records in systems of records maintained by the Commission that are retrieved by an individual's name or other personal identifier. They describe the procedures by which individuals may request access to records about themselves, request amendment or correction of those records, and request an accounting of disclosures of those records by the Commission.

§ 201.23 Definitions.

For the purpose of these regulations,

(a) The term *individual* means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term *maintain* includes maintain, collect, use, or disseminate;

(c) The term *record* means any item, collection, or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number, symbol, or other

identifying particular assigned to the individual;

(d) The term *system of records* means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying particular assigned to the individual;

(e) The term *Privacy Act Officer* refers to the Director, Office of Administration, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, or his or her designee.

§ 201.24 Procedures for requests pertaining to individual records in a records system.

(a) A request by an individual to gain access to his or her record(s) or to any information pertaining to him or her which is contained in a system of records maintained by the Commission shall be addressed to the Privacy Act Officer, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, and shall indicate clearly both on the envelope and in the letter that it is a Privacy Act request.

(b) In order to facilitate location of requested records, whenever possible, the request of the individual shall name the system(s) of records maintained by the Commission which he or she believes contain records pertaining to him or her, shall reasonably describe the requested records, and identify the time period in which the records were compiled.

(c) The Privacy Act Officer shall acknowledge receipt of a request within ten days (excluding Saturdays, Sundays, and legal public holidays), and wherever practicable, indicate whether or not access can be granted. If access is not to be granted, the requestor shall be notified of the reason in writing.

(d) The Privacy Act Officer, or, the Inspector General, if such records are maintained by the Inspector General, shall ascertain whether the systems of records maintained by the Commission contain records pertaining to the individual, and whether access will be granted. Thereupon the Privacy Act Officer shall:

(1) Notify the individual whether or not the requested record is contained in any system of records maintained by the Commission; and

(2) Notify the individual of the procedures as prescribed in §§ 201.25 and 201.26 of this part by which the individual may gain access to those records maintained by the Commission which pertain to him or her. Access to the records will be provided within 30 days (excluding Saturdays, Sundays, and legal public holidays).

§ 201.25 Times, places, and requirements for identification of individuals making requests.

(a) If an individual wishes to examine his or her records in person, it shall be the responsibility of the individual requester to arrange an appointment with the Privacy Act Officer for the purpose of inspecting individual records. The time of inspection shall be during the regular office hours of the Commission, 8:45 a.m. to 5:15 p.m., Monday through Friday. The time arranged should be mutually convenient to the requester and to the Commission.

(b) The place where an individual may gain access to records maintained by the Commission which pertain to him or her shall be at the United States International Trade Commission Building, 500 E Street SW., Washington, DC 20436. The Privacy Act Officer shall inform the individual requester of the specific room wherein inspection will take place.

(c) An individual may also request the Privacy Act Officer to provide the individual with a copy of his or her records by certified mail.

(d) An individual who requests to gain access to those records maintained by the Commission which pertain to him or her shall not be granted access to those records without first presenting adequate identification to the Privacy Act Officer. Adequate identification may include, but is not limited to, a government identification card, a driver's license, Medicare card, a birth certificate, or a passport. If requesting records by mail, an individual must provide full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under 28 U.S.C. 1746, which permits statements to be made under penalty of perjury as a substitute for notarization. In order to help the identification and location of requested records, a requestor may also, at his or her option, include the individual's social security number.

§ 201.26 Disclosure of requested information to individuals.

(a) Once the Privacy Act Officer has made a determination to grant a request for access to individual records, in whole or in part, the Privacy Act Officer shall inform the requesting individual in writing and permit the individual to review the pertinent records and to have a copy made of all or any portion of them. Where redactions due to exemptions pursuant to § 201.32 would render such records or portions thereof incomprehensible, the Privacy Act Officer shall furnish an abstract in addition to an actual copy.

(b) An individual has the right to have a person of his or her own choosing accompany him or her to review his or her records. The Privacy Act Officer shall permit a person of the individual requester's choosing to accompany the individual during inspection.

(c) When the individual requests the Privacy Act Officer to permit a person of the individual's choosing to accompany him or her during the inspection of his or her records, the Privacy Act Officer shall require the individual requester to furnish a written statement authorizing discussion of the records in the accompanying person's presence.

(d) The Privacy Act Officer shall take all necessary steps to insure that individual privacy is protected while the individual requester is inspecting his or her records or while those records are being discussed. Only the Privacy Act Officer shall accompany the individual as representative of the Commission during the inspection of the individual's records. The Privacy Act Officer shall be authorized to discuss the pertinent records with the individual.

§ 201.27 Special procedures: Medical records.

(a) While an individual has an unqualified right of access to the records in systems of records maintained by the Commission which pertain to him or her, medical and psychological records merit special treatment because of the possibility that disclosure will have an adverse physical or psychological effect upon the requesting individual. Accordingly, in those instances where an individual is requesting the medical and/or psychological records which pertain to him or her, he or she shall, in his or her Privacy Act request to the Privacy Act Officer as called for in § 201.24(a) of this part, specify a physician to whom the medical and/or psychological records may be released.

(b) It shall be the responsibility of the individual requesting medical or psychological records to specify a physician to whom the requested records may be released. If an individual refuses to name a physician and insists on inspecting his or her medical or psychological records in the absence of a doctor's discussion and advice, the individual shall so state in his or her Privacy Act request to the Privacy Act Officer as called for in § 201.24(a) of this part and the Privacy Act Officer shall provide access to or

transmit such records directly to the individual.

§ 201.28 Requests for correction or amendment of records.

(a) If, upon viewing his or her records, an individual disagrees with a portion thereof or feels sections thereof to be erroneous, the individual may request amendment[s] of the records pertaining to him or her. The individual should request such an amendment in writing and should identify each particular record in question, the system[s] of records wherein the records are located, specify the amendment requested, and specify the reasons why the records are not correct, relevant timely or complete. The individual may submit any documentation that would be helpful. The request for amendment of records shall be addressed to the Privacy Act Officer, United States International Trade Commission, 500 E Street SW., Washington, DC 20436, and shall clearly indicate both on the envelope and in the letter that it is a Privacy Act request for amendment of records.

(b) Not later than 10 days (excluding Saturdays, Sundays and legal public holidays) after the date of receipt of a Privacy Act request for amendment of records, the Privacy Act Officer shall acknowledge such receipt in writing. Such a request for amendment will be granted or denied by the Privacy Act Officer or, for records maintained by the Inspector General. If the request is granted, the Privacy Act Officer, or the Inspector General for records maintained by the Inspector General, shall promptly make any correction of any portion of the record which the individual believes is not accurate, relevant, timely, or complete. If, however, the request is denied, the Privacy Act Officer shall inform the individual of the refusal to amend the record in accordance with the individual's request and give the reason(s) for the refusal. In cases where the Privacy Act Officer or the Inspector General has refused to amend in accordance with an individual's request, he or she also shall advise the individual of the procedures under § 201.30 of this part for the individual to request a review of that refusal by the full Commission or by an officer designated by the Commission.

§ 201.29 Commission disclosure of individual records, accounting of record disclosures, and requests for accounting of record disclosures.

(a) It is the policy of the Commission not to disclose, except as permitted under 5 U.S.C. 552a(b), any record which is contained in any system of records maintained by the Commission to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains.

(b) Except for disclosures either to officers and employees of the Commission, or to contractor employees who, in the Inspector General's or the Privacy Act Officer's judgment, as appropriate, are acting as federal employees, who have a need for the record in the performance of their duties, and any disclosure required by 5 U.S.C. 552, the Privacy Act Officer shall keep an accurate accounting of:

(1) The date, nature, and purpose of each disclosure of a record to any person or to another agency under paragraph (a) of this section; and

(2) The name or address of the person or agency to whom the disclosure is made.

(c) The Privacy Act Officer shall retain the accounting required by paragraph (b) of this section for at least five years or the life of the record, whichever is longer, after such disclosure.

(d) Except for disclosures made to other agencies for civil or criminal law enforcement purposes pursuant to 5 U.S.C. 552a(b)(7), the Privacy Act Officer shall make any accounting made under paragraph (b) of this section available to the individual named in the record at the individual's request.

(e) An individual requesting an accounting of disclosure of his or her records should make the request in writing to the Privacy Act Officer, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The request should identify each particular record in question and, whenever possible, the system[s] of records wherein the requested records are located, and clearly indicate both on the envelope and in the letter that it is a Privacy Act request for an accounting of disclosure of records.

(f) Where the Commission has provided any person or other agency with an individual record and such accounting as required by paragraph (b) of this section has been made, the Privacy Act Officer shall inform all such persons or other agencies of any correction, amendment, or notation of dispute concerning said record.

§ 201.30 Commission review of requests for access to records, for correction or amendment to records, and for accounting of record disclosures.

(a) The individual who disagrees with the refusal of the Privacy Act Officer or the Inspector General for access to a record, to amend a record, or to obtain an accounting of any record disclosure, may request a review of such refusal by the Commission within 60 days of receipt of the denial of his or her request. A request for review of such a refusal should be addressed to the Chairman, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, and shall clearly indicate both on the envelope and in the letter that it is a Privacy Act review request.

(b) Not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the Commission receives a request for review of the Privacy Act Officer's or the Inspector General's refusal to grant access to a record, to amend a record, or to provide an accounting of a record disclosure, the Commission shall complete such a review and make a final determination thereof unless, for good cause shown, the Commission extends the 30-day period.

(c) After the individual's request has been reviewed by the Commission, if the Commission agrees with the Privacy Act Officer's or the Inspector General's refusal to grant access to a record, to amend a record, or to provide an accounting of a record disclosure, in accordance with the individual's request, the Commission shall:

(1) Notify the individual in writing of the Commission's decision;

(2) For requests to amend or correct records, advise the individual that he or she has the right to file a concise statement of disagreement with the Commission which sets forth his or her reasons for disagreement with the refusal of the Commission to grant the individual's request; and

(3) Notify the individual of his or her legal right, if any, to judicial review of the Commission's final determination.

(d) In any disclosure, containing information about which the individual has filed a statement of disagreement regarding an amendment of an individual's record, the Privacy Act Officer, or, for records maintained by the Inspector General, the Inspector General, shall clearly note any portion of the record which is disputed and shall provide copies of the statement and, if the Commission deems it appropriate, copies of a concise statement of the reasons of the Commission for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed.

§ 201.31 Fees.

(a) The Commission shall not charge any fee for the cost of searching for and reviewing an individual's records.

(b) Reproduction, duplication or copying of records by the Commission shall be at the rate of $0.10 per page. There shall be no charge, however, when the total amount does not exceed $25.00.

§ 201.32 Specific exemptions.

(a) Pursuant to 5 U.S.C. 552a(k)(2), and in order to protect the effectiveness of Inspector General investigations by preventing individuals who may be the subject of an investigation from obtaining access to the records and thus obtaining the opportunity to conceal or destroy evidence or to intimidate witnesses, records contained in the system titled Office of Inspector General Investigative Files (General), insofar as they include investigatory material compiled for law enforcement purposes, shall be exempt from this subpart and from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of the Privacy Act. However, if any individual is denied any right, privilege, or benefit to which he is otherwise entitled to under Federal law due to the maintenance of this material, such material shall be provided to such individual except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to government investigators under an express promise that the identity of the source would be held in confidence.

(b) Pursuant to 5 U.S.C. 552a(j)(2), and in order to protect the confidentiality and integrity of Inspector General investigations by preventing individuals who may be the subject of an investigation from obtaining access to the records and thus obtaining the opportunity to conceal or destroy evidence or to intimidate witnesses, records maintained in the Office of Inspector General Investigative Files (Criminal), insofar as they contain information pertaining to the enforcement of criminal laws, shall be exempt from this subpart and from the Privacy Act, except that subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11) and (i) shall still apply to these records.

(c) Pursuant to 5 U.S.C. 552a(k)(1), (5) and (6), records contained in the system entitled ''Personnel Security Investigative Files'' have been exempted from subsections (c)(3), (d), (e)(1), (e)(1)(G)-(I) and (f) of the Privacy Act. Pursuant to section 552a(k)(1) of the Privacy Act, the Commission exempts records that contain properly classified information that pertains to national defense or foreign policy and is obtained from other systems of records or another Federal agency. Application of exemption (k)(1) may be necessary to preclude the data subject's access to and amendment of such classified information under 5 U.S.C. 552a(d). All information about individuals in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is also exempted because this system contains investigatory material compiled solely for determining suitability, eligibility, and qualifications for Federal civilian employment, Federal contracts or access to classified information. To the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, the application of exemption (k)(5) will be required to honor such a promise should an individual request access to the accounting of disclosure, or access to or amendment of the record, that would reveal the identity of a confidential source. All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is also exempt because portions of a case file record may relate to testing and examining material used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

§ 201.33 Employee conduct.

The Privacy Act Officer shall establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and periodically instruct each such person with respect to such rules and the requirements of the Privacy Act including the penalties for noncompliance.

Issued: November 7, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–29865 Filed 11–14–97; 8:45 am]

BILLING CODE 7020–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7235]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management

requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	ιDepth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maine	Union (Town), Knox County.	Medomak River	At downstream county boundary	*None	*137
			At upstream corporate limits	*None	*200
		Crawford River	At the confluence with Seven Tree Pond	*None	*45
			At the confluence with Crawford Pond	*None	*113
		St. George River	At the confluence with Round Pond	*None	*45
			At Sennebec Pond Dam	*None	*85
		Mill Stream	At downstream corporate limits	*None	*113
			At Lermond Pond Dam	*None	*269
		Sennebec Pond	Entire shoreline within community	*None	*92
		Round Pond	Entire shoreline within community	*None	*45
		Seven Tree Pond	Entire shoreline within community	*None	*45
		Crawford Pond	Entire shoreline within community	*None	*113
		Lermond Pond	Entire shoreline within community	*None	*270
Maps available for inspection at the Union Town Office, 568 Common Road, Union, Maine.					
Send comments to Mr. Andrew Hart, Union Town Manager, P.O. Box 186, Union, Maine 04862–0186.					
Michigan	Clinton (Township), Macomb County.	Clinton River	Approximately 800 feet downstream of Hall Road.	*594	*595
		Middle Branch	At Hall Road	*594	*595
Maps available for inspection at the Clinton Township Office, Planning Department, 40700 Romeo Plank Road, Clinton Township, Michigan.					
Send comments to Mr. James R. Sinnamon, Clinton Township Supervisor, 40700 Romeo Plank Road, Clinton Township, Michigan 48038.					
Mississippi	Laurel (City), Jones County.	Daphne Park Tributary	Upstream side of Illinois Central Gulf Railroad.	*229	*230
			Approximately 750 feet upstream of 8th Street.	*None	*270
Maps available for inspection at the City of Laurel Inspection Department, 401 North 5th Avenue, Room 304, Laurel, Mississippi.					
Send comments to Mr. T.G. Myrick, City of Laurel Chief Administrative Officer, P.O. Box 647, Laurel, Mississippi 39441.					
New Hampshire	Alexandria (Town), Grafton County.	Newfound Lake	Entire shoreline within community	None	*591
Maps available for inspection at the Alexandria Town Hall, Plummer Hill, Alexandria, New Hampshire.					
Send comments to Mr. Ernest Parmenter, Chairman of the Town of Alexandria Board of Selectmen, Alexandria Town Office, Plummer Hill, Alexandria, New Hampshire 03222.					
New Hampshire	Hebron (Town), Grafton County.	Newfound Lake	Entire shoreline within community	*None	*591

State	City/town/county	Source of flooding	Location	ıDepth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Hebron Town Hall, Church Lane, Hebron, New Hampshire.					
Send comments to Mr. William White, Chairman of the Town of Hebron Board of Selectmen, P.O. Box 188, Hebron, New Hampshire 03241.					
Pennsylvania	Carroll (Township) Perry County.	Sherman Creek	Approximately .43 mile downstream of State Route 34.	*441	*442
			Downstream side of Pisgah State Road ..	*455	*457
		Unnamed Tributary to Sherman Creek.	Confluence with Sherman Creek	*448	*447
			Approximately 350 feet downstream of Private Road.	*448	*447
Maps available for inspection at the Office of the Township Secretary, 5235 Spring Road, Shermans Dale, Pennsylvania.					
Send comments to Mr. Charles E. Lupfer, Chairman of the Carroll Township Board of Supervisors, 280 Airy View Road, Shermans Dale, Pennsylvania 17090.					

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

Dated: October 31, 1997.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 97–30125 Filed 11–14–97; 8:45 am]

BILLING CODE 6718–04–P

Notices

Federal Register
Vol. 62, No. 221
Monday, November 17, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; Systems of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Revision of Privacy Act systems of records.

SUMMARY: Pursuant to 5 U.S.C. 552a(e)(4) the United States Department of Agriculture (USDA) is revising the Privacy Act Systems of Records maintained by the Office of Inspector General (OIG) published in the **Federal Register** on October 11, 1994, on pages 54105–51413 and modifies the list of routine uses listed under USDA/OIG–1 and made applicable *in verbatim* to systems, USDA/OIG–2, USDA/OIG–3, USDA/OIG–4, USDA/OIG–5, USDA/OIG–6, and USDA/OIG–7, by adding text to allow the release of names of arrested persons and to reflect changes in office addresses which are applicable to all USDA/OIG systems.

DATES: This revision becomes effective (January 2, 1998) without further notice unless changes are made in response to comments received from the public.

FOR FURTHER INFORMATION CONTACT: Paula F. Hayes, Assistant Inspector General for Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C. 20250–2310 (202–720–6979).

SUPPLEMENTARY INFORMATION: The revision in the routines uses listed under system USDA/OIG–1, Employee Records, USDA/OIG, and made applicable *in verbatim*, by reference, to systems USDA/OIG–2, USDA/OIG–3, USDA/OIG–4, USDA/OIG–5, USDA/OIG–6, and USDA/OIG–7, adds a routine use number 13 which reads as follows: ''Relevant information from a system of records may be disclosed to the news media and general public where there exists a legitimate public interest, *e.g.*, to assist in the location of fugitives, to provide notification of arrests, where necessary for protection from imminent threat of life or property, or in accordance with guidelines set out by the Department of Justice in 28 CFR 50.2.''

Proposed changes applicable to all USDA/OIG systems include changes in office addresses also under system USDA/OIG–1, Employee Records, USDA/OIG.

Accordingly, USDA is revising the full text of the OIG Systems of Records last published in full in 50 FR 50814, December 12, 1985, and amended in part in 54 FR 39552, September 27, 1989.

A Privacy Act Systems Report relating to the proposed changes, required by 5 U.S.C. 552a(r), has been set to the Office of Management and Budget and Congress.

Done at Washington, DC, this 3rd day of November 1997.

Dan Glickman,
Secretary of Agriculture.

USDA/OIG–1

SYSTEM NAME:

Employee Records, USDA/OIG.

SYSTEM LOCATION:

In the headquarters offices of the U.S. Department of Agriculture (USDA), Office of Inspector General (OIG) and Office of Personnel (OP) in the Jamie L. Whitten Federal Building, 1400 Independence Avenue SW., Washington, DC 20250, and Franklin Court, 1099 14th Street NW., Washington, DC 20005, and in the following OIG regional offices and suboffices:

OIG Regional Offices

600 Harrison Street, Suite 225, San Francisco, California 94017
401 West Peachtree Street NW., Room 2328, Audit; Room 2329, Investigations, Atlanta, Georgia 30365–3520
111 North Canal Street, Suite 1130, Chicago, Illinois 60606–7295
ATTN: Suite 5006, 4700 River Road, Unit 151, Riverdale, Maryland 20737–1237
PO Box 293, Kansas City, Missouri 64141
26 Federal Plaza, Room 1409, New York, New York 10278
101 South Main, Room 324, Audit; Room 311, Investigations, Temple, Texas 76501

OIG/Audit Suboffices

1510 ''J'' Street, Suite 120, Sacramento, California 95814
2850 McClellan, Suite 3500, Fort Collins, Colorado 80525
3008 NW. 13th Street, Suite B, Gainesville, Florida 32609
3736 Government Street, Alexandria, Louisiana 71302
13800 Old Gentilly Road, New Orleans, Louisiana 70129
3001 Coolidge Road, Suite 150, East Lansing, Michigan 48823–6321
375 Jackson Street, Suite 320, St. Paul, Minnesota 55101–1850
Millsaps Building, Suite 400, 201 West Capitol Street, Jackson, Mississippi 39201
PO Box 14153 Main Post Office, St. Louis, Missouri 63120
100 Centennial Mall North, Room 276, Lincoln, Nebraska 68508
Mercer Corporate Park, 310 Corporate Boulevard, Robinsville, New Jersey 08691–1598
26 Federal Plaza, Room 1415, New York, New York 10278
4407 Bland Road, Room 110, Raleigh, North Carolina 27609
200 N. High Street, Room 346, Columbus, Ohio 43215–2408
Edith Green Wendell Wyatt Federal Office Building, 1220 SW. Third Avenue, Room 1640, Portland, Oregon 97204–2893
One Credit Union Place, Suite 350, Harrisburg, Pennsylvania 17110–2992
233 Cumberland Bend, Room 204, Nashville, Tennessee 37228
1200 Main Tower, Room 880, Dallas, Texas 75202

OIG/Investigation Suboffices

522 N. Central Avenue, Room 202, Phoenix, Arizona 85004
21660 East Copley Drive, Suite 370, Diamond Bar, California 91765
1510 ''J'' Street, Suite 110, Sacramento, California 95814
1961 Stout Street, Suite 1524, Drawer 3528, Denver, Colorado 80294
6039 Lakeside Boulevard, Indianapolis, Indiana 46278–1989
3001 Coolidge Road, Suite 150, East Lansing, Michigan 48823–6321
375 Jackson Street, Suite 320, St. Paul, Minnesota 55101–1850
Millsaps Building, Suite 410, 201 West Capitol Street, Jackson, Mississippi 39201
911 Washington Avenue, Suite 203, St. Louis, Missouri 63101

4407 Bland Road, Room 110, Raleigh, North Carolina 27609
200 North High Street, Room 350, Columbus, Ohio 43215–2408
660 American Avenue, Suite 201, King of Prussia, Pennsylvania 19406–4032
233 Cumberland Bend, Room 208, Nashville, Tennessee 37228
1200 Main Tower, Room 880, Dallas, Texas 75202
1000 Second Avenue, Suite 1950, Seattle, Washington 98104

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

OIG temporary and permanent employees, former employees of OIG and predecessor offices, and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records show or relate to employment, personnel management, and work-related information, including position, classification, title, grade, pay rate, pay, temporary and permanent addresses and telephone numbers for home and work, copies of security clearance forms, program and performance evaluations, promotions, retirement, disciplinary actions, appeals, incentive programs, unemployment compensation, leave, complaints and grievances, health benefits, equal employment opportunity, automation of personnel data, travel information, accident reports and related information, activity reports, participation in savings and contribution programs, availability for employment, assignment, or for transfer, qualifications (for law enforcement employees this includes Attorney General designations, training certificates, physical fitness data, and medical officer's certification excluding personal medical data), awards, hours worked, issuance of credentials, passports and other identification, assignment and accountability of property and other things of value, parking space assignments, training and development, special assignments, and exit interviews.

Other employee records are covered by other systems as follows: For Official Personnel Folder (OPF) data refer to USDA/OP–1, Personnel and Payroll System for USDA Employees; for medical records, including SF–78, Certificate of Medical Examination, and drug testing records, refer to OPM/GOVT–10, Employee Medical File System; for pre-employment inquiries refer to USDA/OIG–3, Investigative Files and Automated Investigative Indices; for annual financial disclosure statements refer to OPM/GOVT–8, Confidential Statements of Employment and Financial Interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

IG Act of 1978, 5 U.S.C. app.; 5 U.S.C. 301; 7 U.S.C. 2270.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) A record from the system of records which indicates either by itself or in combination with other information, a violation or potential violation of a contract or of law, whether civil, criminal, or regulatory, or which otherwise reflects on the qualifications or fitness of a licensed (or seeking to be licensed) individual, may be disclosed to a Federal, State, local, foreign, or self-regulatory agency (including but not limited to organizations such as professional associations or licensing boards), or other public authority that investigates or prosecutes or assists in such investigation, prosecution, enforcement, implementation, or issuance of the statute, rule, regulation, order, or license.

(2) A record from the system of records may be disclosed to a Federal, State, local, or foreign agency, other public authority, consumer reporting agency, or professional organization maintaining civil, criminal, or other relevant enforcement or other pertinent records, such as current licenses, in order to obtain information relevant to an OIG decision concerning employee retention or other personnel action, issuance of a security clearance, letting of a contract or other procurement action, issuance of a benefit, establishment of a claim, collection of a delinquent debt, or initiation of an administrative, civil, or criminal action.

(3) A record from the system of records may be disclosed to a Federal, State, local, foreign, or self-regulatory agency (including but not limited to organizations such as professional associations or licensing boards), or other public authority, to the extent the information is relevant and necessary to the requestor's hiring or retention of an individual or any other personnel action, issuance or revocation of a security clearance, license, grant, or other benefit, establishment of a claim, letting of a contract, reporting of an investigation of an individual, for purposes of a suspension or debarment action, or the initiation of administrative, civil, or criminal action.

(4) A record from the system of records may be disclosed to any source—private or public—to the extent necessary to secure from such source information relevant to a legitimate OIG investigation, audit, or other inquiry.

(5) A record from the system of records may be disclosed to the Department of Justice in the course of litigation when the use of such records by the Department of Justice is deemed relevant and necessary to the litigation and may be disclosed in a proceeding before a court, adjudicative body, or administrative tribunal, or in the course of civil discovery, litigation, or settlement negotiations, when a part to a legal action or an entity or individual having an interest in the litigation includes any of the following:

(a) The OIG or any component thereof;

(b) Any employee of the OIG in his or her official capacity;

(c) Any employee of the OIG in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(d) The United States, where the OIG determines that litigation is likely to affect USDA or any of its components.

(6) A record from the system of records may be disclosed to a Member of Congress from the record of an individual in response to an inquiry from the Member of Congress made at the request of that individual. In such cases however, the Member's right to a record is no greater than that of the individual.

(7) A record from the system of records may be disclosed to the Department of Justice for the purpose of obtaining its advice on an OIG audit, investigation, or other inquiry, including Freedom of Information or Privacy Act matters.

(8) A record from the system of records may be disclosed to the Office of Management and Budget for the purpose of obtaining its advice regarding OIG obligations under the Privacy Act or in connection with the review of private relief legislation.

(9) A record from the system of records may be disclosed to a private firm with which OIG contemplates it will contract or with which it has contracted for the purpose of performing any functions or analyses that facilitate or are relevant to an OIG investigation, audit, inspection, or other inquiry. Such contractor or private firm shall be required to maintain Privacy Act safeguards with respect to such information.

(10) A record from the system of records may be disclosed in response to a subpoena issued by a Federal agency having the power to subpoena records of other Federal agencies if the OIG determines that: (a) The records are both relevant and necessary to the proceeding, and (b) such release is

compatible with the purpose for which the records were collected.

(11) A record from the system of records may be disclosed to a grand jury agent pursuant either to a Federal or State grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury, provided that the grand jury channels its request through the cognizant U.S. Attorney, that the U.S. Attorney has been delegated the authority to make such requests by the Attorney General, and that the U.S. Attorney actually signs the letter specifying both the information sought and the law enforcement purpose served. In the case of a State grand jury subpoena, the State equivalent of the U.S. Attorney and Attorney General shall be substituted.

(12) A record from the system of records may be disclosed, as a routine use, to a Federal, State, local, or foreign agency, or other public authority, for use in computer matching programs to prevent and detect fraud and abuse in benefit programs administered by any agency, to support civil and criminal law enforcement activities of any agency and its components, and to collect debts and overpayments owed to any agency and its components.

(13) Relevant information from a system of records may be disclosed to the news media and general public where there exists a legitimate public interest, *e.g.*, to assist in the location of fugitives, to provide notification of arrests, where necessary for protection from imminent threat of life or property, or in accordance with guidelines set out by the Department of Justice in 28 CFR 50.2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computers and automated image filing systems, and in file folders, notebooks, and card file boxes.

RETRIEVABILITY:

The records are retrieved by name of individual employee and by social security number.

SAFEGUARDS:

Computer files are password protected and other records are kept in limited-access areas during duty hours and in locked offices during nonduty hours.

RETENTION AND DISPOSAL:

Retention periods and disposal methods vary by record categories as set forth in National Archives and Records Administration General Records Schedules 1 (Civilian Personnel Records) and 2 (Payrolling and Pay Administration Records). Personal information that the agency deems to be potentially derogatory or embarrassing is shredded when retention period expires.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Resources Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2307.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her from the Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

RECORD ACCESS PROCEDURES:

An individual may request access to a record in this system which pertains to him/her by submitting a written request to the Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

CONTESTING RECORD PROCEDURES:

An individual may contest information in this system which pertain to him/her by submitting a written request to the Assistant Inspector General for Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2310.

RECORD SOURCE CATEGORIES:

The primary information is furnished by the individual employee. Additional information is provided by supervisors, coworkers, references, and others.

USDA/OIG–2

SYSTEM NAME:

Informant and Undercover Agent Records, USDA/OIG.

SYSTEM LOCATION:

In the OIG headquarters office in the Jamie L Whitten Federal Building, 1400 Independence Avenue SW., Washington, DC 20250–2317, and in the OIG regional offices and Investigations suboffices listed in the system of records designated USDA/OIG–1.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Confidential informants, investigative operatives, and undercover OIG special agents or other law enforcement personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, occupations, criminal histories, and other information about confidential informants and investigative operatives, together with allegations against them, and the types of information previously furnished by or to be expected from them. Types, dates of issuance and destruction, and details of false identification documents used by OIG special agents and other law enforcement personnel for undercover activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

IG Act of 1978, 5 U.S.C. app.; 5 U.S.C. 301; 7 U.S.C. 2270.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses (1) through (13) listed in the system of records designated USDA/OIG–1.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored on sheets of paper and index cards, and in file folders and computers.

RETRIEVABILITY:

The records are retrieved by name of confidential informant, investigative operative, or special agent.

SAFEGUARDS:

Computer files are password protected and other records are kept in limited-access areas during duty hours and in locked offices during nonduty hours.

RETENTION AND DISPOSAL:

Confidential informant and investigative operative information is kept for 5 years after the date it is put into inactive status. It is then destroyed. Undercover identification documents are kept until the agency determines them to be outdated. They are then destroyed.

STSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of

Agriculture, Washington, DC 20250–2317.

NOTIFICATION PROCEDURE:

Inquiries and requests should be addressed to the Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

RECORD ACCESS PROCEDURES:

To request access to information in this system write to the Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

CONTESTING RECORD PROCEDURES:

An individual may contest information in this system which pertains to him/her by submitting a written request to the Assistant Inspector General for Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2310.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j)(2), this system of records has been exempted from all provisions of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10) and (11), and (i).

Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), this system has been exempted from the following provisions of the Privacy Act of 1974, 5 U.S.C. 552a: subsections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

USDA/OIG–3

SYSTEM NAME:

Investigative Files and Automated Investigative Indices System, USDA/OIG.

SYSTEM LOCATION:

Physical files are kept in the OIG headquarters office in the Jamie L. Whitten Federal Building, 1400 Independence Avenue SW., Washington DC 20250–2307, and Franklin Court, 1099 14th Street NW., Washington, DC 20005, and in the OIG regional offices and Investigations suboffices listed in the system of records designed USDA/OIG–1.

The OIG regional offices and Investigations suboffices maintain physical files containing the report of investigation and the workpapers for each case investigated by that office. The headquarters files contain a copy of every investigative report, but do not contain workpapers and may not contain copies of all correspondence. Older investigative files may be stored in Federal Records Centers or on microfiche, microfilm, or electronic image filing systems. Therefore, delays in retrieving this material can be expected.

Selected portions of records have been computerized—see section 1 of ''Categories of records'' below. These records, used as a research tool, are accessible by computer terminals located in each OIG office. These records are maintained on a computer in the Jamie L. Whitten Federal Building.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The individual names in the OIG index fall into one or more of the following categories:

Subjects. These are individuals against whom allegations of wrongdoing have been made. In some instances, these individuals have been the subjects of investigations conducted by OIG to establish whether allegations were true. In other instances, the allegations were deemed too frivolous or indefinite to warrant inquiry.

Principals. These are individuals who are not named subjects of investigative inquiries, but may be responsible for potential violations. For example, the responsible officers of a firm alleged to have violated laws or regulations might be individually listed in the OIG index.

Complainants. These are individuals who have not requested anonymity or confidentiality regarding their identity, who allege wrongdoing, mismanagement, or unfair treatment by USDA employees and/or relating to USDA programs.

Others. These are all other individuals closely connected with a matter of investigative interest.

CATEGORIES OF RECORDS IN THE SYSTEM:

The OIG Investigative Files and Automated Investigative Indices System consist of:

1. Computerized records retrieved by case number or alphabetically by the names of individuals, organizations, and firms. A separate record for each contains, if applicable, identification of the OIG file or files which contain information on that subject and if such information was available when the record was created or modified; the individual's name, address, sex, race, date and place of birth, relationship to the investigation, FBI or State criminal identification number, and social security number (very few have the dates when entries were made into the index);

2. Files containing sheets of paper or microfiche of such sheets from investigative and other reports, correspondence, and informal notes and notations concerning (a) one investigative matter or (b) a number of incidents of the same sort of alleged violation or irregularity; and

3. Where an investigation is being or will be conducted, but has not been completed, various case management records, investigator's notes, statements of witnesses, and copies of records. These are contained on cards and sheets of paper located in an OIG office or in the possession of the OIG investigator. Certain management records are retained after the investigative report is released as a means of following action taken on the basis of the OIG investigative report.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

IG Act of 1978, 5 U.S.C. app.; 5 U.S.C. 301; 7 U.S.C. 2270.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses (1) through (13) listed in the system of records designated USDA/OIG–1.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND IMPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The OIG Automated Investigative Indices System consists of computerized records. The investigative files are stored in steel lektriever cabinets, on microfiche sheets, microfilm, electronic image filing systems, or in Federal Records Centers.

RETRIEVABILITY:

Computerized records are retrieved alphabetically or by using the case number, with each record identifying one or more OIG investigate case files or administrative files arranged numerically by file number.

SAFEGUARDS:

These records are kept in limited-access areas during duty hours, in locked offices during nonduty hours, or in the possession of the investigator. Computer files are password protected.

RETENTION AND DISPOSAL:

The investigative case files are maintained for 10 years after the case is closed. Administrative files are kept for 5 years after the case is closed.

Computerized records are destroyed at the same time as the physical files to which they relate.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Resources Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2307.

RECORD ACCESS PROCEDURES:

To request access to information in this system, write to the Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

CONTESTING RECORD PROCEDURE:

An individual may contest information in this system which pertains to him/her by submitting a written request to the Assistant Inspector General for Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2310.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j)(2), this system of records has been exempted from all provisions of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10) and (11), and (i).

Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), this system has been exempted from the following provisions of the Privacy Act of 1974, 5 U.S.C. 552a: subsections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

USDA/OIG–4

SYSTEM NAME:

OIG Hotline Complaint Records, USDA/OIG.

SYSTEM LOCATION:

In the OIG headquarters office in the Jamie L. Whitten Federal Building, 1400 Independence Avenue SW., Washington, DC 20250–2317.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Complainants are persons who report or complain of possible criminal, civil, or administrative violations of law, rule, regulation, policy, or procedure, or fraud, waste, abuse, mismanagement, gross waste of funds, or abuse of authority in USDA programs or operations, or specific dangers to public health or safety, misuse of government property, personnel misconduct, discrimination, or other irregularities affecting USDA.

2. Subjects are persons against whom such complaints are made.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Identities of complaints, if known, and subjects.

2. Details of each allegation.

3.OIG case number and control number(s) used by other agencies for tracking each complaint.

4. Responses from agencies to which complaints are referred for inquiry.

5. Summary of substantiated information and results of agency inquiry into the complaint.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

IG Act of 1978, 5 U.S.C. app. 3; 5 U.S.C. 301; 7 U.S.C. 2270.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF EACH SUCH USE:

Routine uses (1) through (13) listed in the system of records designated USDA/OIG–1.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in a computer and on sheets of paper in file folders.

RETRIEVABILITY:

The records are retrieved by name of subject or complainant or by case number.

SAFEGUARDS:

Files are kept in a limited access area and are in locked storage when not in use. Access to computerized information is protected by requiring a confidential password.

RETENTION AND DISPOSAL:

Physical files and computerized records are retained 10 years after closing, after which they are shredded and deleted.

SYSTEMS MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2317.

NOTIFICATION PROCEDURE:

Inquiries and requests should be addressed to the Director, of Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

RECORD ACCESS PROCEDURES:

To request access to information in this system, write to the Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

CONTESTING RECORD PROCEDURES:

An individual may contest information in this system which pertains to him/her by submitting a written request to the Assistant Inspector General for Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2310.

RECORD SOURCE CATEGORIES:

Identities of complainants and subjects are provided by individual complainants. Additional information may be provided by individual complaints, subjects, and/or third parties.

SYSTEMS EXEMPT FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j)(2), this system of records has been exempted from all provisions of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10) and (11), and (i).

Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), this system has been exempted from the following provisions of the Privacy Act of 1974, 5 U.S.C. 552a: subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

USDA/OIG–5

SYSTEM NAME:

Consolidated Assignments Personnel Tracking Administrative Information Network (CAPTAIN), USDA/OIG.

SYSTEM LOCATION:

U.S. Department of Agriculture, National Computer Center, 8930 Ward Parkway, Kansas City, Missouri 64114.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

OIG professional employees who participate in either audit or investigative assignments.

Subjects of investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

CAPTAIN provides OIG management officials with a wide range of

information on audit and investigative operations. The system identifies individual assignments of employees and provides information on their use of direct and indirect time, significant dates relating to each assignment, reported dollar deficiencies, recoveries, penalties, the number of investigative prosecutions, convictions, other legal and administrative actions, and subjects of investigation. The system is used to manage audit and investigative assignments and to facilitate reporting of OIG activities to Congress and other Governmental entities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

IG Act of 1978, 5 U.S.C. app. 3; 5 U.S.C. 301; 7 U.S.C. 2270.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH:

Routine uses (1) through (13) listed in the system of records designated USDA/OIG–1.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer discs, magnetic tape, and in file folders and notebooks.

RETRIEVABILITY:

Information in the system generally can be retrieved by OIG personnel in headquarters and the regions. Information is generally retrieved by assignment number or geographic location. However, information can be retrieved by any field in the system, including subject name, employee name, and employee social security number.

SAFEGUARDS:

Normal computer security is maintained including password protection. Printouts and source documents are kept in limited-access areas during duty hours and in locked offices during nonduty hours.

RETENTION AND DISPOSAL:

Computer files and other records are cleared, retired, or destroyed, when no longer useful, in accordance with National Archives and Records Administration General Records Schedules and USDA record retention and/or destruction schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Audit Subsystem—Assistant Inspector General for Audit, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2311.

Investigations Subsystem—Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2317.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her, from the Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

RECORD ACCESS PROCEDURES:

An individual may request access to a record in this system which pertains to him/her by submitting a written request to the Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

CONTESTING RECORD PROCEDURES:

An individual may contest information in this system which pertains to him/her by submitting a written request to the Assistant Inspector General for Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2310.

RECORD SOURCE CATEGORIES:

Information in the system is obtained from various source documents related to audit and investigative activities including assignment letters, employee time reports, case entry sheets, etc.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j)(2), the Investigations Subsystem and the Employee Time System are exempted from all provisions of the Privacy Act of 1974, 5 U.S.C. 552a, as amended, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i).

Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), the Investigations Subsystem and the Employee Time System are exempted from the following provisions of the Privacy Act of 1974, 5 U.S.C. 552a: subsections (c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

USDA/OIG–6

SYSTEM NAME:

Training Tracking System, USDA/OIG.

SYSTEM LOCATION:

U.S. Department of Agriculture, National Computer Center, 8930 Ward Parkway, Kansas City, Missouri 64114.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

OIG audit employees.

CATEGORIES OF RECORDS:

The system contains records of audit employee training history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

IG Act of 1978, 5 U.S.C. app. 3; 5 U.S.C. 301; 7 U.S.C. 2270.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) A record from the system of records may be disclosed as a routine use to a Federal agency or professional organization to document continuing education credits required by the Government Auditing Standards, U.S. General Accounting Office Standards of Audit of Governmental Organizations, Programs, Activities, and Functions. The record must be relevant to the determination of professional proficiency and compliance with the general qualification standard for government auditing, and retention of an employee or other personnel action.

(2) Routine uses (1) through (13) listed in the system of records designated USDA/OIG–1.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer and in file folders.

RETRIEVABILITY:

The records are retrieved by name of individual, social security number, or group of employees.

SAFEGUARDS:

Computer files are password protected and other records are kept in limited-access areas during duty hours and in locked offices during nonduty hours.

RETENTION AND DISPOSAL:

Records are retained as long as the agency determines they are needed. They are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Audit, Office of Inspector General, U.S.

Department of Agriculture, Washington, DC 20250–2311.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information, as to whether the system contains records pertaining to him/here from the Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

RECORD ACCESS PROCEDURES:

An individual may request access to a record in this system which pertains to him/her by submitting a written request to the Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

CONTESTING RECORD PROCEDURES:

An individual may contest information in this system which pertains to him/her by submitting a written request to the Assistant Inspector General for Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2310.

RECORD SOURCE CATEGORIES:

Information in the system comes entirely from OIG audit employees.

USDA/OIG–7

SYSTEM NAME:

Freedom of Information Act and Privacy Act Request Records, USDA/OIG.

SYSTEM LOCATION:

Files are kept in the OIG headquarters office in the Jamie L. Whitten Federal Building, 1400 Independence Avenue SW., Washington, DC 20250–2309.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records of individuals who have made requests under the Freedom of Information Act of Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The request records consist of the incoming request, all correspondence developed during the processing of the request, and the final reply.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

IG Act of 1978, 5 U.S.C. app. 3; 5 U.S.C. 301; 7 U.S.C. 2270.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by OIG employees as an internal control mechanism for tracking the disposition of requests and for responding to individuals who are checking on the status of their requests.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

The records are retrieved by name or by using a control number that is assigned upon date of receipt.

SAFEGUARDS:

Freedom of Information Act and Privacy Act request records are stored in file cabinets in limited-access areas during duty hours and in locked offices during nonduty hours.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with National Archives and Records Administration General Records Schedule 14 pertaining to informational services records.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her, from the Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

RECORD ACCESS PROCEDURES:

An individual may request access to a record in this system which pertains to him/her by submitting a written request to the Director, Information Management Division, Policy Development and Resources Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2309.

CONTESTING RECORD PROCEDURES:

An individual may contest information in this system which pertains to him/her by submitting a written request to the Assistant Inspector General for Policy Development and Resource Management, Office of Inspector General, U.S. Department of Agriculture, Washington, DC 20250–2310.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual making the request and from OIG employees processing the request.

[FR Doc. 97–29423 Filed 11–14–97; 8:45 am]

BILLING CODE 3410–23–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Washington Provincial Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Washington Provincial Advisory Committee will meet on Friday, November 21, 1997, in Chehalis, Washington, at the Lewis County Courthouse Annex Building (335 W. Main Street). The meeting will begin at 10 a.m. and continue until 5 p.m. The purpose of the meeting is to: (1) Present the 1998/1999 Timber Sale Program, followed by discussion, advice and recommendations and decision, (2) update on the status of the socioeconomic subcommittee, (3) presentation on Yakama Indian Treaty Rights, and (5) public Open Forum. All Southwest Washington Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled as part of agenda item (4) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT:

Direct questions regarding this meeting to Sue Lampe, Public Affairs, at (360) 891–5091, or write Forest Headquarters Office, Gilford Pinchot National Forest, 10600 N.E. 51st Circle, Vancouver, WA 98682.

Dated: November 6, 1997.

Robert Yoder,

Province Lead Staff.

[FR Doc. 97–30100 Filed 11–14–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Reporting and Recordkeeping Requirements Under the Wassenaar Arrangement

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 16, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Baker, Bureau of Export Administration (BXA), Department of Commerce, Room 6877, 14th and Constitution Avenue, NW, Washington, DC 20230 (telephone no. (202)482–3673).

SUPPLEMENTARY INFORMATION:

I. Abstract

The information required by this collection is required biannually from all exporters of certain items specified in section 743.1 of the Export Administration Regulations controlled for national security reasons on the Commerce Control List and exported under certain License Exceptions.

A—Items controlled and decontrolled by the list. With the publication of the Wassenaar Arrangement's Dual-Use List, some items will be decontrolled for national security reasons and new controls will be placed on some items. BXA estimates that we will receive approximately 75 fewer applications because of these decontrols. But, this will be counteracted be approximately 45 new applications because of some new items added to the list.

B—Reporting and recordkeeping on license exceptions. Under the Wassenaar Arrangement, the U.S. Government must report twice a year to the other members on aggregate usage of 81 export control entries. The aggregate numbers are readily available from BXA's Export Control Automated Support System (ECASS), except when a licensing exception is used. It is very difficult for BXA to determine usage of licensing exceptions because the exporter determines if the licensing exception applies to a certain commodity and then exports that commodity if the licensing exception applies. BXA receives no record of licensing exception uses.

Because one or more of six licensing exceptions could be used with the 81 export control entries subject to Wassenaar Arrangement reporting, BXA must require exporters to keep a record of each time they use a licensing exception for one of the 81 export control entries (except for the destinations identified in Country Group A:1 of Supplement No. 1 to part 740 of the EAR) and submit this report to BXA biannually in time for the U.S. Government to make its report to the Wassenaar members.

C—Removing license exception availability. The Wassenaar Arrangement's Dual-Use List is composed of three parts: the Basic List, the Sensitive List and the Very Sensitive List. The United States allows some items on the Sensitive List to be shipped to some destinations using a licensing exception. The reporting and recordkeeping requirements described above will enable the United States to keep watch over these items. Currently, the United States also permits some items on the Very Sensitive List to be exported to some destinations using a licence exception. Therefore, in deference to our partners in the Wassenaar Arrangement, the United States is withdrawing the license exception privilege for any item on the Very Sensitive List. These items are mainly for licensing exception TSR, ''Technology and Software under Restriction.''

D—Removing license exceptions for missile tech items. The rule implementing the Wassenaar Arrangement's Dual-Use List removes license exception availability for missile technology controlled items. The decision to remove license exception availability was an interagency based agreement, particularly consultations with the Department of State.

II. Method of Collection

The information will be collected in electronic and written form.

III. Data

OMB Number: 0694–0106.

Form Number: N/A.

Type of Review: Regular Submission.

Affected Public: Businesses and other for-profit institutions, small businesses or organizations.

Estimated Number of Respondents: 2,275.

Estimated Time Per Response: 12 minutes.

Estimated Total Annual Burden Hours: 851 hours.

Estimated Total Annual Cost: $17,020 for respondents—no equipment or other materials will need to be purchased to comply with the requirement.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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 submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 10, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–30093 Filed 11–14–97; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; William F. McNeil

In the Matter of: William F. McNeil, #5 Woodland Road, Pittsfield, Massachusetts 01201.

Order Denying Permission To Apply for or Use Export License

On August 8, 1996, William F. McNeil (McNeil) was convicted in the United

States District Court for the District of Columbia of violating the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991 & Supp. 1997)) (IEEPA). McNeil was convicted of knowingly and willfully exporting, and causing to be exported, United States-origin electronic riot shields from the United States to Romania, without applying for and obtaining from the Department of Commerce the required authorization.

Section 11(h) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. 2401–2420 (1991 & Supp. 1997)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating IEEPA, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (1997)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating IEEPA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of McNeil's conviction for violating IEEPA and following consultations with the Acting Director, Office of Export Enforcement, I have decided to deny McNeil permission to apply for or use any license, including any License Exception, issued pursuant to, or provide by, the Act and the Regulations, for a period of five years the date of his conviction. The denial period ends on August 8, 2001. I have also decided to revoke all licenses issued pursuant to the Act in which McNeil had an interest at the time of his conviction.

Accordingly, *it is hereby ordered*

I. Until August 8, 2001, William F. McNeil, #5 Woodland Road, Pittsfield, Massachusetts 01201, may not, directly or indirectly, participate in any way, in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to McNeil by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-producted direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until August 8, 2001.

VI. A copy of this Order shall be delivered to McNeil. This Order shall be published in the **Federal Register**.

Dated: November 3, 1997.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 97–30063 Filed 11–14–97; 8:45 am]

BILLING CODE 3510–DT–M

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR, 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR, 1996 Comp. 298 (1997)) and August 13, 1997 (62 FR 43629, August 15, 1997) continued the Export Administration Regulations in effect under IEEPA.

[2] Pursuant to appropriate delegations of authority, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary of Section 11(h) of the Act.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–056]

Melamine From Japan; Notice of Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: In response to a request by an importer, Taiyo America, Inc., the Department of Commerce initiated an administrative review of the antidumpting duty finding on melamine from Japan for the period of review, February 1, 1996, through January 31, 1997. The importer's request covered two producers/exporters of subject merchandise. Because no other interested party requested a review, this review has now been terminated as a

result of the withdrawal of the request for administrative review by the importer.

EFFECTIVE DATE: November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Thomas Futtner, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4195 or (202) 482–3814.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 353 (April 1, 1997).

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published an antidumping duty finding on melamine from Japan on February 2, 1977 (42 FR 6866). On February 3, 1997, the Department published in the **Federal Register** a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty finding on melamine from Japan (62 FR 4978). On February 7, 1997, an importer, Taiyo America, Inc., requested an administrative review of two producers/exporters of the subject merchandise to the United States. In accordance with 19 CFR 353.22(c), we initiated the review on March 18, 1997 (62 FR 12793) covering the period of February 1, 1996 through January 31, 1997. On September 2, 1997, the importer withdrew its request for administrative review.

Termination of Review

Pursuant to 19 CFR 353.22(a)(5) of the Department's regulations, the Department may allow a party that requests an administrative review to withdraw such request not later than 90 days after the date of publication of the notice of initiation of the administrative review. The Department may extend this time limit if the Department decides it is reasonable to do so.

This request for withdrawal was made early in the review process and there were no requests for review from other interested parties. Therefore, the Department is terminating this review.

This notice is in accordance with section 353.22(a)(5) of the Department's regulations (19 CFR 353.22(a)(5)).

This notice serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning disposition of proprietary information disclosed under APO in accordance with § 353.34(d) of the Department's regulations. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Dated: October 30, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary, Group II Import Administration.

[FR Doc. 97–30145 Filed 11–14–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–429–601]

Final Results of Antidumping Duty Administrative Review of Solid Urea From the Former German Democratic Republic

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of final results of antidumping duty administrative review

SUMMARY: On July 8, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on solid urea from the Former German Democratic Republic (GDR). The review covers one manufacturer/exporter, SKW Stickstoffwerke Piesteritz GmbH (SKWP), and the period July 1, 1995 through June 30, 1996. We gave interested parties an opportunity to comment on our preliminary results.

EFFECTIVE DATE: November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan or Steven Presing, Office VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless indicated, all citations to the Department's regulations are to the regulations, as codified at 19 C.F.R. part 353 (1996).

Background

On July 8, 1996, the Department published in the **Federal Register** (61 FR 35712) a notice of ''Opportunity to Request Administrative Review'' for the July 1, 1995 through June 30, 1996, period of review (POR) of the antidumping duty order on solid urea from the former GDR. In accordance with 19 CFR 353.22, the Ad Hoc Committee of Domestic Nitrogen Producers (petitioners) requested a review for the aforementioned period. On August 15, 1996, the Department published a notice of initiation of antidumping review (61 FR 42416, 42417). The Department is conducting a review of this respondent pursuant to section 751 of the Act.

On July 8, 1997, the Department published the preliminary results of review (62 FR 36492). The Department has now completed the review in accordance with section 751 of the Act.

Scope of Review

Imports covered by this review are those of solid urea. At the time of the publication of the antidumping duty order, such merchandise was classifiable under item 480.30 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classified under the Harmonized Tariff Schedule of the United States (HTS) item number 3102.10.00. These TSUSA and HTS item numbers are provided for convenience and Customs purposes only. The Department's written description of the scope remains dispositive for purposes of the order.

Analysis of Comments Received

Comment 1: Affiliation. Petitioners argue that the Department must adjust SKWP's cost of production to reflect an appropriate amount for depreciation of production equipment transferred to SKWP by Stickstoffwerke AG Wittenberg-Piesteritz (STAG). Petitioners contend that STAG is under the ''control'' of SKWP and that in accordance with section 771(33) of the Act, the Department must find SKWP and STAG to be ''affiliated'' persons. According to petitioners, the Department is required by sections 773(f)(2) and (3) of the Act to disregard STAG's ''transfer'' price to SKWP of the production equipment and substitute, in

its place, the higher of market value or cost.

Respondent insists that there is no evidence of affiliation between SKWP and STAG. Respondent maintains that the production equipment was purchased at a market price and that the Department verified SKWP's reported depreciation expense. Respondent adds that the purchase transaction between SKWP and STAG was scrutinized by the German government and independent auditors, and found to be properly valued through arm's-length negotiations.

Department's Position: We disagree with petitioners' contention that the purchase of the production equipment was a transaction between affiliated persons. Consequently, for the final results of this review, we have not adjusted SKWP's reported depreciation expense pursuant to sections 773(f)(2) and (3) of the Act.

In 1993, SKWP and STAG concluded an agreement whereby SKWP purchased certain assets from STAG. These assets consisted largely of the accounts receivable, inventories, and production equipment from a nitrogen production facility owned by STAG. As part of this contractual arrangement, SKWP also assumed responsibility for certain debts and other obligations of STAG's nitrogen facility, including accounts payable and costs associated with old, environmentally hazardous sites formerly owned by STAG. In accordance with German generally accepted accounting principles (GAAP), the total purchase price paid by SKWP determined the cost of the assets acquired by the company. Because the degree of convertibility to cash was taken into consideration in allocating the purchase price, much of that price was allocated to accounts receivable and other liquid assets with very little of the price allocated to the capital equipment acquired in the transaction.

In addition to the nitrogen facilities, SKWP also acquired from STAG as part of the purchase transaction, a five percent interest in VCE Vertriebsgesellschaft fur Chemische Erzeugnisse Piesteritz GmbH (VCE), a distributor of STAG's (now SKWP's) urea products. STAG continued to hold the remaining 95 percent of VCE's shares. At the same time, SKWP and STAG entered into a five-year agreement under which VCE became the exclusive distributor of SKWP's urea products and each company agreed to share in the profits or losses of VCE in accordance with their respective interests in the distributor. As part of this contractual arrangement, STAG also agreed that SKWP would assume complete operational control over VCE, providing all management and sales personnel as well as accounting, management and support staff. Further, SKWP assumed absolute control over all pricing and production decisions at VCE. Thus, STAG has, by contract, given up whatever control over VCE it would otherwise have by virtue of its ownership interest.

Petitioners cite, as evidence of affiliation between SKWP and STAG, the profit and loss sharing arrangement and SKWP's operational control over VCE. Indeed, petitioners assert, ''STAG is wholly 'reliant' upon SKWP for income (through VCE), and STAG's pricing of assets sold to SKWP have affected the cost of the subject merchandise, as well as future income, to STAG.''

For the following reasons, we cannot agree with petitioners. First, the temporary profit and loss agreement between SKWP and STAG is part of a larger asset purchase arrangement between two companies. It is part of the consideration that STAG received from SKWP for the assets. Therefore, as discussed in greater detail in response to Comment 2, below, we consider any profits accruing to STAG under the agreement to be part of the arm's-length purchase price paid by SKWP for the assets it acquired.

Second, petitioners do not allege (and nothing in the record suggests) that SKWP and STAG were affiliated at the time of the sale of the assets. STAG may be dependent upon SKWP to act in good faith and to pay whatever additional monies are owed for the assets, but that does not mean STAG and SKWP are ''affiliated'' within the meaning of the statute. STAG did not have to sell its equipment and other assets to SKWP. SKWP was not in a position to dictate the terms of the sale. Rather, each company was pursuing its own economic interests and those interests were in no way mutual. STAG's interest was to obtain the highest price possible for its assets at the time of the sale. Of its own choosing, it accepted an initial payment and the potential of additional payments over a five-year period. Nothing about this transaction put SKWP in a position to ''legally or operationally * * * exercise restraint or direction'' over STAG when it came to the price paid for the production equipment.

Third, there is no evidence on the record to suggest, as petitioners contend, that STAG would understate the value of the capital equipment that it sold SKWP in the hopes that SKWP, which controls the price and volume of urea products sold through VCE, would obtain greater profits on sales made by VCE. In fact, contrary to petitioners' assertions, STAG's pricing of the assets sold to SKWP does not affect directly the level of VCE's profits since VCE's costs (and thus its' profits) are determined based on the price SKWP charges VCE for urea and not on SKWP's production costs.

Petitioners also rely on two other points to advance their argument that SKWP and STAG are affiliated persons. First, petitioners note that VCE's financial results are consolidated with those of SKWP. According to petitioners, this would only be possible if STAG's 95 percent interest was indistinguishable from SKWP's interest. Second, petitioners consider STAG's agreement to absorb certain personnel costs associated with the purchase of its assets to be an indication of affiliation between STAG and SKWP.

In response to the first point, the consolidation of financial statements is done for accounting purposes when a parent company controls the operations of a subsidiary entity. In the present case, the consolidation of VCE's financial statements into SKWP's is merely an indication that SKWP controls VCE, not that SKWP controls STAG (or that both companies control VCE). As explained above, STAG contracted away its right to control VCE as part of the five-year distribution agreement.

In response to the second point, STAG's commitment to absorb certain personnel costs resulted from the arm's-length negotiations that took place between the parties. Stated differently, absorption of these costs was part of the *quid pro quo* that enabled STAG to obtain the highest price possible for its assets at the time of sale.

In conclusion, the Department finds no evidence to consider STAG and SKWP to be affiliated within the meaning of section 771(33) of the Act, and for purposes of these final results, will continue to treat them as parties to an arm's-length transaction in relation to the sale and acquisition of SKWP's production equipment.

Comment 2: Profit Adjustment. Petitioners argue that even if the Department were to find STAG and SKWP unaffiliated, we should account for STAG's share of VCE's profit or loss as compensation for the assets transferred to SKWP, and add the value of these profits and losses to the reported costs of production.

Respondents counter that there is no statutory authority to add profit to a COP calculation, and these profits and losses are properly excluded from the reported costs.

Department Position: We agree, in principle, with petitioners that any profits that accrue to STAG under its profit and loss sharing arrangement with SKWP should be considered part of the purchase price of the assets acquired by SKWP from STAG. As discussed in our response to comment 1, above, the five-year arrangement between STAG and SKWP to share in the profits and losses of VCE, a distributor of SKWP's urea products, was concluded as an integral part of the asset purchase agreement between the two companies. Under the arrangement, SKWP agreed to forego its share of VCE's earnings from urea sales as part of the compensation it paid to STAG for the assets acquired. As such, any profits paid to STAG under the arrangement can reasonably be viewed as part of the purchase price for the assets.

We note, however, that evidence on the record shows that from 1993 to 1996 (the first three years of the arrangement), VCE incurred only losses on its sales of SKWP's urea products. Thus, as of the POR, STAG has not received any additional compensation for the assets it sold beyond that paid by SKWP at the time the agreement was concluded. In addition, we note that, were VCE to earn profits in the final two years of the agreement, such profits would first be netted against VCE's accumulated losses (in accordance with the arrangement) before distribution to STAG.

Finally, as a theoretical matter, we disagree with petitioners that all profits paid to STAG under the arrangement should go to increase the value of the production equipment purchased by SKWP. Rather, consistent with SKWP's GAAP accounting for all of the assets it acquired from STAG, any additional compensation in the form of VCE profits paid to STAG would first be applied to other, more liquid assets to reduce any remaining difference between their value at the time of purchase and the amount of the purchase price allocated to them.

Comment 3: Renovation Project. Petitioners argue that the Department should increase SKWP's cost of production to account for amounts received from the German government to offset expenses associated with an ongoing renovation project at its nitrogen facility. According to petitioners, the Department routinely considers renovation costs to be part of the cost of production. In this regard, petitioners highlight the fact that SKWP has accounted for costs associated with the project as part of the company's operating costs. Citing Certain Iron Metal Castings from India, 46 FR 28463 (1981), petitioners contend that it is the Department's long-standing practice not to reduce costs to reflect the benefits received from government subsidies.

SKWP argues that, because it did not incur the renovation costs for which the subsidies were granted, these costs could not be part of the company's cost of production.

Department's Position: We disagree with petitioners. Costs associated with the renovation of SKWP's production facility were not incurred by SKWP. The costs in question were funded by the German government through reimbursement which was recorded in the audited financial statements of SKWP.

Contrary to petitioners' apparent belief, the Department's long-standing practice is to base COP upon a producer's actual costs and not to restate such costs to exclude government payments, linked to specific costs. See, *e.g.*, Red Raspberries from Canada; Final Determination of Sales at Less Than Fair Value, 50 FR 19768 (1985); Certain Iron Construction Castings from India; Final Determination of Sales at Less Than Fair Value, 51 FR 9486, 9488 (1986). This practice has been upheld by the courts on many occasions. See, *e.g.*, *United States* v. *European Trading Company*, 27 CCPA 289, C.A.D. 103 (1940); *Washington Red. Raspberry Comm.* v. *United States*, 657 F. Supp. 537 (CIT 1987); *Alhambra Foundry Co., Ltd.* v. *United States*, 685 F. Supp. 1252 (CIT 1988). Indeed, in the one case cited by petitioners, the very practice at issue was upheld by the court. *See Al Tech Specialty Steel Corp.* v. *United States*, 10 CIT 743, 751, 651 F. Supp. 1421 (1986) (court refused to overturn calculation of ''fixed costs merely because the adjustment is based on subsidies'').

Comment 4: Special Depreciation. Petitioners argue that the Department should increase SKWP's reported depreciation expense to account for ''special'' depreciation excluded from COP and CV by the company. Petitioners maintain that the Department has a consistent practice of including special depreciation items in its calculation of respondent's costs and there is no justification for departing from that practice in this instance.

SKWP insists that it properly excluded special depreciation from the COP and CV figures it submitted to the Department. SKWP notes that the special depreciation in question relates to tax-basis depreciation granted by the German government to companies operating in the former GDR and, thus, represents no real additional cost to the company and should not be included in the cost of production. SKWP adds that actual depreciation (*i.e.*, not tax-related depreciation) is included in SKWP's fully-absorbed cost of production.

Department's Position: We disagree with SKWP in that, for purpose of computing COP and CV, we cannot simply ignore the amount that the company recorded as ''special'' depreciation expense during the POR. Each year in its accounting books and records, SKWP recognizes what it maintains is ''normal'' depreciation expense for the year. In addition, because SKWP operates in the former GDR, German tax law allows the company to recognize a ''special'' depreciation expense in the year in which an asset is purchased. Like normal depreciation, the amount of the special depreciation taken during the year of acquisition reduces the depreciable basis of the assets. Thus, while the special tax depreciation may be stated on an accelerated basis which may or may not reflect the underlying economic useful lives of the assets purchased by SKWP, to ignore the expense altogether, as SKWP suggests, fails to recognize as a cost that portion of each asset's depreciable basis that is written off as special depreciation in the year of acquisition. SKWP has not provided us with any alternative method of recognizing an appropriate amount for depreciation expense that is based on the economic useful lives of the assets purchased by the company. Rather, SKWP's position is that the Department must exclude special depreciation costs from COP and CV because the amounts at issue do not reflect what it calls ''real'' costs. However, as described above, the special depreciation expense amounts recorded by SKWP do reflect actual depreciation costs on an accelerated basis. Therefore, absent any other information on the record from which to derive an alternative measure of depreciation expense, we have included SKWP's special depreciation expense in the company's COP and CV.

Comment 5: Other Expenses Excluded from SKWP's Submitted Costs. Petitioners claim that the Department should include in SKWP's COP and CV figures certain costs reported by the company in its financial statements. Specifically, petitioners contend that the Department should increase SKWP's reported costs for three expense items: amounts incurred by the company for environmental damages relating to SKWP's 100% owned affiliate, Agrochemie Handelsgesellschaft GmbH (Agrochemie); amounts incurred for the demolition of certain plant facilities;

and, costs relating to worker severance pay.

SKWP argues that the amounts reported in its financial statements for environmental damages and demolition costs were properly excluded from the costs reported to the Department. According to SKWP, expenses relating to environmental damages caused by Agrochemie were paid for by the German government and, therefore, no costs were actually incurred by the company. With respect to amounts reported for plant demolition, SKWP contends that the facilities at issue were not involved in the production of urea and that these amounts, too, were paid for by the German government.

Department's Position: We agree with petitioners and have adjusted SKWP's reported COP and CV figures to include amounts for Agrochemie's environmental damages, demolition of certain SKWP facilities, and worker severance pay as reported in the company's financial statements. As part of our cost verification, we reconciled the total amount of costs reported by SKWP in response to our antidumping questionnaire to the costs reported in the company's audited financial statements. Our reconciliation showed that SKWP had excluded from its COP and CV figures specific income statement items relating to reserves established for each of the three expense items described above. Although the record of this case shows that SKWP received funds from the German government to offset costs incurred by the company for certain plant renovations and for environmental clean-up at its nitrogen facility, SKWP failed to show that the receipt of these funds was specifically related to either the environmental damages caused by Agrochemie or to the demolition costs at issue. As petitioners note in their briefs, in past cases, the Department has accounted for expenses associated with environmental clean-up by respondents as part of the cost of production where, as in this case, such expenses are included in respondent's financial statements and reflect costs incurred during the period of investigation or review. See Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from France, 58 FR 68865 (1993). With respect to SKWP's argument that the demolition costs relate to non-urea facilities, our understanding based on the evidence in the record is that the amounts incurred relate to the destruction of factory assets for discontinued operations. As such, we consider these costs to be related to SKWP's general operations and have therefore included them in COP and CV.

Comment 6: Reported Costs. Petitioners contend that SKWP has reported the costs for only one type of urea product and that a second, more costly type of urea referred to as ''konf.'' in the verification exhibits, was manufactured by SKWP during the POR. Petitioners maintain that cost verification exhibits do not support SKWP's contention that ''konf.'' urea is actually bagged urea since these exhibits show an amount for packing costs in the cost center report for what SKWP claims is bulk urea. Petitioners argue that the Department must increase SKWP's reported COP and CV to reflect the weighted-average cost for the two types of urea produced by the company.

SKWP maintains that ''konf.'' urea is, in fact, bagged urea, and that the Department verified packing costs associated with bagged urea as part of its sales verification. SKWP adds that the Department has factored the company's reported packing costs for bagged urea into its COP analysis.

Department's Position: We disagree with petitioners that SKWP failed to report the costs of a second type of urea that it produced during the POR. SKWP manufactures and sells urea in both bulk form, called ''lager lose,'' and in bagged form, or ''konf.'' In response to the Department's cost questionnaire, SKWP reported the cost of urea in bulk form only. The company reported the additional packing costs it incurred for bagged urea on a transaction-specific basis in response to the Department's sales questionnaire. In performing our COP test of SKWP's home market sales, we adjusted for the packing costs associated with bagged urea by deducting the reported amount from the home market sales price before comparing that price to the COP for bulk urea. Thus, to compute a single weighted-average cost for both bulk and bagged urea, as petitioners advocate, would result in an overstatement of costs.

With respect to petitioners observation that SKWP's cost center report for bulk urea shows an amount for packing costs, we note the fact that these amounts represent insignificant costs of less than one DEM per metric ton that are associated with packing bulk urea for sale. SKWP included these costs in its reported COP and CV amounts for bulk urea.

Comment 7: Labor Costs. Petitioners contend that a substantial portion of costs associated with SKWP's labor force are unaccounted for in the company's reported COP. In support of their claim, petitioners point to an agreement by SKWP to employ a minimum number of the workers formerly employed by STAG. Petitioners note the fact that, during the POR, the actual number of workers employed by SKWP exceeded the company's commitment level. According to petitioners, because SKWP developed its accounting systems subsequent to the date of the antidumping duty order, the company may have inappropriately assigned (or absorbed) excess personnel costs in areas responsible for producing non-subject merchandise, thereby artificially understating labor costs for urea.

As further evidence of their claim that SKWP may have understated its labor costs for the subject merchandise, petitioners assert that ammonia production reports obtained by the Department during its cost verification show what petitioners believe is a small percentage of the company's total workforce assigned to production of the input, and that there is no other evidence on the record to show the number of urea production workers.

SKWP argues that the Department thoroughly verified the company's cost centers and found that all labor costs had been appropriately allocated and accounted for. SKWP maintains that it is puzzled by petitioners' claim with respect to the number of workers in its ammonia production facility, noting that such facilities are not labor-intensive operations. SKWP also points out petitioners' own admission that personnel expenses are also accounted for through factory overhead and general and administrative (G&A) expenses.

Department's Position: We disagree with petitioners assertion that the analysis contained in their brief provides any basis for us to believe that SKWP may have understated its labor costs for urea. Rather, based on the results of our verification, we find that SKWP properly accounted for all labor costs incurred to produce the subject merchandise. Thus, for the final results of this review, we have not adjusted SKWP's labor costs as argued by petitioners. In a pre-verification letter to the Department dated April 2, 1997, petitioners expressed their concern that, in light of SKWP's commitment to employ a minimum number of former STAG employees, the variable overhead figure reported by SKWP appeared low. Based on this, petitioners requested that, as part of verification, ''SKWP should explain how it has accounted for all labor costs.'' During verification, SKWP did, in fact, provide a full explanation of the methodology it used in its normal books and records to account for labor costs incurred to produce both subject and non-subject

merchandise. Moreover, SKWP personnel demonstrated how that methodology was used to calculate the COP and CV data submitted to the Department. As described in SKWP's cost response and in the Department's cost verification report, SKWP charges labor costs, as well as other production costs, to a series of cost centers by cost type. The amounts charged to each ''cost type-cost center'' are then distributed in a multi-stage allocation to ''process-cost centers'' maintained by SKWP for both subject and non-subject merchandise. As explained in the Department's cost verification report, Department verifiers examined how production costs incurred within each of the various cost type-cost centers were allocated to the various process-cost centers under SKWP's accounting system. See Cost Verification Report at page 21.

In their case brief, petitioners cite to a list of participants at the cost verification as evidence that the Department verifiers examined only the labor costs incurred by SKWP in the production of ammonia and urea, and neglected to review the labor allocations to non-subject merchandise. Moreover, petitioners argue that verification exhibits collected by the Department show only the number of workers employed by SKWP at its ammonia production facility. While we do not believe that the participants list cited by petitioners provides any indication of the testing performed during verification, the Department's cost verification report does explain that the verifiers examined carefully amounts charged to, and allocated from, the various cost type-cost centers, including amounts incurred for labor costs. With respect to the ammonia production reports cited by petitioners, the verification report makes clear that these documents represent examples of the supporting documentation reviewed by the verifiers as part of their testing of SKWP's cost type-cost centers. As stated in the report, although the Department verifiers reviewed costs recorded in, and charged from, each category of cost type-cost center (including those in which SKWP recorded its labor costs), they did not collect as verification exhibits copies of all cost center reports. In fact, to have collected copies of all documents examined during verification would have placed an extreme and unnecessary burden on the respondent in this case.

Comment 8: Factory Overhead. Petitioners note that SKWP's reported factory overhead costs contain an adjustment that reduces a portion of those costs. Petitioners contend that there is no evidence on the record concerning the nature of this adjustment. According to petitioners, if, upon re-examining the record of this case, the Department finds that the amount of the adjustment is not justified, it should increase SKWP's factory overhead costs accordingly.

SKWP asserts that petitioners are overreaching when they request that the Department adjust the company's factory overhead costs for an offset that is included among thousands of other numbers contained in the record of this case. SKWP argues that its factory overhead costs should be accepted as reported since those amounts were verified by the Department.

Department's Position: For the final results of this review, we have not adjusted SKWP's factory overhead costs for the offset. The offset represents miscellaneous income earned by SKWP's Cunnersdorf research facility for projects conducted on behalf of outside parties. We did not describe the offset in our cost verification report simply because, relative to the production costs at issue in this case and the complexity of SKWP's cost accounting system, it is insignificant. Technically, because the work conducted was not so significant as to represent a separate line of business (and, thus, be excluded from COP and CV altogether), both the revenues from the projects and the associated R&D costs would more appropriately be considered part of G&A expense. However, in this instance, reclassification of these amounts would have little, if any, effect on SKWP's submitted costs. Thus, as noted above, we have not made any adjustments to SKWP's reported factory overhead costs.

Comment 9: Sales Reporting. Petitioners argue that SKWP only provided sales information on certain types of urea without consulting the Department. Petitioners insist that the Department should affirm in the final determination the inappropriateness of this unilateral modification.

Respondent argues that they reported all home market sales of identical merchandise rather than sales of the foreign like product. They claim that they did this in accordance with the statute at Section 773(a)(1) and Section 771(16)(A). Respondent also argues that the Department implicitly acknowledged this requirement when it advised SKWP that its omission of sales of non-identical merchandise may result in the use of facts available. Due to the fact that the Department's analysis indicates that only sales of identical merchandise were necessary for comparison purposes, petitioners' concerns are not justified.

Department's Position: During the review, SKWP only provided home market sales information of identical merchandise. In an October 30, 1996, letter to the respondent, the Department notified SKWP that failure to report the entire universe of the foreign like product may result in the Department using facts available, particularly if the Department determined after further analysis and verification of all relevant data that the omitted sales were necessary for comparison purposes. As evidenced by the preliminary results of review, the reported home market sales database of identical merchandise was adequate for making comparisons to the U.S. sales database and the omitted sales were not necessary for comparison purposes.

Comment 10: Model Match. Petitioners argue that SKWP inappropriately added a product characteristic in the model matching section and has not justified this modification. Petitioners argue that although there is no difference in the material costs of the two products, there is a difference in selling price. Additionally, petitioners argue that due to the fact that the U.S. sale is of one particular type of urea, SKWP's reporting methodology would cause the Department to select only certain home market sales for comparison purposes. Therefore, the Department should reject SKWP's reporting methodology. Alternatively, petitioners argue that if the Department accepts this SKWP's reporting methodology then it should adjust the cost for the second type of urea to ensure that all costs for all models are properly accounted for.

Respondent rebuts petitioners' argument by stating that the Department's questionnaire allows for the modification of the product characteristics if necessary. Respondent also objects to petitioners claim that the modification of the physical characteristics resulted in the comparison of U.S. sales to home market sales of similar merchandise. Respondent argues that due to the fact the record demonstrates that both types of urea are physically different products, comparison of one with the other is inappropriate.

Department's Position: The Department agrees with respondent. The Department's model match allows for respondent to report additional product characteristics if necessary. As evidenced by the preliminary results of review, the Department was able to compare the U.S. sale to the most comparable home market sale(s) and ensure that there were no distortions in the analysis. Based on the fact that there

is no evidence on the record to show that the product characteristics reported resulted in a distortive comparison, the Department has continued to use the model matching criteria set forth in the preliminary results of review.

Comment 11: Downstream Sales. Petitioners argue that sales from Agrochemie were not reported to the Department. Petitioners contend that SKWP has not indicated that it is otherwise justified in its reporting methodology, therefore, there exists the strong possibility for SKWP to avoid reporting less favorable home market sales to end-users by manipulating the transfer price to Agrochemie. Petitioners argue that the Department must increase normal value to reflect Agrochemie's profits on the resale of urea through its reseller. Because there is no evidence of Agrochemie's sales prices on the record, petitioners argue that the Department should use facts available regarding VCE's profit level to determine the selling price to Agrochemie's final customer.

Respondent argues that petitioners' request is without merit. Respondent asserts that the purpose of the arm's length test is to determine if the prices for sales between affiliated parties may have been manipulated to lower normal value. However, due to the fact that the Department found that sales to Agrochemie were at arm's length it would be inappropriate to penalize SKWP for avoiding the burden of reporting downstream sales that the Department did not require for its analysis.

Department's Position:. The Department agrees with respondent. During the review, SKWP did not report sales made from Agrochemie to unaffiliated customers in the home market. In an October 30, 1996, letter to the respondent, the Department notified SKWP that failure to report the Agrochemie sales to the first unaffiliated party may result in the Department using facts available, particularly if the Department determined after further analysis and verification of all relevant data, that these omitted sales were necessary for comparison purposes. As evidenced by the preliminary results of review, the Department found that SKWP's sales to Agrochemie were at arm's length and these omitted sales were not necessary for comparison purposes.

Final Results of Review

As a result of our review, we determine that the following weighted-average margin exists:

Manufacturer/exporter	Margin (percent)
SKW Piesteritz	0.00

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and normal value may vary from the percentage stated above. The Department will issue appraisment instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751 (a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters, as indicated in the preliminary results of this review, the cash deposit rate shall be 44.80 percent, the ''all others'' rate established in the LTFV investigation (53 FR 2636). These deposit requirements shall remain in effect until publication of the final results of the next administrative review. In addition, we are terminating suspension of liquidation for shipments of solid urea produced by other firms in Germany.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 USC 1675(a)(1)) and 19 CFR 353.22.

Dated: November 5, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–30144 Filed 11–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review of tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China.

SUMMARY: On July 9, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from the People's Republic of China (PRC). The period of review (POR) is June 1, 1995, through May 31, 1996.

Based on our analysis of comments received, we have made changes to the margin calculations, including corrections of certain clerical errors. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins are listed below in the section entitled **Final Results of Review.**

We have determined that sales have been made below normal value (NV) during the POR. Accordingly, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between export price (EP) or constructed export price (CEP) and NV.

EFFECTIVE DATE: November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Robin Gray or the appropriate case analyst, for the various respondent firms

listed below, at Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733: Mike Panfeld: Xiangfan Machinery Foreign Trade Corporation (formerly Xiangfan International Trade Corporation) (Xiangfan), China National Automotive Industry Import & Export Corporation (Guizhou Automotive), Peer Bearing Company and Chin Jun Industrial Ltd. (Peer/Chin Jun); Greg Thompson: Shandong Machinery & Equipment Import & Export Corporation (Shandong), Tianshui Hailin Import & Export Corporation (Hailin), Zhejiang Machinery Import & Export Corporation (Zhejiang); Tom Schauer: Premier Bearing & Equipment, Ltd. (Premier), Guizhou Machinery Import & Export Corporation (Guizhou Machinery), Jilin Machinery Import & Export Corporation (Jilin), Wanxiang Group Corporation (Wanxiang), China National Machinery & Equipment Import & Export Corporation (CMEC); Kristie Strecker: China National Machinery Import & Export Corporation (CMC), Luoyang Bearing Factory (Luoyang), Liaoning MEC Group Co., Ltd. (Liaoning), Hangzhou Metals, Mineral, Machinery & Chemical Import Export Corp. (Hangzhou), China Great Wall Industry Corp. (Great Wall).

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

SUPPLEMENTARY INFORMATION:

Background

On July 9, 1997, we published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on TRBs from the PRC. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Preliminary Results of Antidumping Administrative Review and Partial Termination of Administrative Review, 62 FR 36764 (July 9, 1997) (Preliminary Results). We gave interested parties an opportunity to comment on our preliminary results and held a public hearing on September 3, 1997. The following parties submitted comments and/or rebuttals: The Timken Company (Timken); Guizhou Machinery, Liaoning, Luoyang, Wanxiang, Xiangfan, CMC, Guizhou Automotive, Shandong, Zhejiang, and Premier (collectively referred to as Guizhou Machinery, et al.); China Great Wall Industrial Corp. (Great Wall) and Huangzhou Metals, Minerals, Machinery, and Chemical Import Export Corp. (Huangzhou); Peer/Chin Jun; Transcom, Inc. (Transcom); L&S Bearing Co. (L&S).

We have conducted this administrative review in accordance with section 751(a)(1) of the Act and 19 CFR 353.22.

Scope of Review

Imports covered by these reviews are shipments of TRBs and parts thereof, finished and unfinished, from the PRC; flange, take up cartridge, and hanger units incorporating tapered roller bearings; and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. These products are currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8482.20.00, 8482.91.00.50, 8482.99.30, 8483.20.40, 8483.20.80, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.80, 8708.99.80.15 and 8708.99.80.80. Although the HTS item numbers are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Changes Since the Preliminary Results

We have made the following changes to our margin calculations pursuant to comments we received from interested parties and clerical errors we discovered since the preliminary results:

For All Companies

We changed the surrogate-value information which we used to value steel inputs. See our response to comment 1 of section 2(a), below.

We calculated importer-specific assessment rates where possible. Where the data did not allow us to calculate importer-specific assessment rates, we calculated one rate which we will instruct Customs to apply to all entries from that respondent.

For Guizhou Machinery

We corrected the direct and indirect labor reported for models sold by a certain supplier pursuant to a clerical-error allegation by Guizhou Machinery. See comment 4 of section 2(b), below.

We corrected the formula for ocean freight so that TRBs shipped to west-coast ports received the ocean-freight factor for west-coast ports rather than east-cost ports pursuant to a clerical-error allegation by Guizhou Machinery. See comment 3 of section 3, below.

We discovered that we incorrectly summed the total sales quantities for certain suppliers and we corrected this error for these final results.

We discovered that we inadvertently used one supplier's surrogates for profit, overhead, indirect labor, and SG&A labor for all suppliers from which Guizhou Machinery purchased subject merchandise and we corrected this error for these final results.

For Wanxiang

We converted the marine-insurance charges to U.S. dollars. See comment 2 of section 3, below.

We used the reported gross-weight figures for cups and cones instead of using facts available. See comment 4 of section 2(a), below.

For Zhejiang

We discovered that we inadvertently used the incorrect surrogate values for ocean freight and corrected this error for these final results.

For Xiangfan

We corrected the rate for skilled labor from 46.60 to 29.66 to take into account the fact that Xiangfan did not report skilled and unskilled labor separately. We made this change pursuant to a clerical-error allegation by Xiangfan. See comment 4 of section 2(b), below.

For Luoyang

We used the amended database pursuant to a clerical-error allegation by Luoyang. See comment 10 of section 6, below.

For CMC

We deducted an amount for the selling, general, and administrative expenses of CMC's U.S. affiliate from constructed export price. See comment 5 of section 6, below.

We corrected the formula for cost of manufacture pursuant to a clerical-error allegation raised by Timken. See comment 9 of section 6, below.

We discovered that we inadvertently used the incorrect value for imported steel prices and corrected this error for these final results.

We included a certain expense in CMC's direct materials costs. See comment 11 of section 6, below.

We discovered that we inadvertently did not include inventory carrying costs in our calculation of CEP profit and corrected this error for these final results.

We discovered that we inadvertently deducted imputed credit from EP rather than adding it to NV and corrected this error for these final results.

For Chin Jun

We corrected the factory code for certain models, we corrected an error where we inadvertently omitted a constructed value for one particular model, and we corrected a clerical error made by Peer/Chin Jun in reporting entered value, international freight, and U.S. duties. We corrected these errors pursuant to allegations made by Peer/Chin Jun. See comment 1 of section 4 and comment 4 of section 6, below.

Analysis of Comments Received

We received comments from interested parties regarding the following topics:

1. Separate Rates
2. Valuation of Factors of Production
   (a) Material Valuation
   (b) Labor Valuation
   (c) Overhead, SG&A and Profit Valuation
3. Freight
4. Facts Available
5. Assessment
6. Miscellaneous Issues

Summaries of the comments and rebuttals, as well as our responses to the comments, are in each of the above sections.

1. Separate Rates

Comment 1: Peer/Chin Jun argues that the Department should not have used facts available for CMEC. Peer/Chin Jun notes that the Department determined that CMEC was not entitled to a separate rate because CMEC did not respond to certain questions in its supplemental questionnaire. Peer/Chin Jun argues that CMEC provided a wide range of information sufficient to demonstrate an absence of government control. Citing Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Preliminary Results of Antidumping Administrative Review, 60 FR 44302, 44303 (August 25, 1995), Peer/Chin Jun contends further that government control is only important if there is evidence that ''pricing and export strategy are subject to [government] review or approval'' or if there is evidence that the authority to negotiate and enter into contracts ''is subject to any level of government approval.'' Peer/Chin Jun argues that the evidence on the record demonstrates that this is not the case for CMEC. Peer/Chin Jun asserts that the failure to answer one question is not sufficient cause to use facts available for a company which provides detailed sales and factors-of-production (FOP) information.

Peer/Chin Jun also notes that CMEC received a separate rate in the initial investigation and in the 1989–90 administrative review, and it argues that all relevant evidence shows that China has liberalized its control of the economy since 1990 and has no control over Chinese trading companies.

Timken contends that Peer/Chin Jun has no standing to request changes in the results of other respondents and notes that CMEC itself has not objected to the Department's decision.

Timken also argues that the Department's preliminary decision was appropriate because CMEC failed to cooperate with the Department's requests for information. Timken contends that, in addition to failing to provide information concerning its management-selection process, which was the basis of the Department's decision, CMEC failed to respond to the Department's questions concerning the CMEC Group's membership and activities. Timken also asserts that CMEC's responses indicate that it plays a leading role as part of a huge conglomerate, CMEC (Group), which is, according to Timken, controlled by the PRC government, but that CMEC failed to document the nature of this role or the government's role, or lack thereof, in CMEC's operations. Given these failures, Timken asserts that the Department's decision is reasonable.

Department's Position: We disagree with Peer/Chin Jun that our treatment of CMEC in the *Preliminary Results* was improper. Further, we note that, while Peer/Chin Jun may comment on this issue, it may not have standing to appeal this issue.

CMEC failed to respond adequately to our supplemental questionnaire and, as a result, we determined that the record did not contain sufficient evidence to warrant a determination that CMEC was entitled to a separate rate. Though Peer/Chin Jun claims that CMEC provided ''detailed'' information sufficient to demonstrate an absence of government control over its export activities in its original response, we found, after examining CMEC's response, that additional information was necessary in order for us to conclude that it would be appropriate to assign a separate rate to CMEC. However, CMEC did not respond adequately to our supplemental questionnaire. As Timken notes, CMEC failed to provide information concerning the identities and former positions of CMEC's senior management and/or board of directors, the process of selecting senior management, or details regarding the CMEC Group's members and operations. See CMEC's March 3, 1997 submission at pages 3 and 8. Given CMEC's failure to respond to our requests for information regarding these issues, it would be inappropriate to make assumptions about the answers to these questions that are favorable to CMEC. Further, while Peer/Chin Jun argues that all available information confirms that there is no governmental control of CMEC, because CMEC failed to respond to these questions, we must infer that CMEC failed to respond because the answers would have indicated that CMEC's export activities are in fact controlled by the government of the PRC. Therefore, we determine that CMEC is not entitled to a separate rate.

With regard to Peer/Chin Jun's argument that government control over CMEC's export activities is only important if there is evidence that ''pricing and export strategy are subject to [government] review or approval'' or if there is evidence that the authority to negotiate and enter into contracts ''is subject to any level of government approval,'' we disagree. We use these factors to determine whether there is de facto government control. The evidence on the record is not sufficient for us to conclude that CMEC's export activities are not controlled by the PRC government. It is incumbent on respondents to demonstrate that they are entitled to separate rates. If a respondent fails to submit sufficient evidence to demonstrate the appropriateness of receiving a separate rate, especially when we request specifically that it submit such evidence in both the original and supplemental questionnaires, we cannot assume that a respondent is entitled to a separate rate based on evidence previously submitted.

Finally, the fact that CMEC received a separate rate in the initial investigation and in the 1989–90 administrative review is irrelevant in the context of this review. With regard to separate rates, each review requires a *de novo* determination because facts may change over time. Furthermore, Peer/Chin Jun's contention that all relevent evidence shows that China has liberalized its control of the economy since 1990 and has no control over Chinese trading companies is speculative and unsupported by record evidence. In addition, even if it were true generally, that does not prove that it is true for individual companies. Therefore, we have not altered our treatment of CMEC for these final results.

Comment 2: Timken claims that The Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People, Art. 44 (1988) (Chinese law), specifies that the government of China maintains control over the

appointment and removal of top management in facilities in which the people of China have an ownership interest. Timken asserts that consideration of that Chinese law requires reversal of the separate-rate decisions concerning all respondents in this review period. Timken adds that the Chinese law demonstrates that not only is the choice for factory director subject to government review and approval or disapproval, so too are the factory director's choice for hiring or discharging others in top management positions. Timken states that, because respondents have not provided any information to explain the discrepancy between the text of the Chinese law and their claims, the Department should determine in the final results on the basis of facts available that respondents' management selection is, as provided by the Chinese law, subject to government control and, therefore, respondents are not entitled to separate rates.

Guizhou Machinery, et al. argue that the Department determined that there was an absence of both *de jure* and *de facto* government control over their operations in past reviews. Guizhou Machinery, et al. contend that, based on the *de jure* and *de facto* government control standard, the Department found in the *Preliminary Results* that the information submitted by Guizhou Machinery, et al. was unchanged and consistent with information reported in past reviews. In addition, Guizhou Machinery, et al. argue that the Chinese law to which Timken refers has been in existence since 1988 and, therefore, has been in existence in every review since the beginning of this order yet the Department has granted separate rates to respondents in the past. Moreover, Guizhou Machinery, et al. assert that nothing about the Chinese law has changed to alter the results of this review. Guizhou Machinery, et al. maintain that the Chinese law's actual impact on a company's operations is nonexistent and, in reality, companies do no more than record election results with a government agency. Guizhou Machinery, et al. argue that, if the Department accepts Timken's assertions, the Department would have to make the same determination in every antidumping case involving a Chinese company despite reliable evidence of independence.

Department's Position: We have determined in each review of this proceeding that ownership ''by all the people'' in and of itself cannot be considered as dispositive in establishing whether a company can receive a separate rate. *See* also Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China, 59 FR 22585 (May 2, 1994) (Silicon Carbide). It is our policy that a respondent in a non-market economy (NME) is entitled to a separate rate if it demonstrates on a *de jure* and a *de facto* basis that there is an absence of government control over its export activities.

A separate-rate determination does not presume to speak to more than an individual company's independence in its export activities. The analysis is focused narrowly on an individual company, and the determination, if autonomy is found, is narrow. The Department analyzes that individual company's U.S. sales separately and calculates a company-specific antidumping rate. Thus, for purposes of calculating margins, we analyze whether specific exporters are free of government control over their export activities, using the criteria set forth in Silicon Carbide at 22585. Those exporters who establish their independence from government control are entitled to a separate margin calculation.

Thus, a finding that a company is entitled to a separate rate indicates that the company has sufficient control over its export activities to prevent the manipulation of such activities by a government. See Disposable Pocket Lighters from the PRC, 60 FR 22359, 22363 (May 5, 1995) (Disposable Lighters).

The PRC companies that responded to our questionnaire submitted information indicating a lack of both *de jure* and *de facto* government control over their export activities. Timken claims that the election of the general manager is subject to governmental approval. We examined this issue in prior cases and determined that such approval is strictly a pro forma exercise. Our review of the Chinese law and previous verifications of the various respondents indicate that this ''approval process'' is, in effect, a mere reporting exercise. As we stated in the *Preliminary Results* with regard to Huangzhou, and verified in the cases of respondents which we conducted a verification, respondents' management is generally elected by the employees of the enterprise and the results of such elections are recorded with the Ministry of Foreign Trade and Economic Cooperation or a similar governmental agency. There is no evidence that MOFTEC or any other governmental body controls the selection of management, nor has ever interfered with the election process. Therefore, we find that the companies independently select their management. Based on our analysis of the factors enunciated in Silicon Carbide, the verified information on the record supports our determination that the above-named respondents are, both in law and in fact, free of government control over their export activities. See, e.g., Luoyang's verification report dated April 23, 1997. Thus, it would be inappropriate to treat these firms as a single enterprise and assign them a single margin. Accordingly, we have continued to calculate separate margins for these companies. See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews (TRBs IV–VI), 61 FR 65527, 65528 (December 13, 1996).

Comment 3: Timken argues that TRBs from the PRC are subject to direct government export control. Timken maintains that, contrary to respondents' narrative claims and the conclusion of the preliminary results, licenses are required to export TRBs. Because respondents have failed to come forward with any factual basis for believing that export controls do not apply, Timken argues that the Department should determine as facts available, that TRBs are subject to export controls on the basis of the Chinese law.

Guizhou Machinery, et al. argue that the Department rejected this same argument in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results and Partial Termination of Antidumping Duty Administrative Review, 62 FR 6173 (February 11, 1997) (TRBs VIII). Guizhou Machinery, et al. contend that they have provided further clarification to the Department on the nature of the controls and each company reported that it did not need to apply for an export license during the review period. Guizhou Machinery, et al. state that, since late 1993, the ''Temporary Provisions for Administration of Export Commodities'' have not been strictly implemented and no governmental approval has been required to export commodities on the list. Therefore, Guizhou Machinery, et al. contend that the Department should reject Timken's assertions and continue to grant separate rates to respondents for the reasons set forth above.

Department's Position: We obtained information regarding the extent of government control over respondents' export activities. The PRC companies that responded to our questionnaire submitted information indicating a lack of both *de jure* and *de facto* government

control over their export activities. Contrary to Timken's assertions, our determination in this regard did not hinge on the fact that the term ''TRBs'' does not appear on the ''Temporary Provisions for Administration of Export Commodities'' (Temporary Provisions). Further, we are not persuaded to change our separate-rates determinations based on the fact that the term ''bearings'' appears in the Temporary Provisions. The term ''bearings'' appears on a section of the Temporary Provisions that simply indicates that an exporter must obtain an ''ordinary'' license in order to export bearings. There is no evidence on the record that an ''ordinary'' export license involved any export controls or authorization beyond that involved in any market economy. Instead, as detailed in the *Preliminary Results*, the record evidence in this case, including our verification findings, clearly indicates a lack of both *de jure* and *de facto* government control over the export activities of the firms to which we have assigned separate rates.

We also do not agree with Timken's argument that we have misapplied the presumption of state control in this case. As noted previously, we stated in the *Preliminary Results* that there is no evidence of government control over exports. The record, based on information that respondents provided in response to our requests for information, indicates that the government of the PRC does not control respondents' export activities. Finally, this information was subject to verification and is discussed in the relevant verification reports. The verified information on the record supports our determination that the respondents are, both in law and in fact, free of government control over their export activities. Thus, it would be inappropriate to treat these firms as a single enterprise and assign them a single margin. Accordingly, we have continued to calculate separate margins for the companies listed above. See TRBs IV–VI at 65528.

Comment 4: Timken contends that, in the investigation stages of this proceeding, CMEC was the umbrella organization through which all companies in the PRC exported TRBs to the United States. Timken argues that CMEC's questionnaire responses in this review contradict its claim of independence and indicate that it plays a leading role as part of a huge conglomerate, controlled by the PRC government. Timken asserts that, at the very least, the Department should assume that CMEC's status as a core enterprise unifies all of the allegedly ''independent'' Chinese trading companies. Timken asserts further that, even if the Department decides that other PRC companies are entitled to separate rates, the Department should not assign separate rates to CMEC and its affiliates. Timken argues that the Department should reject CMEC's and is affiliates' responses regarding separate rates because CMEC has failed to discuss the state's role in the establishment of CMEC.

Guizhou Machinery, et al. argue that Timken's claim that CMEC acts as an umbrella organization for all Chinese TRB facilities is unfounded. Guizhou Machinery, et al. assert that the Department determined that CMEC was no longer an umbrella organization when it decided that Guizhou Machinery, et al. deserved separate rates in TRBs IV–VI. Guizhou Machinery, et al. state that the Department's preliminary conclusion to use separate rates is correct, and it should reject Timken's request to apply a single rate to Guizhou Machinery, et al.

Department's Position: We agree with respondents. Although CMEC failed to respond adequately to our requests for information with regard to separate rates and therefore did not receive a separate rate, as discussed in our response to comment 1 of this section, there is no record evidence in this review to support Timken's claims that other respondents in this review are accountable to or are connected in any way to CMEC. The factual situation in the original investigation has no relevance to this review, especially in light of the fact that the period of investigation was nearly 10 years prior to the POR. The data we received from respondents in response to our original and supplemental questionnaires suggests that the original factual situation no longer exists. Therefore, we have continued to calculate and apply separate margins for respondents in these reviews except as noted elsewhere.

Comment 5: Timken states that CMC's verification report indicates that appointments by the General Manager are not subject to approval by the board and, additionally, that the Board of Directors only appoints the General Manager. Timken claims that what is not discussed in the report is that CMC is a Chinese company ''owned by all the people of the People's Republic of China.'' Timken claims that, under article 44 of The Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People, the Chinese government retains approval authority over the selection of CMC's Director or General Manager, and that nominations must be submitted to the government for approval. Similarly, Timken continues, Article 45 of that law permits the General Manager only to nominate or suggest appointments to and removals from the other top management positions, leaving approval of proposed appointments and removals with the government. Timken argues that the law was not addressed by CMC in its questionnaire responses or at verification and, absent proof of its repeal, it establishes government control at the highest levels of the company. Timken claims that a finding of separate status cannot rationally be made when the highest levels of management require government approval and provisions requiring government approval of other management certainly would apply to the appointment of CMC's representatives to the CMC board. Thus, Timken contends, CMC's management is controlled by the Chinese government.

Department's Position: We disagree with Timken. As we stated in our response to comment 2 of this section, ownership of a company by ''all the people'' does not in itself disqualify a respondent for application of a separate rate. We verified the fact that CMC's appointment of personnel is independent of government control. Accordingly, we have determined that CMC is eligible for a separate rate.

Comment 6: Timken argues that neither CMC's verification report nor the preliminary results recognize that the 1992 ''Temporary Provisions for Administration of Export Commodities'' include ''bearings'' among products subject to direct government export control. That law, Timken claims, submitted as an attachment to various respondent's Section A responses, lists bearings among articles subject to export controls. Under this provision, the government retains control over export activities sufficient to deprive CMC of separate entity status and the preliminary finding of a separate rate for CMC should be abandoned in the final results.

Department's Position: As explained in our response to comment 3 of this section, we have determined that this document alone does not suffice to deny CMC a separate rate. Therefore, we have calculated a separate rate for CMC for these final results.

2. Valuation of Factors of Production

2. (a) Material Valuation

Comment 1: Timken argues that the Department should use India, not Indonesia, as the surrogate country for valuing steel inputs. Timken contends that the Department in the *Preliminary*

Results identified India as the primary surrogate and Indonesia as the secondary surrogate and that there is no reason to resort to the secondary surrogate as a source of values unless values available in the primary surrogate are deemed unreliable. Timken asserts further that information which it provided in its brief shows that the average unit values derived from the Indian import statistics are not dissimilar to the values reported by Asian Bearings and SKF India, actual Indian bearing producers. Timken also argues that the Department should use such values of actual bearing producers in India for its valuation of direct materials.

Timken contends that the decision that Indian import statistics are ''unreliable'' appears to be based largely upon an unreasonable comparison of the Indian import values with imports of bearing-quality steel to the United States, which is a country that is at a level of economic development not even remotely comparable to China. Citing Drawer Slides from the People's Republic of China, 60 FR 54472, 54476–76 (October 24, 1995) (Drawer Slides), Cased Pencils from the People's Republic of China, 59 FR 55625, 55629 (November 8, 1994) (Cased Pencils), and Helical Spring Lock Washers, 58 FR 48833, 48835 (September 20, 1993) (Lock Washers), as well as prior TRB reviews, Timken contends further that a comparison of the average unit values of U.S. imports, Indonesian imports, and Indian imports indicates that there is not a sufficient ''aberration'' in prices to justify the Department's findings in the preliminary results. In addition, Timken alleges that a large portion of the imports included in the U.S. statistics are shipped from Japan to U.S. ports located near the U.S. subsidiaries of companies subject to antidumping duty orders on bearings and, as such, the statistics reflect intra-company transfer prices between companies attempting to avoid antidumping orders.

Timken contends that it appears that the values which the Department found to be ''unreliable'' in the precedent determinations were ''at least several times'' or, when a specific figure is given, over 300 percent higher than the other information on the record. Timken further states that, in Lock Washers, even a value 600 percent higher than the alternative was not found sufficiently aberrant to warrant rejection. Timken contends that the fact that Indian values are only twice as high as the average unit value of U.S. imports supports the use of the Indian statistics. Timken also states that, in Drawer Slides and Lock Washers, Indian import values were found to be inconsistent with Indian export values, as well as with petitioner's costs for the items being valued. In this review, Timken argues, the prices actually paid by a producer and the results from the remand in the original investigation show the values from Indian import statistics to be reasonable under the standards applied in other antidumping proceedings.

Finally, Timken asks that, should the Department use the Indonesian statistics, it should exclude imports under the bearing-quality categories that come from countries not known to produce bearing-quality steel as it did in Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Romania: Final Results of Administrative Review, 62 FR 37194, 37195 (July 11, 1997) (Romanian TRBs). In addition, Timken suggests that aberrationally high or low values and small quantities should be excluded from the calculations.

Guizhou Machinery, et al. argue that the Department should reject Timken's arguments. Guizhou Machinery, et al. state that the Department has used Indonesian import statistics to value steel inputs for the last five administrative reviews and that there is no information on the record of this review which would suggest that a change in methodology is appropriate. Guizhou Machinery, et al. argue further that the Department tested the Indian import statistics for steel using a methodology that is consistent with the statute, the Department's regulations, and administrative practices. Respondents assert that, based on the Department's determination that Indian steel import values are unreliable, the Department valued the steel input and scrap properly by using import statistics from Indonesia, the secondary surrogate country. Citing section 773(c)(1) of the Act, Guizhou Machinery, et al. state that the statute permits the Department to consider information from various market-based economies, including the United States, when selecting surrogate values. In addition, Guizhou Machinery, et al. state that the Court of International Trade recently confirmed the very method the Department used to determine the ''best available information'' on steel surrogate values, citing Olympia Industrial Inc. v. United States, Consol. Ct. 95–10–01339, Slip Op. 97–44 (April 10, 1997). Peer/Chin Jun and L&S Bearing Co. clarify that the Department is not using the United States as a surrogate; it is merely using steel prices in the United States as a basis of comparison.

Respondents state that Timken's attempt to discredit U.S. import statistics is based upon speculative assertions regarding the import values and should be rejected. Guizhou Machinery, et al. state further that the fact that United States maintains an antidumping duty order on TRBs from Japan in no way supports Timken's speculation that the U.S. import values for bearing-quality steel are understated. Furthermore, respondents contend, there is no evidence that the U.S. import prices are transfer prices because the import statistics do not identify the exporters. Peer/Chin Jun and L&S Bearing Co. state that, in fact, an analysis of the 1996 U.S. import statistics shows that the average import values for Japanese steel is only ten percent less than the average import value for all countries.

While Guizhou Machinery, et al. agree with Timken that the cited cases represent situations in which the proposed surrogates were aberrational, they argue that the cases cited do not stand for the proposition that only values which are over several times higher than other information on the record are aberrational. Respondents state that the Department has never adopted a numerical threshold or minimum standard for defining aberrational data but rather bases each finding upon the record in each case. Consistent with its determinations in prior Chinese TRB reviews, respondents submit that the Department should affirm, in the final results, its preliminary finding that the Indian import values for steel are aberrational for purposes of valuing the steel input and scrap in this review and continue to use Indonesian import statistics.

Finally, Guizhou Machinery, et al. state that the Department should not rely upon the publication provided by Timken for identifying the countries which produced bearing-quality steel during the POR because it is stale information.

Department's Position: We disagree with Timken. Although Indonesia is not the first-choice surrogate country in this review, in past cases the Department has used values from other surrogate countries for inputs where the value for the first-choice surrogate country was determined to be unreliable. See Drawer Slides at 54475–76, Cased Pencils at 55629, and Lock Washers at 48835. The Department has used Indonesia previously as a secondary source of surrogate data in cases involving the PRC where, as here, use of Indian data was inappropriate even though India was the primary surrogate. See, *e.g.*, Chrome-Plated Lug Nuts from the PRC: Final Results of Antidumping Duty

Administrative Review, 61 FR 58514, 58517–18 (November 15, 1996).

Timken's attempt to distinguish the instant proceeding from the cases in which we have departed from a primary surrogate demonstrates that there are a variety of factual situations in which recourse to a secondary source is appropriate with respect to the valuation of a given factor. Accordingly, we must determine the reliability of each factor based on the facts of each case. In this review, as noted above, a comparison of the Indian import values with other, more specific data regarding bearing-quality steel indicates that the Indian values are inappropriate. In contrast, the Indonesian data that we have chosen closely approximate observable market prices for this specific input and therefore constitute a more appropriate valuation source.

Finally, we disagree with Timken that the fact that Japanese values are included in the U.S. import statistics creates a distortion which would make U.S. import statistics an inappropriate gauge of the reasonableness of Indian import statistics. Timken's argument is speculative and unsupported by any evidence on the record. Furthermore, even if we were to disregard U.S. imports from Japan, the Indian import prices are substantially greater than the average U.S. import prices of countries other than Japan.

For these final results, where we have other sources of market value such as Indonesian import statistics or U.S. import statistics, we have compared the Indian import statistics to these sources of market value to determine whether the Indian import values are aberrational, *i.e.,* too high or too low. Based on this comparison, we have determined that the Indian steel values are aberrational and have used Indonesian steel values for our surrogates (see Selection of surrogate country memorandum, dated June 13, 1997).

We agree with Timken that imports under the bearing-quality steel categories that come from countries that do not produce bearing-quality steel should be excluded from our surrogate-value calculations. The data Timken submitted regarding which countries do not produce bearing-quality steel was published one year prior to the beginning of the POR. We do not consider the data to be stale because it is only one year removed from the POR. Therefore we consider this data to be the best facts available on the record of this review for determining which steel prices are properly included in our surrogate value calculations. See Revised Steel Factors-of-Production Values used for the Ninth Administrative Review of the Antidumping Duty Order on Tapered Roller Bearings from the People's Republic of China, dated October 29, 1997 (Revised Steel FOP Memorandum) for a description of how we recalculated the steel values. In addition, we discovered two clerical errors in our preliminary calculation of steel values. First, we used the average exchange rate for the time period which we excluded rather than the time period we used. Second, contrary to what we said in Memorandum to the File from Case Analysts: Factors of Production Values Used for the Ninth Administrative Review of the Antidumping Duty Order on Tapered Roller Bearings from the People's Republic of China dated June 20, 1997 (FOP Memorandum), in some instances, we inadvertently did not exclude imports from NMEs or from countries that shipped fewer than seven metric tons of steel to Indonesia. We have corrected these errors for these final results.

Comment 2: Timken states that the Department should not use Indonesian statistics to value the factors of production. Timken contends that Indonesian statistics do not describe bearing-quality steel as well as the Indian statistics because the Indian statistics are reported and maintained by eight-digit categories and the Indonesian statistics are reported and maintained by six-digit categories. Specifically, Timken contends that the average unit values for the two most important categories of Indonesian steel are inherently less likely to represent the value of bearing-quality steel. While Timken does concede that none of the eight-digit Indian categories correspond specifically to the bearing-quality steel used to manufacture cups and cones for TRBs, Timken claims that the Department can deduce the quality of steel which is in the ''others'' category. Based on its analysis, Timken states that the eight-digit ''others'' category defines bearing-quality alloy steel bar more narrowly than the six-digit Indonesian category for all types of steel bars.

Timken also contends that, because the Indonesian import statistics identifying the country of export are only available on an annual basis, the data does not permit consideration of values most contemporaneous with the POR. Timken contends further that, because the data most contemporaneous with the POR do not identify the source country, it is impossible to exclude imports from NMEs, countries which do not produce bearing-quality steel, or to identify small or otherwise aberrational quantities.

In addition, Timken states that, even assuming that the Indian statistical value for bar is ''unreliable'', other Indian statistic categories are not unreliable. Specifically, Timken presents an analysis which it deems as evidence that the Indian values for bar for rollers and sheet for cages are in line with U.S. values. Finally, Timken states that, if the U.S. values are the only ''reliable'' figures, then the Department should resort directly to them as the surrogate values.

Guizhou Machinery, et al. contend that the majority of Timken's assumptions are incorrect and that the Department used contemporaneous Indonesian import data, excluded NME imports from Indonesian statistics, and eliminated the values of steel imports entered in small quantities. Guizhou Machinery, et al. contend further that the Department's selection of Indonesian import statistics to value the steel inputs resulted in the use of the best available information on the record of this review.

Guizhou Machinery, et al. contend that Timken does not know, nor is there any factual description on the record of, the specific steel products which were imported under the Indian and Indonesian categories Timken compares for the purposes of its analysis. Respondents assert that Timken's analysis leaves the Department comparing two basket categories. Respondents argue that, even if the Indian import statistics more narrowly define the type of steel, the Indian data are still unreliable.

Department Position: We disagree with Timken. None of the eight-digit Indian tariff categories corresponds specifically to bearing-quality steel used in manufacturing TRBs and there is no evidence on the record to support Timken's argument that data based on the Indian eight-digit ''others'' category are in any way superior to data based on the Indonesian six-digit categories. We determine that the use of Indian import data is not appropriate to value steel because we are unable to isolate an Indian import value for bearing-quality steel and, more importantly, the steel values in the Indian import data are not reliable, as discussed in our response to comment 1 of this section, above.

As in TRBs IV–VI and in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order, 62 FR 6189 (February 11, 1997) (TRBs VII), we have examined each of the eight-digit categories within the Indian

7228.30 group and have found that, although bearing-quality steel used to manufacture cups and cones is most likely contained within this basket category, there is no eight-digit sub-category that is reasonably specific to this type of steel. We have no information concerning what the ''others'' category of steel contains, and none of the parties in this proceeding has suggested that this category specifically isolates bearing-quality steel. More importantly, the value of steel in this eight-digit residual category is valued too high to be considered a reliable indicator of the price of bearing-quality steel.

In light of these findings, we have used import data from another surrogate country, Indonesia, a producer of merchandise comparable to TRBs, to value steel used to produce these components. As with the Indian data, we were unable to isolate the value of bearing-quality steel or identify an eight-digit category containing such steel imported into Indonesia; however, unlike the Indian data, the Indonesian six-digit category is consistent with the value of U.S. imports of bearing-quality steel under the comparable six-digit category in the United States, which specifically includes bearing-quality steel. Thus, we have determined that the Indonesian six-digit category is the best available information for valuing steel.

Comment 3: Timken contends that, even if there were a rational basis for rejecting the Indian import statistics, other Indian values, not Indonesian values, would be the appropriate replacements. Timken states that, in addition to the Indian import statistics, the record contains the values from the results of the court-ordered remand for the original investigation as well as recent public data for the actual prices paid for inputs by bearing producers in India, namely, Asian Bearing, SKF India and Tata Timken Ltd. (Tata). Timken contends that use of any of these sources would yield more reliable results than use of the basket categories in Indonesia.

Guizhou Machinery, et al. state that, while there may be no shortage of Indian data, the amount of data is irrelevant because the issue is whether the data are appropriate for purposes of establishing a reliable surrogate value. Guizhou Machinery, et al. state further that, in past reviews, the Department has repeatedly rejected the same alternative sources Timken presents in this review. Guizhou Machinery, et al. also contend that there are other flaws in the data available from the sources suggested by Timken and that the Department has not verified any of the purported factual statements, nor has Timken certified the accuracy of the information.

Guizhou Machinery, et al. state that the data in the remand determination of the original investigation is over 10 years old and is stale. In addition, Guizhou Machinery, et al. state that the consistency between 1985/86 and 1995/96 Indian import values for steel is irrelevant since the Department found the 1995/96 Indian import statistics to be aberrational.

Department's Position: We disagree with Timken. Section 773(c)(1) of the Act states that, for purposes of determining normal value (NV) in a NME country, ''the valuation of the FOP shall be based on the best available information regarding the values of such factors * * *'' As we stated in TRBs IV–VI and in TRBs VII, our preference is to value factors using published information that is closest in time with the specific POR. See also Drawer Slides at 54476. Also, we have a longstanding practice of relying, to the extent possible, on public statistics from the first-choice surrogate country to value any factors for which such information is available over company-specific data. See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China, 57 FR 21058 (May 18, 1992) (Butt-Weld Pipe) at 21062. Public statistics provide a more representative value for these material inputs than a single company's information. Therefore, surrogate-country import statistics exclusive of import duties comprise the best available information in this review for valuing raw-material costs. Our reasons for preferring data for Indonesia, rather than for our primary surrogate, India, for valuing steel are set forth in our response to the above comments.

Comment 4: Wanxiang contends that it reported the gross weight for the cup and cone in the data field for cones while reporting zero in the data field for cups. Wanxiang asserts that, because the Department used facts available for cups, the Department effectively double-counted the material costs for cups. As support for its contention, Wanxiang cites the data which it supplied another respondent. Wanxiang argues that the Department should either recalculate the cup and cone weights by allocating the cone weight which it reported on the basis of net weight or the Department should aggregate the gross-weight calculation for cups and cones because the distance from the steel mill and the surrogate value for steel are the same for both the cup and cone.

Timken contends that, because Wanxiang failed to furnish the information the Department requested, the Department was compelled to use facts available. Timken argues that it is too late now for Wanxiang to request that the Department reconfigure its response. Furthermore, Timken asserts that Wanxiang failed to demonstrate that its suggested revisions reflect reality. Finally, Timken argues that the Department should assume that the gross weight of the cup was, at a minimum, the same as that of the cone because the cone must fit within the cup and the cup is generally heavier than the cone. Therefore, Timken asserts, the Department should use the cone gross weight instead of the cup net weight to restate the cup gross weight.

Department's Position: We agree with Wanxiang. We have enumerated the criteria which must be met before we will correct an alleged clerical error in Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Reviews, 61 FR 42833 (August 19, 1996) (Colombian Flowers). We have corrected this error because it is obvious from the record that an error occurred. Furthermore, we examined the data that Wanxiang placed on the record on behalf of another respondent and found that the sum of the weights for cups and for cones is nearly identical to the single weight that Wanxiang reported. Furthermore, we agree with Wanxiang that we should aggregate the gross-weight calculation for cups and cones. While, for purposes of analyzing and verifying the reported data, we normally prefer that these data be segregated, it doesn't matter mathematically for the purposes of calculating the margin whether the gross weights for cups and cones are segregated or aggregated because we use the same steel values for both cups and cones. Therefore, for purposes of calculating Wanxiang's margin, we aggregated the cup and cone gross weights.

Comment 5: Peer/Chin Jun argues that the Department should not disallow a certain supplier's scrap offset to direct materials cost. Peer/Chin Jun argues that the Department has verified this supplier's scrap offset in previous reviews and that this supplier submitted adequate data on behalf of Peer/Chin Jun for the Department to find that the methodology used was reasonable.

Peer/Chin Jun contends further that the Department also cited the great variance in this supplier's reported scrap weights as a percentage of gross weight as a reason for disallowing the scrap offset. Peer/Chin Jun argues that it is logical that scrap weight should vary

depending on the model and component. Peer/Chin Jun also contends that the scrap weight does not vary much when compared only to other components of the same type, and it asserts that scrap rates will be higher for some types of components than for others. Peer/Chin Jun also asserts that the scrap weights reported by this supplier are similar to those claimed by other respondents.

Timken asserts that it would be ludicrous to accept this supplier's unsupported claim for a scrap allowance given the fact that this supplier failed to explain its allocation methodology after having been given an opportunity to do so.

Department's Position: We agree with Timken. We disallowed the scrap offset for this supplier because Peer/Chin Jun failed to support its claim for a scrap offset. Peer/Chin Jun failed to respond to our two requests to describe how it calculated the scrap offset. Moreover, Peer/Chin Jun failed to provide any useful information which we could use to calculate the scrap offset. It is irrelevant whether the great variance in scrap rates is reconcilable. The claim that it is reconcilable does not mitigate the failure to provide an explanation of how the calculation was performed. Therefore, we conclude that this supplier failed to support a scrap offset and we have disallowed this offset.

Comment 6: Timken claims that the verification report confirms CMC buys rings for cups and cones and cages from outside entities and that the turning of rings for cups and cones also occurs at outside entities. Timken states that it has submitted information on the record which will permit the direct valuation of these components based on the cost of those inputs in India and that these should be used in the final results. Timken contends further that the verification report indicates that no more than a certain percentage of scrap produced should be factored into the final result calculations for the final results.

Timken remarks that it has asked repeatedly that the Department conduct a top-down verification of total employment, total production, and total hours allocated to the subject merchandise. Timken claims that the lack of such information leaves each of the reported labor factors without an objective benchmark against which it could be compared.

Timken states that, because data pertaining to forging, machining, heat treatment, and grinding stages of production was provided by facsimile from a subcontractor, the information could not be traced to CMC's source documents. Timken claims that CMC cannot evade verification because operations were performed by subcontractors and that this should be a basis for finding that CMC failed verification, not an excuse to accept unsupported facsimile documents.

CMC responds that, as noted in the verification report, the FOP data for production not completed at CMC was provided voluntarily by its subcontractors and the Department noted no discrepancies; therefore, there is no reason to reject the subcontractors' facsimiles. CMC states that it is not surprising that the data reported by subcontractors could not be traced to CMC's source documents because the source documents involving the subcontractors' operations are maintained by the subcontractors and those documents could have been examined by the Department had it chosen to do so. Therefore, CMC argues, the Department should rely on the FOP information provided by Yantai CMC which included FOP data provided by subcontractors for various phases of the production process.

Department's Position: Although Timken states that it submitted information for the record to permit direct valuation in India of components purchased by CMC, this information is irrelevant. In fact, as the verification report describes on page 8, CMC imported *all* of the steel used in manufacturing all components of the subject merchandise. CMC then sent the imported steel to a subcontractor which made the component from CMC's steel. Thus, CMC did not actually purchase the component from the subcontractor, but rather, CMC purchased the processing services of the subcontractor. In short, the subcontractor merely performed part of the manufacturing process for CMC. Therefore, it is appropriate to use CMC's raw materials expenses and the subcontractor's FOP to construct NV rather than a surrogate value for the finished component.

We disagree with Timken that we should reject the information from verification which was provided to the verifiers at verification by facsimile transmission. We have conducted this administrative review in accordance with section 751(a)(2) of the Act and our regulations. Although a verification was not required by statute, the Department decided to verify the accuracy of CMC's submissions.

The courts have long agreed that verification is a selective procedure and the Department's ability to verify complete responses is constrained by limitations on time and resources. See, e.g., *Bomont Indus.* v. *United States,* 733 F. Supp. 1507, 1508 (CIT 1990). As in this case, it is not always practicable for the Department to conduct verifications of all companies, suppliers, and subcontractors during every review. The Department has considerable latitude in picking and choosing which items it will examine in detail. *See Monsanto Co.* v. *United States,* 698 F. Supp. 275, 281 (CIT 1988) (citing *Hercules, Inc.* v. *United States,* 673 F. Supp. 454, 469 (CIT 1987)). It is enough for the Department ''to receive and verify sufficient information to reasonably and properly make its determination.'' *Hercules,* 673 F. Supp. at 471; *see also Certain Internal-Combustion Industrial Forklift Trucks From Japan:* Final Results of Antidumping Duty Administrative Review, 62 FR 5992, 5602 (February 6, 1997).

Therefore, contrary to Timken's assertions, the fact that the Department could not devote the resources necessary to verify CMC Yantai's entire responses does not, alone, call those responses into question. Moreover, to the extent we found problems with those portions of the responses that we did verify, these problems were relatively minor and did not seriously call the responses into question, neither with respect to the portions we did verify nor those which we did not. See Forklift Trucks From Japan, 62 FR at 5602. For these reasons, we have continued to rely upon the respondents' complete responses, except where indicated.

2.(b) Labor Valuation

Comment 1: Timken argues that the Department should restate all respondents' indirect labor percentages because the reported percentages are, according to Timken, implausible. Citing an affidavit by one of its employees, Timken claims that it requires 3 to 4 minutes to produce a bearing in the United States, but that it requires an hour to produce a bearing in China. Timken then asserts that certain respondents reported direct labor figures lower than 3 to 4 minutes, which, Timken contends, would indicate a productivity rate greater than that which U.S. firms experience. Timken contends that the reported total labor hours per bearing respondents reported are therefore too low and argues that the Department should restate the figures. Timken argues that the available evidence, including an affidavit by one of its employees, as well as the productivity rates, numbers of employees, and indirect labor percentages of other TRB factories in other countries, indicates that respondents have grossly understated

total labor and indirect labor costs. In addition, Timken asserts, respondents have not substantiated their reported indirect labor and selling, general, and administrative (SG&A) labor percentages and supplemental responses have not overcome the deficiencies in the original responses. Timken also suggests that the fact that the Department found at verification that Luoyang may have misclassified some types of labor indicates that other respondents made the same misclassification, given the uniformity of the indirect labor and SG&A labor percentages respondents reported. Timken argues that, for these reasons, the Department should reject the indirect and SG&A labor percentages all respondents reported and use labor percentages calculated based on other information which is on the record as the facts available in this case.

Guizhou Machinery, et al., Peer/Chin Jun, and L&S argue that the Department verified the ratios respondents reported in this review and in all previous reviews. Respondents also contend that the data which petitioner submitted in order to support its arguments are unsupported, self-serving, and unverified and that because petitioner's assertions are inconsistent with verified information, the Department should not use Timken's information to contradict substantiated data. Finally, respondents assert that petitioner has grossly exaggerated the significance of the discrepancy in Luoyang's data and use of facts available for all respondents as a result would be inappropriate.

Department's Position: We disagree with Timken. Timken essentially argues that we should restate respondents' indirect and SG&A labor percentages because the labor data respondents submitted is allegedly implausible. However, we examined the data Timken uses to support its assertions and found, as described below, that Timken's analysis of that data was flawed. Moreover, as respondents note, that data was neither verified nor substantiated on the record.

Timken asserts that some respondents reported direct labor figures which would indicate a productivity rate greater than the United States. In fact, when we examined the data, we found that, contrary to Timken's assertion, no respondent reported direct labor for a complete bearing as low as 4 minutes. Furthermore, in most instances, the reported direct labor for complete bearings was approximately two to three times the 3 to 4 minutes that Timken states are required to produce a bearing in the United States and, in some instances, the reported direct labor was significantly higher than 4 minutes. While we did find direct labor figures for individual components that were lower than 3 minutes, it is to be expected that the production time for a component would be less than that of a complete bearing. It would be inappropriate to presume that respondents understated direct labor because the reported time required to produce a component in China is less than the time Timken states is required to produce a whole bearing in the United States.

In addition, the affidavit Timken presents is internally inconsistent regarding productivity rates. See Memorandum from Program Manager to Office Director dated October 29, 1997. However, as noted above, we found that, in most instances, the direct labor respondents reported for complete bearings was approximately two to three times the 3 to 4 minutes that Timken states are required to produce a bearing in the United States. Thus, the direct-labor rates respondents reported are generally consistent with the productivity rates we can infer from the statements at paragraph 12 of the Timken affidavit.

From the evidence on the record, we conclude that the data respondents reported, far from being implausible, suggests strongly that the productivity rate for respondents is much lower than the rate for companies in the United States.

While respondents, as Timken notes, generally reported in their original responses that the indirect and SG&A labor percentages were both about twenty percent of direct labor, most respondents revised the reported percentages in response to our supplemental questionnaires. We have verified the direct labor hours and the indirect and SG&A labor percentages of two respondents.

Finally, while Luoyang may have misclassified some types of labor, as discovered at verification (*see* Luoyang Verification Report dated April 23, 1997 at page 8), we regard this as inconsequential in Luoyang's case. Luoyang reported some labor, which Timken asserts should have been classified as indirect labor, as direct labor. It is important to note that the labor which may be more properly classified as indirect labor is captured in the response as direct labor. Thus, were we to reclassify some of this labor as indirect labor, we would increase the indirect labor percentage and decrease the total direct labor figure by the amount of labor that was reclassified. The net result of this reclassification would therefore yield no difference in the total labor for Luoyang's merchandise. Moreover, as noted above, it would be inappropriate to make inferences about the data other respondents reported based on our findings at the verification of Luoyang's response.

In conclusion, for the reasons stated above, we find that the data respondents reported are reasonable and accurate. We see no reason to reject respondents' reported labor data or to resort to the use of facts available in order to restate the reported labor data. Therefore, we have accepted respondents' labor data as reported and corrected at verification.

Comment 2: Timken contends that the hourly costs which the Department used to value indirect labor and SG&A labor were understated in the preliminary results. Timken asserts that it is not appropriate to use the direct-labor hourly cost for indirect and SG&A labor rates because these hourly costs are considerably higher than direct-labor hourly costs, which the data from SKF India support. Timken also asserts that office employees, constituting SG&A labor, have a considerably shorter work week than factory workers in India and that the Department should have taken this into account in calculating hourly labor costs based on annual or monthly compensation.

Timken suggests that the Department assign costs among the different types of labor by applying the average hourly labor cost from SKF India's 1995–96 annual report to all labor hours. Timken contends that such a blended rate would reflect appropriate weights among direct, indirect, and SG&A labor hours, as well as among skilled, semi-skilled, and unskilled workers, at an actual bearing factory in a country at a level of economic development comparable to the PRC. Timken also suggests, as alternatives, a simple average of the average costs of workers that can be properly included and indirect and SG&A labor from Investing, Licensing & Trading Conditions Abroad, India (IL&T), rates based on SKF India's labor contract and rates based on data from Tata Timken, Timken's affiliate in India.

Guizhou Machinery, *et al.* argue that the Department should continue to use IL&T data because these data reflect publicly available published information, which Guizhou Machinery, *et al.* contend is more reliable than company-specific data which Timken submitted. Guizhou Machinery, *et al.* also note that the use of publicly available published information is consistent with the Department's practice and prior reviews of this order. Guizhou Machinery, *et al.* point out that all of Timken's alternative methodologies, except for the suggestion

to use a blended rate, rely on unpublished, unverified data that produce distortive results. Guizhou Machinery, *et al.* contend further that the Department should reject Timken's suggested blended-rate methodology because the Department has data more specific to the POR, because SKF India manufactures products other than bearings, and because the blended-rate methodology inflates the costs of skilled and unskilled direct labor improperly.

Peer/Chin Jun and L&S contend that hourly costs for indirect labor and SG&A labor were not understated in the preliminary results. Peer/Chin Jun and L&S argue that Timken's suggested methodology does not take into account the number of workers in each category of worker, which results in an improperly high representation of higher-paid workers. Based on the factual situation developed in this record, Peer/Chin Jun and L&S contend that the Department's methodology is appropriate.

Department's Position: We disagree with Timken. While it is true that some categories in IL&T, such as accountants and inspectors, have higher average labor costs than those of skilled laborers, other categories of workers that can be included properly in indirect and SG&A labor, such as quality inspectors, cleaning workers, clerks, and typists, have lower average labor costs than those of skilled laborers. Timken argues that, because the simple average of these wage rates is greater than the rates which we used in our preliminary results, the cost of indirect and SG&A labor was understated. We generally do not regard simple averages to be accurate reflections of actual experience because simple averages do not reflect factors other than the one being averaged. In this instance, a simple average of labor costs does not take into account the number of each type of worker employed by a producer. For example, it is unlikely that the respondents in this case employ the same number of toolmakers, quality inspectors, foremen, mechanical engineers, and cleaning workers. Thus, a simple average of the labor costs for these types of workers is an inaccurate measure of the actual experience because it assumes that there is an equal number of workers from each of the named vocations. The record does not contain any information which specifies the number and vocation of workers employed at each factory. Therefore, we conclude that the simple averages of wages from IL&T that Timken cites are an improper tool for analysis in this instance. In addition, for these same reasons, we conclude that Timken's suggestion to use a simple average of rates from IL&T in order to value indirect and SG&A labor costs is inappropriate and therefore unacceptable.

Timken also points to SKF India's 1995–96 annual report in support of its assertion that indirect and SG&A labor costs are higher than direct labor costs. As noted earlier, it is inappropriate to use SKF India's data, given the fact that we have other, broader-based data available for the valuation of indirect and SG&A labor expense. As we indicated in Butt-Weld Pipe at 21062, it is appropriate in NME cases to rely, to the extent possible, on publicly available statistical information from the first choice surrogate country to value factors of production over company-specific data. In addition, while it might be true that SKF India's overhead and SG&A labor costs are, on average, higher than its direct labor costs, it is not clear from the record that this is true of most, or even any, other companies that produce tapered roller bearings in India. It is also not clear whether SKF India employs workers of the various vocations found at a TRB factory in the same proportions as the Chinese respondents. Finally, SKF India produces merchandise other than TRBs and we cannot segregate the amount of labor dedicated to non-TRB production from the given total labor costs. Therefore, we continue to use public statistical information in place of company-specific data. We note, however, that we use SKF India's data for valuing overhead expenses other than indirect labor solely because we have no other, more appropriate data with which to value such expenses.

We find that Timken has not demonstrated successfully that direct-labor rates are not a reasonable surrogate for valuing indirect and SG&A labor expenses. For these reasons, we have not altered our methodology for these final results. We will examine this issue in future reviews, however, to determine the continued appropriateness of this methodology.

Comment 3: Timken asserts that the Department based labor costs on the hours paid rather than hours actually worked and contends that this methodology does not take into account vacations, sick leave, or any other time for which respondents paid but for which employees did not work. Consequently, Timken argues, the hourly rate thus calculated does not represent what the employer paid for an hour of actual work.

Guizhou Machinery, *et al.* argue that the Department has rejected this argument in prior reviews and should continue to do so in this review. Guizhou Machinery, *et al.* contend that there is no support for Timken's contention that hourly labor costs should reflect only the expenses accrued to an employer for the time the employee performs actual work. Guizhou Machinery, *et al.* further note that the Department's calculations include the cost of fringe benefits and argue that no adjustment is necessary. Finally, Guizhou Machinery, *et al.* claim that the verification report for CMC Yantai demonstrates that factory workers are not paid for idle time and thus Timken's argument that the Department's hourly rate does not represent what the employer paid for an hour of actual work is incorrect.

Department's Position: We disagree with Timken. In our preliminary results we valued direct labor using rates reported in IL&T, which states that fringe benefits normally add between 40 percent and 50 percent to base pay. See FOP Memorandum, attachment II at page 52. Accordingly, we multiplied base pay by 1.45 in order to incorporate fringe benefits. FOP Memorandum at 4.

Whereas Timken suggests we calculate a wage rate based only on time spent on the job, we find that expenses related to holidays, vacation, sick leave, etc., belong in the numerator of the surrogate labor-rate calculation and that the amount of time spent on vacation and sick leave belongs in the denominator of the calculation. Because the employer incurs expenses both for employees on vacation and employees on the job, it incurs a fully loaded labor cost to produce the merchandise. By adjusting the base pay to include such fringe benefits as vacation, sick leave, and casual leave, we calculated a fully loaded direct-labor rate that more accurately represents the actual direct-labor cost to the manufacturer. See TRBs VII at 6200–6201. Therefore, there is no need to account for actual hours worked.

Comment 4: Guizhou Machinery argues that the Department treated all labor reported from one supplier as skilled labor rather than unskilled labor erroneously. Guizhou Machinery cites its supplemental response in support of its assertion.

Timken contends that it is not clear from the record that the Department accepted Guizhou Machinery's claimed ratio of skilled to unskilled labor hours and argues that the Department should only make this change if it is convinced of the accuracy of the claimed ratio.

Department's Position: We agree with Guizhou Machinery. Guizhou Machinery indicated the actual amount of unskilled labor for the models

produced by the supplier in its April 24, 1997 response at page 6. Furthermore, the proportion of this unskilled labor to the total labor reported in the response is consistent with Guizhou Machinery's characterization in the narrative of its October 30, 1996 response at pages 6 through 7. Therefore, we have made this change for these final results.

Comment 5: Xiangfan argues that the Department treated all labor reported from one supplier as skilled labor rather than unskilled labor erroneously. Xiangfan cites its supplemental response in support of its argument. Xiangfan requests that the Department correct its labor rate by using the ''blended'' labor rate cited in the FOP memorandum at 4.

Timken contends that it is not clear from the record that the Department accepted Xiangfan's claimed ratio of skilled to unskilled labor hours and argues that the Department should only make this change if it is convinced of the accuracy of the claimed ratio.

Department's Position: We agree with Xiangfan. Although Xiangfan only reported assembly labor in the skilled-labor field in its database, its narrative response contained the ratio of skilled and unskilled labor. Upon review, it is clear that we should have applied the ''blended'' labor rate rather than the skilled labor rate and we have corrected this rate for these final results.

Comment 6: Timken argues that the selling activities of the U.S. affiliate are not included in the total labor hours upon which CMC bases its indirect and SG&A labor percentages. Timken notes that, while selling labor hours would need to be included in order to derive fair indirect and SG&A labor expenses, it is too late for CMC to place information on the record for the first time. Timken requests that the Department use the facts available to determine the margin or at least for the purpose of calculating indirect and SG&A labor.

Timken also contends that another respondent in this review included support workers in direct labor, thereby allegedly understating the percentage of indirect workers and, because the two respondents share the same counsel, it is possible that a similar problem exists with CMC's labor reporting.

CMC responds that Timken provides no basis for its argument that selling activities are not part of the calculation of SG&A. CMC states that the Department verified CMC's reported SG&A percentage by calculating the percentage itself and, therefore, the Department should use the verified number.

Department's Position: We disagree with Timken that we should recalculate CMC's indirect and SG&A labor percentages to reflect labor incurred by CMC's U.S. affiliate. This labor has nothing to do with the production of subject merchandise and is not a part of the cost of manufacture (COM). Rather, we find that CMC's U.S. affiliate's labor cost pertains to selling the merchandise to unaffiliated customers in the United States. Therefore, we have deducted the expenses associated with such labor from CEP instead of including them in the COM. As described in our response to comment 5 of section 6 (Miscellaneous Issues), below, we have deducted all expenses incurred by the U.S. affiliate from CMC's CEP.

We also disagree with Timken's supposition that CMC may have made an error in its SG&A calculation simply because another respondent, who shares the same counsel, made an error. It would be inappropriate for us to make such an assumption. Furthermore, we verified the SG&A percentage and, therefore, have used it for the final results.

2.(c) Overhead, SG&A and Profit Valuation

Comment 1: Timken argues that SKF India's overhead and SG&A ratios the Department used to calculate overhead and SG&A are understated. Timken contends that SKF India purchased forgings from its subcontractors. Because production of forgings from bearing-quality alloy steel is capital-intensive, Timken argues, a producer that subcontracts the forging operation would have higher material costs but lower fixed and overhead costs. Timken claims that, because the Chinese producers do not purchase forged materials, their experience is dissimilar to that of SKF India. Based on this reasoning, Timken states that the Department should increase the costs of raw materials to reflect the forging values or increase the overhead costs to reflect the use of lower-value materials and additional capital-intensive overhead costs. Timken suggests a method which the Department could use to achieve this. Finally, Timken states that the Department should also recalculate the ratio of SG&A to material costs using the revised material costs.

Guizhou Machinery, et al. state that, although the Department has a preference for basing overhead and SG&A rates on industry-wide published information, because industry-wide information is not available, the Department used overhead and SG&A rates applicable to SKF India. Guizho Machinery, et al. state further that, because SKF India produces non-subject merchandise, its annual report does not allow for the specific allocation of labor for overhead and SG&A used in the production of TRBs and, therefore, the Department cannot make any specific adjustments to these company-wide overhead and SG&A ratios. Furthermore, Guizhou Machinery, et al. state that the Department does not typically adjust the component values used to derive SG&A and overhead ratios in the manner Timken suggests. Consequently, Guizhou Machinery, et al. argue, the Department should not adjust the expenses it used from the SKF report to formulate ratios to determine actual amounts for overhead and SG&A.

Citing TRBs VIII at 6178, Peer/Chin Jun and L&S state that the Department should use the same methodology that it has in previous reviews.

Department Position: We disagree with Timken's request that we adjust the overhead and SG&A rates. While we prefer to base our factors information on industry-wide public information, information regarding overhead and SG&A rates for producers of subject merchandise during the POR (except for the indirect-labor portion of overhead and SG&A, which we valued separately) is not available. Therefore, we used the overhead and SG&A rates applicable to SKF India, a company that produces subject and non-subject merchandise.

In deriving these rates, we used the SKF data both with respect to the numerators (total overhead and SG&A expenses, respectively) and denominator (total cost of manufacturing). This methodology allowed us to derive internally consistent ratios of SKF India's overhead and SG&A expenses. These ratios, when multiplied by the factors of production we used in our analysis, constitute the best available information concerning the overhead and SG&A expenses that would be incurred by a PRC bearings producer given such factors of production. Timken's recommended adjustment would reduce the denominator but would leave the overhead and SG&A expenses in the numerator unchanged. As such, we find that this adjustment would itself distort the resulting ratio, rather than cure the alleged distortion in our calculations. Furthermore, because SKF India produces non-subject merchandise, its annual report does not allow us to allocate labor for overhead and SG&A used specifically in the production of TRBs. Thus, we cannot make any specific adjustments to these company-wide overhead and SG&A ratios. Therefore, we have used the ratios we

used in the preliminary results for these final results.

Comment 2: Timken claims that the Department must isolate the direct-labor component of SKF India's cost of goods sold in order to calculate the overhead rate as a percentage of the total of materials, plus direct labor, and overhead based on SKF India's annual report. Timken suggests that this can be done by subtracting from SKF India's total labor costs the proportion that relates to overhead and SG&A. Citing its comments with regard to labor costs, Timken also asserts that the Department should account for the differences in labor costs between direct labor and labor for overhead and SG&A.

Guizhou Machinery, et al. state that Timken has confused labor costs with labor inputs and attempted erroneously to use the former to establish ratios for the latter. Guizhou Machinery et al. contend that the Department calculates surrogate values for cost, not input quantities, and that the Department should reject Timken's suggested methodology.

Department's Position: We disagree with Timken. Timken mischaracterizes our calculation of overhead. Our calculation of overhead incorporates both direct and indirect labor costs as explained below. As we noted in the FOP Memorandum at page 5, we calculate an overhead-to-COM ratio by dividing SKF's total overhead expense by the sum of SKF's total materials, direct labor, indirect labor, and overhead expenses from its annual report. We calculate the COM component of constructed value for subject merchandise by summing direct material expense, direct labor expense, indirect labor expense, and overhead expense. However, while we know the direct material expense, direct labor expense, and indirect labor expense of the subject merchandise, we do not know the overhead expense of the subject merchandise. Therefore, in order to calculate the COM component of constructed value for subject merchandise, we must substitute a surrogate for overhead expense. We calculate this surrogate overhead expense by multiplying COM by the overhead-to-COM ratio we calculated using SKF India's data. This substitution leaves COM as the sole unknown factor. Therefore, we solve for COM using the direct material expense, direct labor expense, indirect labor expense, and the overhead-to-COM ratio. Because both direct and indirect labor figures are part of this calculation, we do not need to adjust for the fact that both direct and indirect labor are included in SKF India's labor expense in our calculation of the overhead-to-COM ratio. Therefore, there is no need to segregate the direct-labor component from SKF's financial statements in order to calculate the percentage because we do not use only direct labor expense in our calculations.

Comment 3: Timken argues that the Department designated the line item ''traded goods'' in the SKF India report incorrectly as a materials cost to include in the calculation of the overhead, SG&A, and profit rates. Timken asserts that ''traded goods'' are finished products which SKF India purchased and which have nothing to do with its manufacturing operations. Timken states that SKF India's financials segregate ''purchases of traded goods'' from ''raw materials and bought out components consumed'' and, in a different part of the report, separates them from products SKF ''manufactured and sold during the year.'' Timken states further that the report identifies ''purchases of traded goods'' as ''ball and roller bearings,'' ''bearing accessories and maintenance products,'' and ''textile machinery components.'' Timken notes that, in past reviews, the Department included only steel costs in the cost of materials, not finished products. Petitioner contends that this prior approach is correct and, because traded goods are already manufactured and do not affect production, the Department should exclude them from the overhead denominator.

Guizhou Machinery, et al. respond that Timken's argument with regard to ''traded goods'' is misguided and that the Department's calculations in the preliminary results concerning this line item were correct. Guizhou Machinery, *et al.* state further that the fact that SKF India did not manufacture these items does not mean that the expense of purchasing them should not be included as a part of the denominator the Department's overhead calculations.

Department's Position: We disagree with Timken. In past reviews we did not include a line item for ''purchases of traded goods'' in the COM because the SKF India financial statements that we used in those reviews did not include this line item. In this review, however, the SKF financials include a separate line item for this cost and we have included it in the COM. According to the description in the SKF report, it is appropriate to consider ''purchases of traded goods'' as COM expenses. They are not overhead or SG&A expenses but instead reflect the common practice of manufacturers purchasing finished and semi-finished goods to meet their clients' demand. SKF does not incur direct materials or direct labor expenses with respect to these products but instead incurs the expense of purchasing them. Because these purchased goods are an integral portion of cost of goods sold, they are ordinary business expenses that we cannot ignore. Therefore, for the final results, we included ''purchases of traded goods'' as part of the denominators in the overhead, SG&A, and profit-rate calculations.

3. Freight

Comment 1: Timken contends that the Department understated the marine-insurance expense by applying a per-ton insurance rate for sulfur dye instead of a value-based insurance rate as a surrogate value for shipments of subject merchandise. As evidence, Timken cites the Department's questionnaire as indicating marine-insurance premiums are normally based on the value of merchandise. Timken recommends that the Department calculate a marine-insurance factor based on the ratio of the insurance charge per ton of sulfur dye divided by the value of sulfur dye per ton (based on U.S. Customs value) and apply this factor to the price of TRBs sold in the United States. Timken claims that this rate can more reasonably be applied to U.S. TRB prices to estimate marine-insurance expenses.

Guizhou Machinery, *et al.* contend that it is not reasonable to assume that the difference, if it exists, in Indian marine-insurance rates applicable to shipments of sulfur dye and TRBs can be measured accurately simply by comparing the difference in product values because, Guizhou Machinery, *et al.* assert, insurance rates are not based on value alone. Guizhou Machinery, *et al.* claim that Timken has not demonstrated that its suggested adjustment would be more accurate than the actual rates which the Department used in the preliminary results and which are consistent with the calculations in other NME cases. Finally, Guizhou Machinery, *et al.* assert that Timken's argument is based upon Customs values which have not been submitted on the record for this review.

Department's Position: While we agree with Timken that the use of value-based rates is preferable to weight-based rates, we cannot use its suggested methodology to calculate an insurance rate based on value. Timken suggest that we use Customs value to compute the insurance rate. However, premiums are typically based on the sales value of the merchandise, not the U.S. Customs value. There may be a significant difference between the value that

Customs assigns to merchandise and the value that the market assigns to merchandise. Therefore, because we do not have the total sales price for sulfur dye, and because we do not have the Customs values of the imported subject merchandise, we must continue to value insurance expense based on weight, which we do have on the record.

It has been our practice in Chinese cases to base insurance rates on the sulfur dye data, regardless of the type of value of the product. See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat from the People's Republic of China, 62 FR 14392, 14396 (March 26, 1997), and Sebacic Acid from the People's Republic of China; Preliminary Results of Antidumping Administrative Review, 62 FR 42755, 42758 (August 8, 1997). Therefore, we have applied those data in this case.

Comment 2: Wanxiang asserts that the Department failed to convert the marine-insurance expense from rupees to U.S. dollars in its margin calculation.

Department's Position: We agree with Wanxiang and have corrected it for these final results.

Comment 3: Guizhou Machinery contends that the Department erred by using the east-coast rate to calculate ocean freight for all transactions in spite of the fact that some transactions had west-coast destinations.

Department's Position: We agree with Guizhou Machinery. This error is obvious from the record and we have corrected it for these final results.

4. Facts Available

Comment 1: Peer/Chin Jun argue that the Department inappropriately resorted to the use of facts available for calculating the margins for certain models for which FOP data were actually available. In one instance, Peer/Chin Jun contend that the Department failed to match U.S. sales appropriately with their FOP data because respondent miscoded the supplier code in the database.

In a second instance, Peer/Chin Jun argue that the Department should not have used facts available for models supplied by a firm which received facts available. Peer/Chin Jun asserts that such a decision penalizes Peer/Chin Jun unfairly. Peer/Chin Jun assert that the Department should apply the weighted-average margin it calculated for all of Peer/Chin Jun's other U.S. sales to these sales, as the Department did in the preliminary results for models for which Peer/Chin Jun's suppliers did not provide FOP data.

In a third instance, Peer/Chin Jun argue that the Department should use the FOP data for a certain model that was submitted by a ''substitute'' producer, which is a producer other than the actual supplier of the merchandise.

Finally, Peer/Chin Jun argue that, due to a typographical error, some sales had an incorrect factory code in the database. Peer/Chin Jun add that, even if the Department does not determine that this error is obvious from the record, the Department should use data submitted by a particular producer that did supply FOP data for this model.

With regard to the first instance, Timken notes that Peer/Chin Jun admit that this may have been the result of a typographical error. Timken argues that it is too late to attempt a correction of so fundamental an error.

Timken argues that, with respect to the second instance, the Department should continue to use facts available because the data submitted by the supplier of that data contained major flaws. Due to the proprietary nature of the flaws, cannot be discussed in this notice. See Peer/Chin Jun's final results analysis memorandum dated October 29, 1997.

With respect to the third instance, Timken argues the NV of merchandise of a producer is the NV of merchandise of that producer regardless of how the NV is determined. Timken contends that Peer/Chin Jun's request would be no different if it came from an importer of a respondent whose margin is determined on the basis of facts available asking to have the margin of a cooperating respondent applied instead. Timken argues that it would be contrary to the remedial purpose of the antidumping law to honor Peer/Chin Jun's request.

With regard to the final instance, Timken argues that the Department should not accept data from a ''substitute'' producer, which, Timken asserts, would enable a respondent to review the record for the most favorable data, unrelated to its own operations, which other respondents have submitted.

Timken adds that Peer/Chin Jun has not shown sufficient effort in gathering information from its suppliers or in encouraging those suppliers to submit complete information. Timken argues that, in light of this failure, the Department should base Peer/Chin Jun's margin on the facts available.

Department's Position: With regard to the first instance, we agree with Peer/Chin Jun that the firm reported the wrong factory code for these models in Exhibit 1 of its June 3, 1997 supplemental response. It is obvious from the record as it existed prior to the preliminary results that this was a clerical error and that the correct factory code can be obtained from the other models listed in that exhibit. Therefore, we have corrected the code for these models.

With regard to the second instance, we disagree with Peer/Chin Jun, but, because of its proprietary nature, we cannot discuss this issue in the context of this notice. For a discussion of this issue, please see Memorandum from Laurie Parkhill to Richard Moreland dated November 3, 1997.

With respect to the third instance, we agree with Peer/Chin Jun. We inadvertently omitted a constructed value for one particular model. We have corrected this error for the final results.

Finally, with regard to the last instance, we disagree with Peer/Chin Jun. Proprietary information contained in Exhibit 6 of the firm's November 12, 1996 response prevents our conclusion that this was a typographical error. See Peer/Chin Jun's final results analysis memorandum dated October 29, 1997 for a further discussion of this issue. Moreover, because Peer/Chin Jun failed to either provide FOP data directly from this supplier or name a source for substitute data in its supplemental response, we have applied facts available to these U.S. sales.

5. Assessment

Comment 1: Timken contends that one of the Harmonized Tariff Schedule (HTS) numbers listed in the scope section of the preliminary results does not exist and requests that the Department announce the correct number for TRBs in the final results. Timken also contends that the scope section did not include products corresponding to Tariff Schedules of the United States (TSUS) item number 692.32, which it claims were subject to the original order. Timken argues that, if the Department is unable to identify all of the HTS numbers that correspond to TSUS 692.32, it should at least identify two particular HTS numbers as within the scope of the order.

Department's Position: We agree with Timken. We examined the HTS and discovered that there were inaccuracies in the scope section of the *Preliminary Results,* we have fixed this error in the scope section of this notice, above, and we have reiterated the textual description of the order in this notice. Finally, we attempted to identify the HTS numbers which correspond to TSUS 692.32, but, aside from the two particular HTS numbers which Timken identified, we were unable to identify the specific HTS numbers that correspond to TSUS 692.32. We

determined that it is appropriate to apply the order to TRBs which enter under the two HTS numbers Timken identified (8708.99.80.15 and 8708.99.80.80) and we have added these two particular HTS numbers to the scope section of this notice.

Comment 2: Great Wall and Huangzhou argue that the Department should issue instructions to Customs to liquidate entries from Great Wall and Huangzhou at the duty rate at which entries from these companies were made. In addition, both companies claim that the deposit rate for future shipments from both companies should be 8.83 percent.

Timken argues that the Department should apply a rate of 25.56 percent to Great Wall because the 8.83 percent quoted in the final results of the 1994–95 review was a clerical error. Timken also asserts that the Department should apply a rate of 29.4 percent to Huangzhou because that is the PRC rate in the review in which it was first differentiated as a separate entity.

Department's Position: We agree with respondents in part. During this POR, Great Wall's and Huangzhou's entries of subject merchandise entered the United States with a cash-deposit requirement of 8.83 percent, the PRC-wide rate in effect during the POR, because we had never conducted a review of either entity. For this review, we determined that both respondents were separate from the PRC entity (see *Preliminary Results* at 36766–7). However, no party requested a review of either separate entity. Consistent with 19 CFR 353.22(e) which establishes the automatic liquidation of entries if the party is not subject to review, we will instruct Customs to liquidate entries during the POR at the rate required at the time of entry. Further, these companies will be required to post cash deposit at their current cash-deposit rate until such time as that rate is changed pursuant to a final results of review of the company.

Comment 3: Transcom argues that the Department cannot alter the rate of duties assessed on or to be deposited on entries of merchandise that were exported by companies which were not subject to this review because the statute limits the review, and the resulting determination, to those companies for which a review was requested. Transcom argues that the Department's regulations provide an explicit directive that merchandise exported by unreviewed companies will be liquidated at the duty deposit rate and that an exporter that is not under review would have no reason to anticipate that antidumping duties assessed on its merchandise would vary from the deposit rate. Citing *Sigma Corp.* v. *United States,* 841 F. Supp. 1255 (CIT 1993), Transcom contends that the Department's failure to provide notice to the unreviewed companies precludes a change in their deposit and assessment rates. Transcom also argues that, because unreviewed exporters do not meet the prerequisites for application of facts available, the Department is precluded from resorting to facts available in determining a rate for such companies. Finally, Transcom argues that the Department should not assign the PRC-wide rate to TRBs exported by companies outside of China. Transcom contends that the premise underlying the PRC rate is inapplicable to companies outside China.

Timken argues that Transcom fails to establish its claim that the companies to which it refers are not covered by review because it failed to name those companies. Timken contends that, to obtain separate rates, it is incumbent on Transcom to request a review and provide the necessary information for the Department to make a determination.

Department's Position: We disagree with Transcom. As we discussed in TRBs VIII at 6187:

> It is our policy to treat all exporters of subject merchandise in NME countries as a single government-controlled entity and assign that entity a single rate, except for those exporters which demonstrate an absence of government control, both in law and in fact, with respect to exports * * * Pursuant to our NME policy, we presume that all PRC exporters or producers that have not demonstrated that they are separate from PRC government control belong to a single, state-controlled entity (the ''PRC enterprise'') for which we must calculate a single rate (the ''PRC rate''). The CIT has upheld our presumption of a single, state-controlled entity in NME cases. See *UCF America, Inc.* v. *United States,* 870 F. Supp. 1120, 1126 (CIT 1994), *Sigma Corp I,* and *Tianjin Machinery Import & Export Corp.* v. *United States,* 806 F. Supp. 1008, 1013–15 (CIT 1992). Section 353.22(a) of our regulations allows interested parties to request an administrative review of an antidumping duty order once a year during the anniversary month. This regulation specifically states that interested parties must list the ''specified individual producers'' to be covered by the review. In the context of NME cases, we interpret this regulation to mean that, if at least one named producer or exporter does not qualify for a separate rate, the PRC enterprise as a whole (i.e., all exporters that have not qualified for a separate rate) is part of the review (this is analogous to our practice in market-economy cases of including in reviews persons affiliated to a company for which a review was requested). On the other hand, if all named producers or exporters are entitled to separate rates, there has been no request for a review of the PRC enterprise and, therefore, the NME rate remains unchanged.

The practice described above is a longstanding one. Therefore, we disagree with Transcom's assertion that companies not named in the initiation had no notice and opportunity to defend their interests by demonstrating their independence from the PRC entity. We attempted to send requests for information to every company named in the notice of initiation and to the government of the PRC, and we inquired with the U.S. Embassy and consulates in the PRC for addresses and telephone numbers of TRB producers in the PRC. See Letter from Laurie Parkhill to Interested Parties dated August 12, 1996, Letter from Laurie Parkhill to China Chamber of Commerce dated August 12, 1996, and the two Memoranda from Analyst to Program Manager dated August 19, 1996. Furthermore, the antidumping duty order on TRBs is 10 years old. Thus, any company in the PRC which exports TRBs to the United States should be aware of the fact that it must request a separate-rate determination in order to avoid the application of the PRC rate to its entries.

Any company that believes it is entitled to a separate rate may place evidence on the record supporting its claim. See our response to comment 2 of this section. Because the companies to which Transcom refers (Transcom does not name the companies in question; it is therefore impossible for us to determine who they are) evidently did not exercise their opportunity to request an administrative review or separate-rate determination, we have continued to apply the PRC rate to these firms.

Finally, we disagree with Transcom that we should not assign the PRC-wide rate to TRBs exported by companies outside of China. Although Transcom asserts that the premise underlying the PRC rate is inapplicable to companies outside China, it is impossible, given the lack of any information about these firms, to determine whether the appropriate sale to review is made by the third-country reseller to the United States or by the Chinese producer or exporter to the third-country reseller. If a third-country exporter of subject merchandise wishes to have its own margin rate, it is incumbent upon that exporter to submit information, as Premier and Chin Jun have done, demonstrating that it, and not the Chinese producers or exporters, made the sale to the United States.

6. Miscellaneous Issues

Comment 1: Timken argues that the Department should treat sales of subject merchandise by Chinese suppliers to Chin Jun as export price (EP) sales made by the Chinese suppliers instead of Peer/Chin Jun's sales because the record indicates that Peer/Chin Jun's suppliers knew or had reason to know that sales to Peer/Chin Jun were ultimately destined for sale to the United States and, therefore, the review should be terminated with respect to Chin Jun because Chin Jun had no reviewable sales.

Timken contends that Peer/Chin Jun's suppliers had reason to know the ultimate destination of the subject merchandise because bearings sold to the U.S. market are all identified with Peer's trade name. Citing Titanium Sponge from Russia (Titanium Sponge), 61 FR 9676, 9677 (1996), and Fresh Garlic from the People's Republic of China (Garlic), 61 FR 68229, 68230 (December 27, 1996), Timken argues that, for the reasons stated above, there is sufficient evidence on the record for the Department to impute knowledge on behalf of Peer/Chin Jun's suppliers.

Timken also asserts that Chin Jun is simply a purchasing office of Peer and has no independent existence. Timken argues that, because Peer and Chin Jun are effectively the same company, the sale from the unaffiliated supplier to Peer/Chin Jun is the appropriate sale to examine and, citing Persulfates from the People's Republic of China (Persulfates), 62 FR 27222, 27234 (May 19, 1997), argues that it is immaterial whether the merchandise purchased by Peer/Chin Jun is resold to a customer outside the United States. Timken also argues that, even if Department precedent permitted consideration of Peer's resales to third countries, Peer's third-country sales were nearly nonexistent and cannot rationally form the basis for assuming that Chinese vendors did not know that the United States was nearly always the ultimate destination. Timken contends that, even if the third-country sales were known by the Chinese suppliers, the volume of sales is small enough that it would not constitute sufficient cause of confusion about the ultimate destination of the merchandise.

Timken alleges that Peer/Chin Jun took affirmative steps to mislead its suppliers of subject merchandise as to the destination of the merchandise and that Peer/Chin Jun made its claim that its suppliers could not have known that the merchandise was for exportation to the United States based on this fact. Timken argues that, to the extent that Peer/Chin Jun affirmatively and deliberately attempted to mislead its suppliers in order to affect the dumping margin, the Department cannot permit this to avoid encouraging respondents to manipulate the rules to their advantage and, if Peer/Chin Jun's suppliers did not report such sales in their responses due to deception on the part of Peer/Chin Jun, the Department should assign a margin separately to Peer/Chin Jun based on adverse facts available.

Peer/Chin Jun argues that the Department correctly issued a rate to Chin Jun and notes that the Department issued antidumping margins to Chin Jun in four previous reviews. Peer/Chin Jun, in citing 19 CFR 353.45(b), argues that the statute and the Department's regulations provide for such a calculation when the reseller/exporter is related to the U.S. customer.

With respect to the sales from Chin Jun's suppliers, Peer/Chin Jun argues that Timken contradicts itself when Timken argues that Chin Jun's suppliers must have known the destination of bearings marked ''Peer'' and yet also argues that Chin Jun's suppliers' lack of knowledge of the destination was the result of Chin Jun's efforts to mislead these suppliers into believing that Peer/Chin Jun sell bearings on a worldwide basis. Peer/Chin Jun contends that both cannot be true. Rather, Peer/Chin Jun argues that its suppliers did not report these sales because they did not know that the ultimate destination was the United States.

Peer/Chin Jun argues that the test employed by the Department is whether Chin Jun's suppliers knew or should have known that the bearings were destined for the United States. Peer/Chin Jun argues that there is no evidence on the record that supports such a finding. Peer/Chin Jun argues that the ''special markings'' referred to in Titanium Sponge provide for specious logic in its case, because, Peer/Chin Jun contends, it is not uncommon for companies such as Peer and Timken to use their brand name for sales made throughout the world. Therefore, the trademark ''Peer'' imprinted on a bearing does not necessarily indicate knowledge of the merchandise's final destination.

In contrast to the cases cited by Timken, Peer/Chin Jun points to *NSK Ltd. et. al.* v. *United States (NSK)*, 969 F. Supp. 34 (CIT, June 17, 1997), in which the Court affirmed the Department's traditional application of the ''knowledge test'' to resellers. Peer/Chin Jun argue that *NSK* requires the Department to find evidence of actual knowledge that particular sales were destined for importation into the United States before concluding that the manufacturer knew or should have known the destination. Peer/Chin Jun contends that the factual situation does not exist in the instant case where it made sales to the United States but also made some sales to third countries.

Peer/Chin Jun also argues that, in *NSK*, the Court recognized that the ''knowledge test'' has such a high standard that a reseller can exploit the system by selectively providing knowledge to its suppliers (which the Court called the ''perfect scenario''). Peer/Chin Jun argues that, even if this were the case, *NSK* would require the Department to reach the same conclusion. In contrast to Timken's allegations, Peer/Chin Jun asserts that it did not concoct a ''perfect scenario.'' Rather, Peer/Chin Jun asserts that the special status of Hong Kong and a rationalized approach to purchasing, warehousing, and shipping lead to its particular manner of conducting business.

Department's Position: We disagree with Timken. In cases where evidence exists that a supplier had knowledge that the ultimate destination of the merchandise was the United States, such as in Titanium Sponge, Garlic, and Persulfates, we have considered the sale by the supplier to the reseller as the starting price in our margin calculations. However, no such evidence of knowledge exists here. We agree with Peer/Chin Jun's interpretation of *NSK*. Lacking evidence of actual knowledge that particular sales were destined for the United States, we cannot assume such knowledge, regardless of general knowledge that some merchandise was intended for exportation to the United States. Therefore, we continue to consider Peer's sales to the first unaffiliated U.S. customer as our starting price for U.S. sales and have neither terminated the review nor used facts available to calculate Chin Jun's margin.

Comment 2: Timken contends that Premier admitted that its suppliers knew or had reason to know that sales to Premier were destined to the United States in its response. Timken argues that the fact that Premier's suppliers made some shipments directly from China to the United States establishes the suppliers' knowledge of the export destination. Timken alleges that Premier failed to provide information concerning this issue which the Department requested. Given this fact pattern, Timken argues that the Department should treat all sales through Premier to the United States as export price sales of the suppliers and, in light of Premier's failure to provide the requested information, the

Department should apply adverse facts available to such sales.

Premier contends that the Department has reviewed and verified Premier many times in the past and has always based its margin calculations on Premier's own export prices. Premier argues that the fact that there were some direct shipments from China does not prove that the Chinese producers knew the ultimate destination of the bearings. Premier notes that the factories were not the exporters, but that they shipped the merchandise to freight forwarders who were responsible for arranging shipment to the United States and were the only parties other than Premier which knew the ultimate destination of the bearings.

Department's Position: We agree with Premier. As we noted in our response to comment 1 of this section, in cases where evidence exists that a supplier had knowledge that the ultimate destination of the merchandise was the United States, we have considered the sale by the supplier to the reseller as the starting price in our margin calculations. However, the record does not prove that Premier's suppliers knew or had reason to know that sales to Premier were to be shipped to the United States. In its original response, Premier stated that certain suppliers ''may know or have reason to know that the ultimate destination of the merchandise purchased * * * was the United States.'' See Premier's September 26, 1996 submission at A–11. However, in response to a supplemental questionnaire, Premier clarified that ''[s]ome supplier [sic] may have assumed that the subject merchandise would be shipped to the United States.'' Whether a supplier might assume the ultimate disposition of the product is not sufficient evidence of knowledge on the part of the supplier of subject merchandise that Premier sold to the United States. Therefore, we have treated Premier's reported sales as Premier's own sales for the purposes of calculating Premier's margin.

Comment 3: Guizhou Machinery contends that the Department erred by not matching two models purchased from a certain supplier to their correct FOP data. Guizhou Machinery argues that it can demonstrate the Department's error by a review of the catalogs it submitted in its response. Guizhou Machinery also contends that the two model numbers it reported in the FOP data do not actually exist.

Timken contends that this is not an error by the Department but by Guizhou Machinery and argues that it is not apparent from the record that Guizhou Machinery miscoded the entries for these two models inadvertently.

Department's Position: We disagree with Guizhou Machinery. As described in response to comment 4 of section 2.a. (Material Valuation), above, we enumerated the criteria which must be met before we will correct an alleged clerical error in Colombian Flowers. We have not corrected this alleged error because we do not regard the corrective documentation Guizhou Machinery provided in support of the clerical-error allegation to be reliable. The catalogs Guizhou Machinery referenced were not catalogs of the supplier in question but for other suppliers from whom Guizhou Machinery purchased subject merchandise. Furthermore, Guizhou Machinery neither provided nor cited to any documentary evidence to support its claim that the two purportedly erroneous model numbers do not exist. As a result, we find nothing on the record to corroborate Guizhou Machinery's clerical-error allegation and we have not made this change for these final results.

Comment 4: Peer/Chin Jun argue that the Department should correct a ministerial error for a certain U.S. sale. Peer/Chin Jun argue that the entered value for this transaction is incorrectly listed and contend that this error is obvious from the record. Moreover, because the firm's U.S. duties and international freight values are based on entered value, these fields should be adjusted as well.

Timken notes that Peer/Chin Jun admits that it was responsible for the error and that it is now too late to attempt to revise questionnaire responses.

Department's Position: We agree with Peer/Chin Jun. As described in response to comment 4 of section 2.a. (Material Valuation), above, we enumerated the criteria which must be met before we will correct an alleged clerical error in Colombian Flowers. In this case, we compared the data reported for this U.S. sale to additional contemporaneous U.S. sales of the same model. We conclude that Peer/Chin Jun made a simple error, the error is obvious from information already on the record, and that a correction is easy to make. Therefore, for these final results, because the alleged error met the criteria enumerated in Colombian Flowers for us to correct a clerical error, we have corrected the entered value for this transaction and recalculated any variables that are derived from this value.

Comment 5: Timken argues that the Department should deduct U.S. selling expenses for CMC's two U.S. subsidiaries from CMC's CEP. Timken contends that, given CMC's subsidiaries in California and Illinois, there must be costs other than inventory carrying costs, the only costs the Department deducted in the preliminary results, that CMC incurred in relation to these two companies. Timken claims that CMC did not submit financial statements showing indirect selling expenses, including SG&A expenses, incurred by these two subsidiary companies that the Department should have deducted from CEP. Timken requests the Department to either obtain this information from CMC or use the expenses of another company with CEP sales as facts available.

Department's Position: We agree with Timken that we should deduct an amount from CEP to account for selling expenses incurred by CMC's U.S. affiliate. We asked all respondent to report the selling expenses of U.S. affiliates in our original questionnaire. CMC reported only inventory carrying costs. We asked CMC in our supplemental questionnaire dated January 29, 1997 to explain how CMC's U.S. affiliates participate in the sales process. CMC replied that it described that process in its section A response. However, our review of section A revealed no such description beyond the U.S. affiliate's name and address.

We deduct from CEP all selling expenses incurred in connection with economic activity in the United States. Because CMC failed to report either the expenses incurred by its U.S. affiliates or any description of its U.S. affiliate's activities, we had to rely on the facts available to calculate the U.S. affiliate's actual selling expenses. Therefore, as facts available, we have deducted an amount for indirect selling expenses from CEP by basing this adjustment on the ''other expenses'' item from the SKF report, divided by COM. We then applied this ratio to the COM for CMC and deducted the resulting amount to calculate CEP.

Comment 6: Timken states that the fact that CMC failed to report that certain stages of the production process were contracted out to a subcontractor, but instead stated that the factors data were reported correctly, does not constitute verification and, as a result, CMC's responses were deficient. Moreover, Timken asserts, because CMC alerted the Department to the participation of this separate entity only after verification had begun, the Department did not have the opportunity to plan for the verification of the accuracy of information relating to this subcontractor. Timken argues that this oversight is not simply a typographical error. Rather, Timken contends, CMC failed to provide any information about the subcontractor.

Timken claims that, as a result, the Department was prevented from conducting verification relating to this subcontractor and that, when a respondent has not acted to the best of its ability to furnish information, the statute directs that Department to use facts otherwise available.

Timken adds that the name of the joint venture partner as stated in the response contradicts the name of the partner as identified in its verification exhibits.

CMC states that the Department should reject petitioner's claims because CMC Yantai did provide complete FOP data for this subcontractor, which the Department verified. CMC claims that the Department's report states that CMC ''failed to report that the turning state for some cups and cones was contracted out to a subcontractor, but noted that the factors of production data were reported correctly.'' CMC explains that turning is only part of the manufacturing process and that this subcontractor only performed this function for ''some'' cups and cones. CMC states that petitioner's claim that CMC provided no information about this subcontractor is false and contradicted by the verification report. CMC quotes the report, ''[f]actor-of-production data for stages of production not completed at CMC were provided voluntarily by its subcontractors,'' and the Department did not note any discrepancies for raw-material inputs. Furthermore, CMC notes that the Department did verify information provided by this contractor, including the turning stage and scrap, and the Department obtained worksheets and explanations for direct labor hours from subcontractors and identified no discrepancies in the report. CMC claims that it complied with the Department's requests during verification and provided accurate information regarding its factors-of-production data in the questionnaire responses. Therefore, CMC argues, there is no basis to apply facts available.

CMC explains the name of the joint venture partner as reported in the response is different from the name stated in the verification exhibit because the response uses the English translation of the name, whereas the verification exhibit uses the romanization of the Chinese words. Thus, CMC argues, both names refer to the same company, and there is no contradiction.

Department's Position: We agree with CMC. Timken has misinterpreted the verification report. At the beginning of the verification, Department officials asked CMC officials for any corrections to their data. CMC identified the fact that this particular subcontractor's name was omitted from the submitted FOP data, although the data itself was correct. The Department verified the data and found it to be accurate. Therefore, we find no reason to apply facts available.

We agree with CMC that the name of the joint venture partner as stated in the response and the Chinese version of the name both refer to the same company. Therefore, there is no discrepancy.

Comment 7: Timken argues that the Department should use facts available because CMC sold some parts separately but reported, for each component, the price for a set. Timken asserts that this discovery was made only at verification. Timken claims that this is not merely a ministerial error and implies that this type of reporting was intentional. Therefore, Timken argues, to the extent that the sales were not traced back to the invoices, the Department should assume that the pricing is for a set rather than a component.

CMC states that petitioner's assertion that all components were priced as a set cannot be substantiated and must be rejected. CMC claims that, as the Department verified, CMC mistakenly reported complete set prices for certain component sales in the U.S. sales listing. CMC remarks that the Department did not note any other discrepancies in the sales listing, and that the report indicates that these reporting errors were simply an oversight. CMC states further that there is no basis to suggest that CMC reported the prices of other component sales to the United States as sets and, therefore, the Department should rely in the final results on the verified sales prices CMC reported.

Department's Position: As stated in the verification report, the Department discovered an error in which a few sales which were priced as sets instead of components. When asked, CMC officials explained that this was a mistake. We performed sales traces for over fifty percent of CMC's sales and found no evidence to show that the prices for these few sales were intentionally misstated. Therefore, we made appropriate corrections to the submitted data and have used it for these final results.

Comment 8: Timken claims that there is a contradiction between the fact that CMC sold to its affiliate in the United States yet the verification report states that the affiliate did not take title to the merchandise. Timken also asserts that there is no indication that any SG&A labor hours incurred in the United States for sales through CMC's U.S. affiliate were included in the calculation of CMC's SG&A labor hours. Timken contends that these flaws represent reasons for the application of facts available to CMC.

Department's Position: We disagree with Timken. The fact that the affiliate did not take title to the merchandise is consistent with other verification evidence on record showing that CMC, and not its affiliate, actually made the sale. The affiliate was only authorized to sign a sales contract for CMC and then receive payment for the sale. Therefore, there is no contradiction and no correction is necessary. With respect to the SG&A expenses of CMC's U.S. affiliate, see our response to comment 6 of section 2.b. (Labor Valuation).

Comment 9: Timken states that, upon its review of the verification report for CMC, it observed clerical errors in the NV calculations and requests the Department to correct such errors.

CMC states that the request for corrections should be denied because the deadline for commenting on the analysis memoranda has passed. CMC remarks that there was ample time for Timken to include comments on the analysis and that Timken improperly included this comment in the comments intended solely for the verification report.

Department's Position: We agree with Timken in part. We neglected to include factory overhead in our calculation of COM. Correcting this error conforms the calculation with our stated methodology in the FOP Memorandum. With respect to CMC's argument that it is too late to correct this error, we note that, in instances where we make a clerical error in our calculations, we may correct that error at any time regardless of whether parties raise the issue. Accordingly, we have added factory overhead to COM as we intended for the preliminary results. However, contrary to Timken's assertion, we did include SG&A labor in our calculation of the cost of production of the subject merchandise, so no correction is necessary.

Comment 10: Luoyang contends that, in calculating Luoyang's margin, the Department inadvertently used factors-of-production data from the original diskette instead of the revised diskette. Luoyang request that the Department use the correct data to recalculate its dumping margin.

Timken agrees that the Department used the earlier diskette rather than the revised one.

Department's Position: We agree that we used the wrong diskette to calculate the dumping margin for the preliminary results. For these final results, we have used the revised database.

Comment 11: Timken argues that the Department should include a certain expense in CMC's direct materials costs because respondent incurred this expense.

Department's Position: We agree with Timken. Because CMC actually incurred this expense on its material inputs, it is appropriate to capture the expenses in CMC's direct materials costs. Therefore, we have included this expense in CMC's direct materials costs. *See* CMC's final results analysis memorandum dated October 29, 1997 for a discussion of how we captured this expense.

Final Results of the Review

As a result of our analysis of the comments we received, we determine the following weighted-average margins to exist for the period June 1, 1995, through May 31, 1996:

Manufacturer/ exporter [1]	Margin (percent)
Wanxiang	0.03
Shandong	17.76
Luoyang	2.35
CMC	0.39
Xiangfan	0.39
Guizhou Machinery	21.79
Zhejiang	0.18
Jilin	29.40
Liaoning	0.17
Premier	5.43
Chin Jun	5.23
PRC Rate	29.40

[1] The PRC rate applies to CMEC, Hailin, Guizhou Automotive, and all other firms which did not respond to the questionnaire or have not qualified for a separate rate.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. With respect to export price sales for these final results, we divided the total dumping margins (calculated as the difference between normal value (NV) and export price) for each importer/customer by the total number of units sold to that importer/customer. We will direct Customs to assess the resulting per-unit dollar amount against each unit of merchandise in each of that importer's/customer's entries under the relevant order during the review period. Although this will result in assessing different percentage margins for individual entries, the total antidumping duties collected for each importer/customer under each order for the review period will be almost exactly equal to the total dumping margins.

For CEP sales, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer/customer. We will direct Customs to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of that importer's/customer's entries during the review period. While the Department is aware that the entered value of sales during the POR is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as the basis of the assessment rate permits the Department to collect a reasonable approximation of the antidumping duties which would have been determined if the Department had reviewed those sales of merchandise actually entered during the POR.

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of TRBs entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the PRC companies named above that have separate rates and were reviewed (Guizhou Machinery, Luoyang, Jilin, Liaoning, CMC, Zhejiang, Xiangfan, Shandong, Wanxiang) will be the rates shown above except that, for firms whose weighted-average margins are less than 0.5 percent and therefore *de minimis,* the Department shall require a zero deposit of estimated antidumping duties; (2) for PRC companies (*e.g.,* Great Wall) which established eligibility for a separate rate in this review or a previous review but for which no review has ever been requested, the cash deposit rate will continue to be their current cash-deposit rate; (3) for all remaining PRC exporters, all of which were found to not be entitled to separate rates, the cash deposit rate will be 29.40 percent; (4) for non-PRC exporters Premier and Chin Jun the cash deposit rates will be the rates established above; and (5) for non-PRC exporters of subject merchandise from the PRC, other than Premier and Chin Jun, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d) or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This administrative review and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: November 6, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–30147 Filed 11–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Transition Orders; Schedule and Grouping of Five-Year Reviews; Comment Request

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Amendment to Notice of Proposed Schedule and Grouping of Five-Year Reviews of Transition Orders.

SUMMARY: On October 9, 1997, the Department of Commerce (''the Department'') published a Notice of Proposed Schedule and Grouping of Five-Year Reviews of Transition Orders (62 FR 52686). The Department hereby amends the original notice. This amendment does not alter the comment due date. Comments on the proposed schedule and groupings continue to be due in accordance with the December 8, 1997 due date indicated in the original notice.

Amendment: Comments should be submitted to the Department at the following amended address: Robert S. LaRussa, Assistant Secretary for Import Administration, Central Records Unit, Room 1870, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, D.C. 20230. This amends the room number as published in the October 9 notice. In addition, the ITC case number on the antidumping duty order covering large power transformers from France, as listed in the Appendix, is amended from AA–85 to AA–86.

Clarification: After publication of the October 9, 1997, notice, we received inquiries concerning the distinction between groups of orders. In response, we are providing additional clarification of the distinction between the groups of orders and posting it on the IA web site at: http://www.ita.doc.gov/import__admin/records/.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Office of Policy, or Andrew Lee Beller, Central Records Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–1560 or 482–0866, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

Dated: October 31, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–30146 Filed 11–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110697C]

Mid-Atlantic 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 Mid-Atlantic Fishery Management Council's Summer Flounder, Scup, and Black Sea Bass Monitoring Committees will hold a public meeting.

DATES: The meeting will be held on Thursday, December 4, 1997; the Summer Flounder Monitoring Committee will meet from 10:00 a.m. until noon, the Scup Monitoring Committee wil meet from 1:00–3:00 p.m., and the Black Sea Bass Monitoring Committee will meet from 3:00–5:00 p.m.

ADDRESSES: The meeting will be held at the Radisson Hotel Philadelphia Airport, 500 Stevens Drive, Philadelphia, PA; telephone: 610–521–5900.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to recommend the 1998 recreational measures for summer flounder, scup, and black sea bass.

Although other issues not contained in this agenda may come before these Committees 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 Joanna Davis at the Council (see **ADDRESSES**) least 5 days prior to the meeting date.

Dated: November 10, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–30122 Filed 11–14–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110797A]

Endangered Species; Permits

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

ACTION: Receipt of applications for scientific research permits (1070, 1091, 1097, 1105, 1106) and modifications to scientific research permits (1039, 1042)

SUMMARY: Notice is hereby given that Louisiana-Pacific Corporation (LPC) in Fort Bragg, CA (1070), the Santa Ynez River Technicial Advisory Committee (YTAC) in Santa Barbara, CA (1091), Resource Management International Inc. (RMI) in San Rafael, CA (1097), Hagar Environmental Science (HES) in Richmond, CA (1105), and Dr. David Wm. Owens of Texas A&M University (1106) have applied for scientific research permits authorizing the take of endangered or threatened species. Notice is also given that the Natural Resources Management Corporation (NRMC) in Eureka, CA (1039) and William M. Kier in Sausalito, CA (1042) have applied for modifications to their existing scientific research permits.

DATES: Written comments or requests for a public hearing on any of these applications must be received on or before December 17, 1997.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Application for permits 1070, 1091, 1097, and 1105, and modification requests for permits 1039 and 1042: Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6066).

Application for permit 1106: Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401);

FOR FURTHER INFORMATION CONTACT: For Permits 1039, 1042, 1070, 1091, 1097, and 1105: Tom Hablett, Protected Species Division, NMFS Santa Rosa Office (707–575–6066).

For Permit 1106: Michelle Rogers, Office of Protected Resources (301–713–1401).

SUPPLEMENTARY INFORMATION: LPC, YTAC, RMI, HES, and David Wm. Owens, Texas A&M University, request permits and NRMC and William Kier request modifications to 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). These listed species covered by these permits include: coho salmon (*Oncorhynchus kisutch*), steelhead trout (*Oncorhynchus mykiss*), loggerhead sea turtles (*Caretta caretta*), hawksbill sea turtles (*Eretmochelys imbricata*), and Kemp's ridley sea turtles (*Lepidochelys kempii*).

LPC (1070) requests a five-year permit for takes of adult and juvenile, threatened, southern Oregon/northern California coast (SONCC) coho salmon associated with fish population studies in Humboldt County drainages within the Evolutionarily Significant Unit (ESU). The studies consist of juvenile coho salmon distribution/abundance surveys and adult salmon spawner surveys. ESA-listed juvenile fish are proposed to be captured, anesthetized, handled (identified, measured, and sampled for tissues), allowed to recover from the anesthetic, and released. ESA-listed adult fish carcasses are proposed

to be collected, measured and sampled for tissues, and returned to the water. ESA-listed juvenile salmon indirect mortalities associated with the research are also requested.

YTAC (1091) requests a three-year permit for takes of adult and juvenile, endangered, southern California coast steelhead associated with fish population studies in the lower Santa Ynez River and its tributaries within the Evolutionarily Significant Unit. 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) genetic sampling, and (5) habitat assessment. ESA-listed fish are proposed to be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. ESA-listed adult and juvenile steelhead indirect mortalities associated with the research are also requested.

RMI (1097) requests a three-year permit for takes of adult and juvenile, endangered, southern California coast steelhead, threatened SONCC coho salmon, and threatened central California coho, associated with fish population studies in coastal waterways within the ESUs. 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) genetic sampling, and (5) habitat assessment. ESA-listed fish are proposed to be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. Indirect mortalities associated with the research are also requested.

HES (1105) requests a five-year permit for takes of adult and juvenile, endangered, southern California coast steelhead, threatened SONCC coho salmon, and threatened central California coho, associated with fish population studies in coastal waterways within the ESUs. The studies consist of four assessment tasks for which ESA-listed fish are proposed to be taken: (1) Presence/absence, (2) population estimates, (3) spawner surveys, and (4) habitat assessment. ESA-listed fish are proposed to be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. Indirect mortalities associated with the research are also requested.

David Wm. Owens, Texas A&M University, (1106) requests a five year scientific research permit to take listed loggerhead , hawksbill, and Kemp's ridley turtles at the Flower Garden Banks National Marine Sanctuary, Gulf of Mexico. Up to 15 loggerhead and 5 hawksbill turtles will be captured over the five-year life of the permit. Although no Kemp's ridley turtles have been observed at the site in the past, the applicant requests authorization to take this species in the event one is observed during sampling. The turtles will be captured by hand using SCUBA and a catch bag at the Flower Garden Banks National Marine Sanctuary for the puposes of habitat utilization, migration, and reproductive biological studies. Captured turtles will be weighed, measured, blood sampled, and PIT and flipper tagged. Satellite transmitters will be attached to the carapace of each turtle. Additionally, ultrasonography, a non-invasive technique that allows imaging of a female turtle's ovaries, will be performed on captured turtles.

NRMC requests modification 1 to permit 1039 for authorization to include takes of juvenile, threatened, SONCC coho salmon associated with fish population and habitat studies throughout the ESU. The studies consist of four assessment tasks for which ESA-listed fish are proposed to be taken: (1) Presence/absence, (2) population estimates, (3) redd counts, and (4) habitat quality evaluation. ESA-listed juvenile fish are proposed to be observed and counted. Modification 1 is requested to be valid for the duration of the permit. Permit 1039 expires on June 30, 2002.

William M. Kier requests modification 1 to permit 1042 for authorization to include takes of juvenile, threatened, SONCC coho salmon associated with fish population and habitat studies throughout the ESU. The studies consist of three tasks for which ESA-listed fish are proposed to be taken: (1) Presence/absence, (2) population estimates, and (3) habitat quality evaluation. ESA-listed juvenile fish are proposed to be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. ESA-listed juvenile salmon indirect mortalities are also requested. Modification 1 is requested to be valid for the duration of the permit. Permit 1042 expires on June 30, 1999.

Those individuals requesting a hearing on any of these applications 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 permit application summaries are those of the applicants and do not necessarily reflect the views of NMFS.

Dated: November 10, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–30123 Filed 11–14–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Restraint Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Fiji

November 12, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limit for textile products, produced or manufactured in Fiji and exported during the period January 1, 1998 through December 31, 1998 is based on a limit notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limit for the 1998 period. The sublimit for Categories 338–S/339–S/638–S/639–S is being reduced for carryforward applied to the 1997 sublimit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Information regarding the 1998

CORRELATION will be published in the **Federal Register** at a later date.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 12, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1998, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 338/339/638/639, produced or manufactured in Fiji and exported during the twelve-month period beginning on January 1, 1998 and extending through December 31, 1998, in excess of 1,279,924 dozen of which not more than 1,008,174 dozen shall be in Categories 338–S/339–S/638–S/639–S [1].

The limit set forth above is subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1997 shall be charged to the applicable category limit for that year (see directive dated October 16, 1996) to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such products shall be charged to the limit set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–30120 Filed 11–14–97; 8:45 am]

BILLING CODE 3510–DR–F

[1] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Thailand

November 12, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting import limits.

EFFECTIVE DATE: November 18, 1997.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1862, as amended.

The current limit for Categories 334/634 is being increased for special shift, reducing the limit for Categories 335/635/835, pursuant to a Memorandum of Understanding dated October 28, 1997 between the Governments of the United States and Thailand.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 58044, published on November 12, 1996.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 12, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 4, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997.

Effective on November 18, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing and a Memorandum of Understanding dated October 28, 1997 between the Governments of the United States and Thailand:

Category	Adjusted twelve-month limit [1]
Sublevels in Group II	
334/634	731,828 dozen.
335/635/835	447,862 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–30119 Filed 11–14–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 98–07]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Assistance Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT:

Ms. J Hurd, DSAA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 98–07, with attached transmittal, policy justification, and Certification Under Section 620C(d) of the Foreign Assistance Act of 1961.

Dated: October 29, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON DC 20301-2800

10 OCT 1997

In reply refer to:
I-55506/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 98-07 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services estimated to cost $42 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

H. DIEHL MCKALIP
Acting Director

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Attachments

Separate Cover:
Classified Annex

Transmittal No. 98-07

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act (U)

(i) Prospective Purchaser: Greece

(ii) Total Estimated Value:

Major Defense Equipment*	$ 41 million
Other	$ 1 million
TOTAL	$ 42 million

(iii) Description of Articles or Services Offered: Ninety AIM-120B Advanced Medium-Range Air-to-Air Missiles (AMRAAM), missile containers, and other related elements of logistics and program support.

(iv) Military Department: Air Force (SBD, Amendment 6)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Date Report Delivered to Congress: 10 OCT 97

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Greece - AIM-120B Advanced Medium-Range Air-to-Air Missiles

The Government of Greece has requested a possible sale of 90 AIM-120B Advanced Medium-Range Air-to-Air Missiles (AMRAAM), missile containers, and other related elements of logistics and program support. The estimated cost is $42 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Greece while enhancing weapon system standardization and interoperability with U.S. forces.

These additional missile systems will augment Greece's previous procurement of 150 AMRAAMs as well as enhance aircraft air-to-air capabilities. These missiles will be provided to Greece in accordance with and subject to the limitations on use and transfer of the Arms Export Control Act, as embodied in the terms of sale. This proposed sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

The principal contractors will be Hughes Aircraft International Services Company, Tucson, Arizona and Raytheon Company, Bedford, Massachusetts. One or more proposed offset agreements may be related to this proposed sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Certification Under Section 620C(d)
Of The Foreign Assistance Act of 1961, As Amended

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 (sec. 1-201(a)(13)) and State Department Delegation of Authority No. 145, (sec. 1(a)(1) and 4(d)), I hereby certify that the furnishing to Greece of AMRAAM and HARPOON missiles and program support at an estimated cost of $42 million and $30 million respectively, is consistent with the principles contained in section 620C(b) of the Act.

This certification will be made part of the notification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and services, and is based on the justification accompanying said notification, of which said justification constitutes a full explanation.

Strobe Talbott
Acting Secretary

[FR Doc. 97–29063 Filed 11–14–97; 8:45 am]
BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 97–18]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Assistance Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT:

Ms. J. Hurd, DSAA/COMPT/CPD, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 97–18 with attached transmittal and policy justification pages.

Dated: October 29, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

09 JUN 1997

In reply refer to:
I-04518/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 97-18, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services estimated to cost $30 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. DIEHL MCKALIP
Acting Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 97-18

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) Prospective Purchaser: Israel

(ii) Total Estimated Value:

Major Defense Equipment*	$28 million
Other	$ 2 million
TOTAL	$30 million

(iii) Description of Articles or Services Offered:
Ninety-eight thousand seven hundred forty-five M107 high explosive 155mm projectiles and publications.

(iv) Military Department: Army (YPX)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:
None

(vii) Date Report Delivered to Congress: 09 JUN 1997

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Israel - 155mm Projectiles

The Government of Israel has requested the purchase of 98,745 M107 high explosive 155mm projectiles and publications. The estimated cost is $30 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

The purchase of the projectiles is required to maintain projected sustainment rates and reserve levels. Israel, which already has these projectiles in its inventory, will have no difficulty absorbing these projectiles.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Primex Technologies, Saint Petersburg, Florida. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Israel.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

[FR Doc. 97–29066 Filed 11–14–97; 8:45 am]
BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Department of Defense Acquisition University, DOD.

ACTION: Board of visitors meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at the Defense Systems Management College (DSMC), 9000 Belvoir Road, Building 184, Fort Belvoir, Virginia on Tuesday, December 2, 1997 from 0830 until 1600. The purpose of this meeting is to report back to the BoV on continuing items of interest and discuss the DAU distance learning initiatives. The agenda will include continuing discussions concerning acquisition research, development of the continuing acquisition education policy, and the development of the DAU distance learning program plan and schedule.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Mrs. Joyce Reniere at (703) 805–5134.

Dated: November 10, 1997.

L.M. Bynum,

Alternate, OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 97–30047 Filed 11–13–97; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on year 2000

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on year 2000 will meet in closed session on December 1–2, 1997 and January 12–13, 1998 at Science Applications International Corporation, 4001 N. Fairfax Drive, Arlington, Virginia

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will determine if the priorities assigned, resources allocated and funding strategy used to

implement and Department's Y2K five phase process are sufficient to ensure all mission critical systems will function properly on, before and after January 1, 2000.

In accordance with Section 10(d) of the Federal Advisory Commission Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1)(1994), and that accordingly these meetings will be closed to the public.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–30045 Filed 11–14–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Satellite Reconnaissance

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Open Systems will meet in closed session on November 18–19, 1997 at Strategic Analysis, Inc., 4001 N. Fairfax Drive, Arlington, Virginia. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will examine the benefits of, criteria for, and obstacles to the application of an open systems approach to weapon systems, and to make recommendations on revisions to DoD policy, practice, or investment strategies that are required to obtain maximum benefit from adopting open systems. The Task Force should examine application to new defense programs, to those that have already made substantial investments in a design, and to those that are already fielded, across the spectrum of weapon systems, not just those heavily dependent on advanced computers and electronics.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that this DSB Task Force meeting concern matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly this meeting will be closed to the public.

Dated: November 10, 1997.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–30046 Filed 11–14–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of The Navy

Notice of Extension of Public Comment Period for Draft Environmental Impact Statement (DEIS) for Realignment of F/A–18 Aircraft and Operational Functions From Naval Air Station (NAS) Cecil Field, Florida to Other East Coast Installations and Draft Clean Air Act (CAA) Conformity Determination

SUMMARY: The Department of The Navy Announces That the Public Comment Period For the Draft Environmental Impact Statement (DEIS) And Draft Clean Air Act (CAA) Conformity Determination Which Evaluates The Realignment of F/A–18 Aircraft And Operational Functions From NAS Cecil Field, Florida To Other Navy And Marine Corps Air Stations On The East Coast Of The United States Has Been Extended By Two Weeks To December 2, 1997.

Pursuant to section 102(2) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy filed a DEIS with Environmental Protection Agency on September 12, 1997. A Notice of Availability of the DEIS was published in the **Federal Register** on September 19, 1997. This notice provided for a 60-day public comment period on the DEIS which would have expired on November 18, 1997. However, due to the fact that an additional public hearing has been scheduled for November 17, 1997 at the NC Aquarium in Manteo, NC (see **Federal Register**: October 31, 1997, Page 58950), the Navy has decided to extend the public comment period on the DEIS to December 2, 1997. All comments/questions on the DEIS must be received by close of business (5 p.m.) on this date. Comments may be mailed to: Commander, Atlantic Division, Naval Facilities Engineering Command, Attention: Mr. Dan Cecchini (Code 2032DC), 1510 Gilbert Street, Norfolk, VA 23511. Comments may also be faxed to (757) 322–4894.

POINT OF CONTACT: Additional information concerning this notice may be obtained by contacting Mr. Cecchini at (757) 322–4891.

Dated: November 7, 1997.

Darse E. Crandall,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–29940 Filed 11–13–97; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 17, 1997.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its

statutory obligations. The 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.

Dated: November 10, 1997.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of the Chief Financial Officer

Type of Review: New.

Title: Streamlined Clearance Process for Discretionary Grant Information Collections. *Frequency:* Annually.

Affected Public: Individuals or households; Business or other for-profit; Not for Profit institutions; State, Local or Tribal Government, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 1.

Burden Hours: 1.

Abstract: This information collection plan provides the U.S. Department of Education with the option of submitting its discretionary grant information collections through a streamlined Paperwork Reduction Act clearance process. This streamlined information to the Office of Management and Budget (OMB) and, at the same time, publishes a 30-day public comment period notice in the **Federal Register**. OMB will then have 60 days after the public comment period begins to reach a decision on the information collection.

[FR Doc. 97–30092 Filed 11–14–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board.

ACTION: Amendment to notice of closed and partially meetings of the Governing Board.

SUMMARY: This amends the notice of closed and partially closed meetings of the National Assessment Governing Board published on Monday, November 10, 1997 in Vol. 62, No. 217, page 60488. On November 21—full Board 8:00 to 10:15 a.m., (open). Full Board, 12:00 noon–4:00 p.m., (open); Joint meeting of Achievement Levels and Design and Methodology Committees, 4:00–5:00 p.m., (open); Reporting and Dissemination Committee, 4:00–5:00 p.m., (open); and Joint meeting of Subject Area Committees #1 and #2, 4:00–5:00 p.m., (open).

The agenda for the 8:00–10:15 a.m. session of the full Board has been changed to include a presentation and discussion on NAEP redesign issues and the Executive Director's report has been eliminated from the agenda.. The agenda for the full Board session scheduled for 12:00 noon to 4:00 p.m. has been changed to include an update on the voluntary national tests initiative, and discussion on processes to be utilized in the review of contracts and test specifications. The presentation on NAEP activities from framework development to reporting the results has been eliminated from the agenda. The agendas for the 4:00–5:00 p.m. meetings of the Governing Board committees are as follows: the joint Achievement Levels and Design and Methodology Committees will consider technical aspects of the current Voluntary National Tests contract; the Reporting and Dissemination Committee will discuss issues related to Voluntary National Tests reporting, use, and information for parents and the public; and the joint Subject Area Committees #1 and #2 will be provided an update on specifications for the Voluntary National Tests.

DATES: November 20–22, 1997.

LOCATION: Ritz Carlton Hotel, Pentagon City, 1250 South Hayes Street, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, D.C., 20002–4233, Telephone: (202) 357–6938.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 97–30279 Filed 11–14–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Privacy Act of 1974; Computer Matching Program

AGENCY: Department of Education.

ACTION: Notice—computer matching between the Department of Education and the Internal Revenue Service, Department of Treasury.

SUMMARY: Pursuant to the Computer Matching and Privacy Protection Act of 1988, Public Law 100–503, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the computer matching program between the Department of Education (ED) (the recipient agency), and the Internal Revenue Service (IRS), Department of Treasury (the source agency).

Notice of the matching program was originally published in the **Federal Register** on June 3, 1993 (58 FR 31587); the program became effective on May 8,1995. Duration was 18 months plus a one-year extension permitted by the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 552a(o)(2)(D)). The one-year extension expired on August 31, 1997. This document notifies the public of the approval of a new agreement between the Department of Treasury and Department of Education to continue the matching program. The Data Integrity Boards of both agencies have approved this new agreement.

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended, and OMB guidance on the computer matching provision of the Privacy Act, the following is provided:

1. Name of Participating Agencies

The U. S. Department of Education (ED) and the Internal Revenue Service (IRS) of the U. S. Department of Treasury.

2. Purpose of the Match

This matching program, entitled Taxpayer Address Request , permits ED to have access to any taxpayer's mailing address who has defaulted on certain loans extended under the Higher Education Act for the purposes of locating the taxpayer to collect the loan. This Agreement further provides for redisclosure by the Secretary of Education of a taxpayer's mailing address to any lender, or State or nonprofit guarantee agency, also participating under the Higher Education Act, or any educational institution with which the Secretary of Education has an agreement under that Act.

3. Authority for Conducting the Matching Program

The information contained in the IRS data base is referred to TAR, and is authorized under the Internal Revenue Code (IRC) 6103 (m) (4), Public Law 99–603. ED seeks access to this data base under the Higher Education Act of 1965, as amended under section 3 (a) (1) of the Migration and Refugee Assistance Act of 1962.

4. Categories of Records and Individuals Covered

The records to be used in the match and the roles of the matching participants are described as follows:

ED will provide the Social Security Number (ssn) and first four letters of the last name of each student who has defaulted under a loan program authorized under Title IV of the Higher Education Act of 1965. This information will be extracted from the Title IV Program File system of records (18–40–0024). The ED data will be matched against IRS'' system of records to collect the most recent address of each taxpayer who matches the SSN and first four letters provided by ED.

5. Effective Dates of the Matching Program

The matching program will become effective 40-days after a copy of the agreement, as approved by the Data Integrity Board of each agency, is sent to Congress and the Office of Management and Budget, or 30-days after publication of this notice in the **Federal Register**, unless OMB disapproves the Matching Program within the 40-day review period. If OMB takes no action within the 40-days, this Matching Program becomes effective after both the 40-day OMB period and the 30-day **Federal Register** period have passed. The matching program will continue for 18 months after the effective date and may be extended for an additional 12 months, if the conditions specified in 5 U. S. C. 552a (o) (2) (D) have been met.

6. Address for Receipt of Public Comments or Inquiries

The person to contact if there are any questions or inquiries is:

Cynthia D.B. Mills, Management Analyst, Federal Family Student Loan Systems Division, Office of Postsecondary Education, Development Division, US Department of Education, 600 Independence Avenue, SW, (Room 4613, ROB–3), Washington, DC 20202, Telephone: 202–708–9768. Individuals who use a telecommunications device for the deaf (TTD) 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.

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.

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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/Announcement, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Dated: November 7, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–30050 Filed 11–14–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Research

Office of Environmental Management; Energy Research Financial Assistance Program Notice 98–04; Environmental Management Science Program: Research Related to Decontamination and Decommissioning of Facilities

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Offices of Energy Research (ER) and Environmental Management (EM), U.S. Department of Energy, hereby announce their interest in receiving grant applications for performance of innovative, fundamental research to support specifically activities for facility decontamination and decommissioning (D&D); which include, but are not limited to, the characterization, monitoring, and certification of contaminated equipment and facilities; contaminant removal, contaminant control of various treatment processes; the treatment, removal, and stabilization of DOE D&D-derived radioactive, hazardous chemical, and mixed wastes.

DATES: Potential applicants are strongly encouraged to submit a brief preapplication. All preapplications, referencing Program Notice 98–04, should be received by DOE by 4:30 P.M. E.S.T., December 16, 1997. A response encouraging or discouraging a formal application generally will be communicated to the applicant within three weeks of receipt. The deadline for receipt of formal applications is 4:30 P.M., E.S.T., March 17, 1998, in order to be accepted for merit review and to permit timely consideration for award in Fiscal Year 1998.

ADDRESSES: All preapplications, referencing Program Notice 98–04, should be sent to Dr. Roland F. Hirsch, ER–73, Mail Stop F–240, Office of Biological and Environmental Research, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. Preapplications will be accepted if submitted by U. S. Postal Service, including Express Mail, commercial mail delivery service, or hand delivery, but will not be accepted by fax, electronic mail, or other means.

After receiving notification from DOE concerning successful preapplications, applicants may prepare and submit formal applications. Applications must be sent to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, MD 20874–1290, Attn: Program Notice 98–04. The above address for formal applications must also be used when submitting formal applications by U.S. Postal Service Express Mail, any commercial mail delivery service, or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Roland F. Hirsch, ER–73, Mail Stop F–240, Office of Biological and Environmental Research, Office of Energy Research, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone: (301) 903–5349, fax: (301) 903–0567, E-mail: roland.hirsch@oer.doe.gov, or Mr. Mark Gilbertson, Office of Science and Risk Policy, Office of Science and Technology, Office of Environmental Management, 1000 Independence

Avenue, SW, Washington, D.C. 20585, telephone: (202) 586–7150, E-mail: mark.gilbertson@em.doe.gov.

SUPPLEMENTARY INFORMATION: The Office of Environmental Management, in partnership with the Office of Energy Research, sponsors the Environmental Management Science Program (EMSP) to fulfill DOE's continuing commitment to the cleanup of DOE's environmental legacy. The program was initiated in Fiscal Year 1996.

The DOE Environmental Management program currently has ongoing applied research and engineering efforts under its Technology Development Program. These efforts must be supplemented with basic research to address long-term technical issues crucial to the EM mission. Basic research can also provide EM with near-term fundamental data that may be critical to the advancement of technologies that are under development but not yet at full scale nor implemented. Proposed basic research under this notice should contribute to environmental management activities that would decrease risk for the public and workers, provide opportunities for major cost reductions, reduce time required to achieve EM's mission goals, and, in general, should address problems that are considered intractable without new knowledge. This program is designed to inspire ''breakthroughs'' in areas critical to the EM mission through basic research and will be managed in partnership with ER. ER's well-established procedures, as set forth in the Energy Research Merit Review System, as published in the **Federal Register**, March 11, 1991, Vol. 56, No. 47, pages 10244–10246, will be used for merit review of applications submitted in response to this notice. This information is also available on the World Wide Web at http://www.er.doe.gov/production/grants/merit.html.

Subsequent to the formal scientific merit review, applications that are judged to be scientifically meritorious will be evaluated by DOE for relevance to the objectives of the Environmental Management Science Program. Additional information can be obtained at http://www.em.doe.gov/science.

Additional Notices for the Environmental Management Science Program may be issued during Fiscal Year 1998 covering other areas within the scope of the EM program.

Purpose

The need to build a stronger scientific basis for the Environmental Management effort has been established in a number of recent studies and reports. The Galvin Commission report (''Alternative Futures for the Department of Energy National Laboratories,'' February 1995) also provided the following observations and recommendations:

> There is a particular need for long term, basic research in disciplines related to environmental cleanup'' * * * ''Adopting a science-based approach that includes supporting development of technologies and expertise'' * * * ''could lead to both reduced cleanup costs and smaller environmental impacts at existing sites and to the development of a scientific foundation for advances in environmental technologies.''

The Environmental Management Advisory Board Science Committee (Resolution on the Environmental Management Science Program, May 2, 1997) made the following observations:

> ''EMSP results are likely to be of significant value to EM'' * * * ''Early program benefits, include: improved understanding of EM science needs, linkage with technology needs, and expansion of the cadre of scientific personnel working on EM problems' * * * ''Science program has the potential to lead to significant improvement in future risk reduction and cost and time savings.''

The objectives of the Environmental Management Science Program are to:

- Provide scientific knowledge that will revolutionize technologies and clean-up approaches to significantly reduce future costs, schedules, and risks;
- ''Bridge the gap'' between broad fundamental research that has wide-ranging applicability such as that performed in DOE's Office of Energy Research and needs-driven applied technology development that is conducted in EM's Office of Science and Technology; and
- Focus the Nation's science infrastructure on critical DOE environmental management problems.

Representative Research Areas

Basic research is solicited in all areas of science with the potential for addressing problems in decontamination and decommissioning of nuclear facilities, an important subject of concern to the Department's Environmental Management Program. The relevant scientific disciplines include, but are not limited to, bioremediation, chemistry (including analytical chemistry and instrumentation, surface chemistry, and separations chemistry), computational sciences (including research and development of digital control algorithms for robotics, communication procedures and software technology for remote control of processing equipment), engineering sciences (including control systems and optimization, diagnostics, transport processes, fracture mechanics, and bioengineering), materials science (including alternate materials processing routes for waste minimization, welding and joining, degradation mechanisms, including corrosion and irradiation damage in radioactive waste forms, and remote sensing and monitoring), and physics (including optical, surface, and fluid physics).

Program Funding

Up to a total of $4,000,000 of Fiscal Year 1998 Federal funds is expected to be available for new Environmental Management Science Program awards resulting from this Notice. Multiple-year funding of grant awards is anticipated, contingent upon the availability of funds. Award sizes are expected to be on the order of $100,000—$300,000 per year for total project costs for a typical three-year grant. Collaborative projects involving several research groups or more than one institution may receive larger awards if merited. The program will be competitive and offered to investigators in universities or other institutions of higher education, other non-profit or for-profit organizations, non-Federal agencies or entities, or unaffiliated individuals. DOE reserves the right to fund in whole or part any or none of the applications received in response to this notice. A parallel announcement with a similar potential total amount of funds will be issued to DOE Federally Funded Research and Development Centers. All projects will be evaluated using the same criteria, regardless of the submitting institution.

Collaboration and Training

Applicants to the EMSP are strongly encouraged to collaborate with researchers in other institutions, such as universities, industry, non-profit organizations, federal laboratories and Federally Funded Research and Development Centers (FFRDCs), including the DOE National Laboratories, where appropriate, and to incorporate cost sharing and/or consortia wherever feasible.

Applicants are also encouraged to provide training opportunities, including student involvement, in applications submitted to the program.

Collaborative research applications may be submitted in several ways:

(1) When multiple private sector or academic organizations intend to propose collaborative or joint research projects, the lead organization may submit a single application which includes another organization as a lower-tier participant (subcontract) who

will be responsible for a smaller portion of the overall project. If approved for funding, DOE may provide the total project funds to the lead organization who will provide funding to the other participant via a subcontract arrangement. The application should clearly describe the role to be played by each organization, specify the managerial arrangements and explain the advantages of the multi-organizational effort.

(2) Alternatively, multiple private sector or academic organizations who intend to propose collaborative or joint research projects may each prepare a portion of the application, then combine each portion into a single, integrated scientific application. A separate Face Page and Budget Pages must be included for each organization participating in the collaborative project. The joint application must be submitted to DOE as one package. If approved for funding, DOE will award a separate grant to each collaborating organization.

(3) Private sector or academic applicants who wish to form a collaborative project with a DOE FFRDC may not include the DOE FFRDC in their application as a lower-tier participant (subcontract). Rather each collaborator may prepare a portion of the proposal, then combine each portion into a single, integrated scientific proposal. The private sector or academic organization must include a Face Page and Budget Pages for their portion of the project. The FFRDC must include separate Budget Pages for their portion of the project. The joint proposal must be submitted to DOE as one package. If approved for funding, DOE will award a grant to the private sector or academic organization. The FFRDC will be funded, through existing DOE contracts, from funds specifically designated for new FFRDC projects. DOE FFRDCs will not compete for funding already designated for private sector or academic organizations. Other Federal laboratories who wish to form collaborative projects may also follow guidelines outlined in this section.

Preapplications

A brief preapplication may be submitted. The original and five copies must be received by December 16, 1997, to be considered. The preapplication should identify on the cover sheet the institution, PI name, address, telephone, fax and E-mail address for the principal investigator, title of the project, and the field of scientific research (using the list in the Application Categories section). The preapplication should consist of up to three pages of narrative describing the research objectives and the plan for accomplishing them, and should also include a paragraph describing the research background of the principal investigator and key collaborators if any.

Preapplications will be evaluated relative to the scope and research needs of the DOE's Environmental Management Science Program by qualified DOE program managers from both ER and EM. Preapplications are strongly encouraged but not required prior to submission of a full application. Please note that notification of a successful preapplication is not an indication that an award will be made in response to the formal application.

Application Format

Applicants are expected to use the following format in addition to following instructions in the Office of Energy Research Application Guide. Applications must be written in English, with all budgets in U.S. dollars.

- ER Face Page (DOE F 4650.2 (10–91))
- Application classification sheet (a plain sheet of paper with one selection from the list of scientific fields listed in the Application Categories Section)
- Table of Contents
- Project Abstract (no more than one page)
- Budgets for each year and a summary budget page for the entire project period (using DOE F 4620.1)
- Budget Explanation
- Budgets and Budget explanation for each collaborative subproject, if any
- Project Narrative (recommended length is no more than 20 pages; multi-investigator collaborative projects may use more pages if necessary up to a total of 40 pages)

Goals
Significance of Project to the EMSP
Background
Research Plan
Preliminary Studies (if applicable)
Research Design and Methodologies

- Literature Cited
- Collaborative Arrangements (if applicable)
- Biographical Sketches (limit 2 pages per senior investigator)
- Description of Facilities and Resources
- Current and Pending Support for each senior investigator

Application Categories

In order to properly classify each preapplication and application for evaluation and review, the documents must indicate the applicant's preferred scientific research field, selected from the following list.

Field of Scientific Research:
1. Bioremediation
2. Analytical Chemistry and Instrumentation
3. Separations Chemistry
4. Surface Chemistry
5. Computer and Mathematical Sciences
6. Engineering Sciences
7. Materials Science
8. Physics
9. Other

Application Evaluation and Selection

Scientific Merit

The program will support the most scientifically meritorious and relevant work, regardless of the institution. Formal applications will be subjected to scientific merit review (peer review) and will be evaluated against the following evaluation criteria listed in descending order of importance as codified at 10 CFR 605.10(d).

1. Scientific and/or Technical Merit of the Project
2. Appropriateness of the Proposed Method or Approach
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources
4. Reasonableness and Appropriateness of the Proposed Budget

External peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Non-federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Relevance to Mission

Subsequent to the formal scientific merit review, applications which are judged to be scientifically meritorious will be evaluated by DOE for relevance to the objectives of the Environmental Management Science Program. These objectives were established in the Conference Report for the Fiscal Year 1996 Energy and Water Development Appropriations Act, and are published in the Congressional Record—House, October 26, 1995, page H10956.

DOE shall also consider, as part of the evaluation, program policy factors such as an appropriate balance among the program areas, including research already in progress. Research funded in the Environmental Management Science Program in Fiscal Year 1996 and Fiscal Year 1997 can be viewed at http://www.doe.gov/em52/science-grants.html.

Application Guide and Forms

Information about the development, submission of applications, eligibility,

limitations, evaluation, the selection process, and other policies and procedures may be found in 10 CFR part 605, and in the Application Guide for the Office of Energy Research Financial Assistance Program. Electronic access to the Guide and required forms is made available via the World Wide Web at http://www.er.doe.gov/production/grants/grants.html.

Major Environmental Management Challenges

This research announcement has been developed for Fiscal Year 1998, along with a development process for a long-term program within Environmental Management, with the objective of providing continuity in scientific knowledge that will revolutionize technologies and clean-up approaches for solving DOE's most complex environmental problems. The following is an overview of the technical challenge facing the Environmental Management Program in the area of Decontamination and Decommissioning which is the focus of this announcement. More detailed descriptions of the specific technical needs and areas of emphasis associated with this problem area can be found in the background section of this Notice.

Deactivation refers to ceasing facility operations and placing the facility in a safe and stable condition to prevent unacceptable exposure of people or the environment to radioactive or other hazardous materials until the facility can be decommissioned. Typically, deactivation involves removal of stored radioactive and other hazardous materials and the draining of systems. Decommissioning is the process of decontaminating or removing contaminated equipment and structures to achieve the desired end state for the facility. Desired end states include complete removal and remediation of the facility, release of the facility for unrestricted use, or release of facility for restricted use. Decontamination is the removal of unwanted radioactive or hazardous contamination by a chemical or mechanical process.

DOE must decontaminate and decommission a large number of aging, surplus facilities. The nature and magnitude of the facility decontamination, decommissioning, and material disposition problems require Environmental Management to address these problems quickly and cost-effectively. In Facility Decontamination and Decommissioning, Environmental Management is attempting to solve the problems of 7,000 contaminated buildings that require deactivation, and 900 contaminated buildings including their contents that require decommissioning. DOE is also responsible for decontaminating the metal and concrete within those buildings and disposing of 180,000 metric tons of scrap metal.

Several themes in the area of Facility Decontamination and Decommissioning were identified from research needs statements. These are summarized below:

- *Characterization:* Improved characterization and monitoring and certification of contaminated equipment and facilities with emphasis on real time characterization in the field.
- *Contaminant removal:* Advances in the removal of contamination from equipment and facilities, particularly metallic structures and equipment, and concrete structures. Other gaps in the knowledge base exist in containment technologies to prevent radioactive emissions and spread of contamination during deactivation and decommissioning; improved knowledge for safe removal of hazardous materials, including asbestos and lead; and remote handling and operations and ideas that could increase worker safety and productivity.
- *Reduction of waste:* Methods for reduction of waste volume produced by decontamination and decommissioning.

The aforementioned areas of emphasis does not preclude, and DOE strongly encourages, any innovative or creative ideas contributing to solving EM D&D challenges mentioned throughout this Notice.

Background

The United States involvement in nuclear weapons development for the last 50 years has resulted in the development of a vast research, production, and testing network known as the nuclear weapons complex. The Department has the challenge of deactivating 7,000 contaminated buildings and decommissioning 900 contaminated buildings that are currently on DOE's list of surplus facilities. It is also responsible for decontaminating the metal and concrete within those buildings and disposing of 180,000 metric tons of scrap metal. As stated earlier, deactivation refers to ceasing facility operations and placing the facility in a safe and stable condition to prevent unacceptable exposure of people or the environment to radioactive or other hazardous materials until the facility can be decommissioned. Typically, deactivation involves removal of fuel and stored radioactive and other hazardous materials and draining of systems. Decommissioning is the process of decontaminating or removing contaminated equipment and structures to achieve the desired end state for the facility. Desired end states include complete removal and remediation of the facility, release of facility for unrestricted use, or release of facility for restricted use. Decontamination is the removal of unwanted radioactive or hazardous contamination by a chemical or mechanical process.

Decontamination and Decommissioning (D&D) is centered around four main areas of surplus facilities. These are Reactor Facilities, Processing Facilities, Laboratory Facilities, and Infrastructure and Supporting Activities that pertain to all types of surplus facilities.

Reactor facilities include production, test, and research reactors and their associated buildings. These facilities represent a significant portion of DOE's D&D mortgage. The decontamination and decommissioning of these reactors could expose workers to high levels of radiation and hazardous material using currently-available, labor-intensive technologies.

Processing facilities includes plutonium, uranium, tritium, lithium processing facilities, and gaseous diffusion plants. Decommissioning of these facilities could benefit from innovative science in the areas of in-situ characterization and analysis, less costly waste disposal options, automated systems for containment and dismantlement, and material recycling.

Laboratory facilities include hot cells, gloveboxes, and analytical laboratories. Hot cells and gloveboxes have a high-radiation environment with highly-contaminated equipment. Decommissioning of these facilities could benefit from innovative science in the areas of debris removal, wet and dry decontamination methods, waste segregation and volume reduction, and remote and robotic dismantlement techniques.

Infrastructure and Supporting Activities includes innovative science in the areas of worker safety and protection; concrete and metal recycle; pollution prevention; and final waste forms.

This research agenda has been developed for Fiscal Year 1998, along with a development process for a long term program within EM, with the objective of providing continuity in scientific knowledge that will revolutionize technologies and clean-up approaches for solving DOE's most complex environmental problems. The following are descriptions of the Facility Decontamination and Decommissioning challenges which are intended to help

align research and researchers in these efforts. Also included in bullet form are the specific science research challenges.

Characterization

Improvement of Characterization, Monitoring, and Certification of Contaminated Equipment and Facilities

Improvements are needed in the area of remote characterization and remote surveying, including improved means to obtain samples remotely from difficult-to-access places such as underground tanks and piping systems and in areas having high radiation fields or other hazardous situations. Rapid automated characterization and certification of levels of surface radioactive contamination on scrap metal is needed; that is, systems which can differentiate between contaminated and non-contaminated equipment and methods to aid in material segregation. Also, advances in engineering sciences associated with development of miniaturized and micro-equipment, robotics, and control theories are needed to support remote inspection needs. A method is needed to trace and plot the exact spatial location of underground piping and unknown buried or embedded objects. Improved remote and non-intrusive methods are needed to verify the existence or absence of contamination in drains, pipes, and associated equipment. Non-destructive characterization mapping methods are needed. Improved radiological characterization and certification of contaminated equipment and facilities are also needed. Improved methods and techniques are needed to detect the presence of asbestos-containing materials in the field in real-time or near real-time. Improved methods and ideas are needed to detect and quantify contaminants that have penetrated below the surface of porous materials such as concrete and transite.

Some examples of specific science research challenges include but are not limited to:

- Research to advance the state-of-the-art for radiation-hardened microelectronics, sensors, sample-collection systems, and controls in robotics for remote characterizations in difficult-to-access places and in areas having high radiation fields or other hazardous situations.
- Applications of new principles and innovations to support the development of sensors, detectors, or monitors for rapid automated characterization and certification of levels of radionuclides, asbestos, lead, dioxin, or other toxic substances that may exist on the surface of scrap metal, equipment, and facilities, or be introduced into the atmosphere during cleanup operations.
- Research to expand knowledge of the principles of energy beam-material interactions, including energy coupling, mass removal by vaporization and ablation, particle generation, gas dynamics, solid vapor entrainment, and transport processes, for characterizing and removing contamination from surfaces.

Deactivation.

Improved methods and ideas to reduce the cost to survey and maintain facilities awaiting deactivation or decommissioning, including automated, non-intrusive monitoring of facilities for structural integrity and contaminant migration. Improved methods and ideas should minimize labor and cost to survey and maintain facilities.

Some examples of specific science research challenges include but are not limited to:

- Exploration of computational and artificial intelligence approaches for robotics technology to enhance material packing, disposition, or recycling and thereby help reduce the health risks to workers, as well as the costs and time associated with decontamination and decommissioning.

Contaminant Removal

Improved Methods for Removing Contamination from Surfaces, including Metals, Concrete, and Non-Porous Surfaces

In contaminated facilities, much of the concrete, paint, or similar materials are contaminated only on the surface or to a relatively shallow depth (for concrete, typically less than one inch). Fundamental studies associated with diffusion of species into and out of porous materials are needed to design innovative approaches to cleaning of porous materials. Historically, such materials have been handled by mechanically removing the paint by sanding/blasting on the surface layers of concrete through a scrabbling operation. These processes are slow and costly and directly expose the workers to radiation fields. Dust control is also a problem. In addition to surface contamination, concrete often contains expansion joints or cracks where contamination may have penetrated deeper. Jackhammers are typically used to remove concrete from these cracks or seams in an attempt to remove the contamination. This is a labor intensive operation. It is desired that new or significantly improved ideas be developed to decontaminate these concrete structures and painted areas, and reduce the amount of secondary waste. In addition, improved methods and ideas are needed to remove greater than one-inch depth of concrete surface.

Improved understanding of radionuclide and heavy metal adhesion and adsorption to material surfaces is needed. Fundamental studies associated with structure bonding of materials is advantageous to develop new or improved removal methods. Steel or other metals are often encountered in a variety of shapes and sizes in contaminated nuclear facilities. Since the decontamination of metal often results in the generation of large volumes of secondary waste, the metal is disposed of as radioactive waste rather than expend funds on decontaminating and surveying the metal. New or significantly improved decontamination techniques are needed for stainless steel, copper, nickel, iron, carbon steel structural members, and galvanized siding that could lead to recycling the metal into products for use within DOE, or free releasing the metal to the commercial scrap metal market. The decontamination process should be cost effective and safe and should not generate large volumes of a secondary waste, which would be difficult or expensive to dispose of. Improved methods and ideas are needed for in-situ decontamination of contaminated pipes.

Some examples of specific science research challenges include but are not limited to:

- Research to develop understanding of the formation and dissolution of surface films, including structure, speciation, composition and energetics.
- Elucidation of the mechanisms of radionuclide and metal adhesion, adsorption, and structural bonding to material surfaces, including work specific to Pu and other actinides.
- Exploration of principles of ultrasonic irradiation and cavitation to evaluate potential for destroying organic contaminants, accelerating reaction rates, enhancing catalysis, and cleaning surfaces.
- Research on the nature and design of ligands that can photo-release radionuclides, metals, and contaminants from surfaces.
- Elucidation of the principles of biological approaches to surface cleaning and diagnostics.

Containment Methods/Techniques to Prevent spread of Contamination.

Cleanup, decommissioning, dismantling, and construction activities will require containment methods to prevent the spread of contamination offsite or to uncontaminated areas on-site. Containment of the airborne contamination during disassembly and

demolition activities is also a problem. Fundamental chemical research is desired for development of fixatives and auto-forming barriers to support development of cost effective containment technology. Fundamental chemical research is needed in the development of cost effective reactant or binding agents. Improved and easily portable containment systems are also needed. Research is needed to improve personal protective equipment to improve the level of worker protection, productivity, and comfort with emphasis on reducing heat stress to workers and ability to safely and comfortably work at heights and in confined or restricted spaces.

Some examples of specific science research challenges include but are not limited to:

- Research to support the development of fixatives, binding agents, and auto-forming barriers for effective containment on surfaces.
- Scientific and engineering research to support development of easily portable systems for containing environmental contaminants.

Remote Decontamination and Decommissioning Handling and Operations, including Demolition

Improved methods of remote demolition are needed: fast, cost-effective ways of dismantling metal structures, piping, machinery, and concrete structures. The goal is to reduce the requirement of hands-on dismantlement by D&D workers while reducing the cost of such operations. Basic science is needed to improve the ability of robotic devices to function in harsh environments such as high radiation, high temperature, and/or abrasive environments.

Some examples of specific science research challenges include but are not limited to:

- Work to improve the ability of robotic devices to function in harsh environments such as high radiation, high temperature, and/or abrasive environments.

Improvement of Decontamination Techniques for Process Equipment and Facilities Dismantlement

Research into ways to decontaminate complex process equipment and techniques to recycle materials or reduce waste are needed. Improved methods and ideas are needed to dismantle or cut metallic and other materials in the form of metallic equipment and piping, concrete structures, asbestos-containing materials, and other construction materials.

Some examples of specific science research challenges include but are not limited to:

- Research to remove limitations on achievable power levels in, and ease of control of, remotely operable focused heat sources, such as electron and laser beams.
- Research to establish criteria and methods for the identification and isolation of components which require further treatment.

Reduction of Waste

Reduction of Wastes Produced by Decontamination and Decommissioning

Many wastes are generated in the process of decommissioning a contaminated nuclear facility. Typically, large amounts of concrete, metal, and construction materials (e.g., roofing, asphalt, asbestos, lumber, tile, siding, and sometimes electronic equipment) are encountered as waste. Improved methods are needed for volume reduction of decommissioning waste such as metallic equipment, piping, conduit, concrete structures, metallic support structures, and asbestos-containing materials. Recycling or reuse of these materials would result in significant reductions in the volume of waste. Improved techniques or ideas are needed that could dismantle or decontaminate equipment and structures while minimizing the generation of secondary waste.

Some examples of specific science research challenges include but are not limited to:

- Research on fracture mechanisms in various types of materials.
- Elucidation of the principles of the diffusive and advective transport of chemical species in porous or fractured material.
- Engineering research to couple existing surface decontamination methods with diagnostic and control technologies to discriminate between contaminated and non-contaminated areas on heterogeneous surfaces.
- Research to support development of computational and artificial intelligence approaches for robotics technology to enhance material packing, disposition, or recycling and reduce the risks, costs and time associated with decontamination and decommissioning.

Details of the programs of the Office of Environmental Management and the technologies currently under development or in use by Environmental Management Program can be found on the World Wide Web at http://www.em.doe.gov and at the extensive links contained therein. These programs and technologies should be used to obtain a better understanding of the missions and challenges in environmental management in DOE when considering areas of research to be proposed.

References for Background Information

Note: World Wide Web locations of these documents are provided where possible. For those without access to the World Wide Web, hard copies of these references may be obtained by writing Mark A. Gilbertson at the address listed in the **FOR FURTHER INFORMATION CONTACT** section.

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The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC November 12, 1997.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 97–30121 Filed 11–14–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–5–000]

American Ref-Fuel Company of Hempstead, Air Products Ref-Fuel of Hempstead, Inc., Duke/UAE Ref-Fuel LLC, and Duke/UAE of Hempstead LLC; Notice of Filing

November 10, 1997.

Take notice that American Ref-Fuel Company of Hempstead, Air Products Ref-fuel of Hempstead, Inc., Duke/UAE Ref-Fuel LLC, and Duke/UAE Hempstead LLC on November 5, 1997, tendered for filing, at the request of Commission staff, a Purchase Agreement reflecting the disposition for which Commission approval is sought in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 17, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30067 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–6–000]

American Ref-fuel Company of Essex County, Air Products Ref-fuel of Essex County, Inc., Duke/UAE Ref-Fuel LLC, and Duke/UAE Essex LLC; Notice of Filing

November 10, 1997.

Take notice that American Ref-fuel Company of Essex County, Air Products Ref-fuel of Essex County, Inc., Duke/UAE Ref-Fuel LLC, and Duke/UAE Essex LLC, on November 5, 1997, tendered for filing, at the request of Commission staff, a Purchase Agreement reflecting the disposition for which Commission approval is sought in this 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 November 17, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30068 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–145–006]

Crossroads Pipeline Company; Notice of Compliance Filing

November 10, 1997.

Take notice that on November 6, 1997, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, Tariff Sheet Nos. 76 and 76.1.

Crossroads asserts that this filing is being made to comply with the letter order of October 24, 1997, which accepted Tariff Sheet Nos. 26, 39, 66 and 76 effective November 1, 1997 and directed that Sheet Nos. 76 and 76.1 be corrected to reflect the correct versions of Gas Industry Standards Board (GISB) standards. The October 24, 1997 order also directed that a typographical error be corrected on the electronic version of Sheet No. 76.1, which had previously been accepted and made effective August 1, 1997.

Crossroads states that the purpose of its filing is to reflect the correct versions of the standards approved by GISB and correct the typographical error.

Crossroads states further that copies of the filing were served on its current firm and interruptible customers and interested state commissions.

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 Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestants parties to the proceeding. Copies of Crossroads' filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30076 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG98–3–000]

East Tennessee Natural Gas Company; Notice of Filing

November 10, 1997.

Take notice that on November 6, 1997, East Tennessee Natural Gas Company (East Tennessee) filed updated standards of conduct under Standard I, 18 CFR 161.3(i), and to reflect changes resulting from the corporate merger with El Paso Natural Gas Company and sale of Kern River Gas Transmission Company.

East Tennessee states that it served a copy of the filing on all of its customers and affected state regulatory 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 or 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. All such motions to intervene or protest should be filed on or before November 25, 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. 97–30071 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–147–006]

High Island Offshore System; Notice of Compliance Filing

November 10, 1997.

Take notice that on November 5, 1997, High Island Offshore System (HIOS), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective November 1, 1997:

Sub Fifth Revised Sheet No. 110
Sub First Revised Sheet No. 110A
Sub Second Revised Sheet No. 110B
Sub Original Sheet No. 110C

HIOS asserts that the purpose of this filing is to comply with the Commission's October 28, 1997, letter order in the captioned proceeding regarding Order No. 587–C. The above mentioned letter order indicated that a number of the standards did not reflect the correct version number set forth in section 204.10(b) of the regulations, with exception of the Electronic Delivery Mechanism Standards.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 308.211 of the Commission's Rules of Practice and Procedure. All such 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. Copies of this filing are on file and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30077 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 503–022]

Idaho Power Company; Notice of Availability of Environmental Assessment

November 10, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47910), the Office of Hydropower Licensing (OHL) has reviewed as-built exhibits showing the constructed project transmission line. The as-built exhibits indicate the route of the constructed transmission line differs from the authorized transmission line route. Idaho Power Company requests Commission approval of the as-built exhibits, including the constructed transmission line. The Swan Falls Project is located on the Snake River, in Ada and Owyhee Counties, Idaho.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be obtained by calling the Commission's Public Reference Room at (202) 208–1371. In the EA, staff concludes that approval of the constructed transmission line would not constitute a major Federal action significantly affecting the quality of the human environment.

For further information, please contact the project manager, Jon Confrancesco, at (202) 219–0079.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30073 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–36–000]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

November 10, 1997.

Take notice that on November 5, 1997, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective October 1, 1997:

First Revised Sheet No. 91, Original Sheet No. 91–A
First Revised Sheet No. 521, Original Sheet No. 521–A
First Revised Sheet No. 621, Original Sheet No. 621–A
First Revised Sheet No. 724, Original Sheet No. 724–A
Second Revised Sheet No. 810, Original Sheet No. 810–A

Kern River states that the purpose of this filing is to comply with the Commission's Order on Remand of Order No. 636–C issued February 27, 1997 in Docket No. RM91–11–006, *et al.* Kern River states that it has revised its

right-of-first-refusal tariff provisions to reduce the term cap for matching a competitive bid from twenty years to five years in order to avoid pregranted abandonment of service.

Kern River states that a copy of this filing has been served upon Kern River's jurisdictional customers and upon interested state regulatory commissions.

Any person desiring to be heard or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30080 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG98–2–000]

Midwestern Gas Transmission Company; Notice of Filing

November 10, 1997.

Take notice that on November 6, 1997, Midwestern Gas Transmission Company (Midwestern) filed updated standards of conduct under Standard I, 18 CFR 161.3(i), and to reflect changes resulting from the corporate merger with El Paso Natural Gas Company and sale of Kern River Gas Transmission Company.

Midwestern states that it served a copy of the filing on all of its customers and affected state regulatory 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 or 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. All such motions to intervene or protest should be filed on or before November 25, 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. 97–30070 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4347–000]

Northeast Energy Services, Inc.; Notice of Issuance of Order

November 12, 1997.

Northeast Energy Services, Inc. (Northeast Energy) submitted for filing a rate schedule under which Northeast Energy will engage in wholesale electric power and energy transactions as a marketer. Northeast Energy also requested waiver of various Commission regulations. In particular, Northeast Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Northeast Energy.

On October 24, 19976, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Northeast Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Northeast Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Northeast Energy's issuance of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 24, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30112 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–66–000]

Questar Pipeline Company; Notice of Application

November 10, 1997.

Take notice that on November 3, 1997, Questar Pipeline Company (Questar), 180 East First South Street, Salt Lake City, Utah 84111, filed in Docket No. CP98–66–000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to construct and operate a compressor station in Carbon County, Utah, all as more fully set forth in the application on file with the Commission and open to public inspection.

Questar states that the Oak Spring Compressor Station would be used to boost main-line pressure and provide additional firm capacity of 52,000 dt equivalent of natural gas per day on Questar's system. It is asserted that Questar would install a 5,940 horsepower compressor and 2 20-inch diameter pipelines, each about 605 feet in length, to connect the compressor to Questar's Main Line No. 40.

It is estimated that the cost of the facilities would be $8,218,000. Questar requests rolled-in rate treatment and requests that it not be placed at risk for the recovery of the costs associated with the compressor station. Questar explains that it held an open season between July 2, and July 17, 1997, to assess customer interest in the Oak Spring Compressor Station, and that the results of the open season clearly indicate that and that the results of the open season clearly indicate that sufficient market demand exists to support construction of the

compressor station. Questar further explains that it has executed 4 firm transportation agreements which account for 39,800 dt equivalent per day at Questar's maximum reservation and commodity rates for terms ranging from 1 to 20 years, including evergreen provisions.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 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 385.314 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

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 or its own review of the matter finds that a grant of the certificate is 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 herein provided for, unless otherwise advised, it will be unnecessary for Questar to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30069 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–4–000]

SEMASS Partnership, American Ref-Fuel Company of SEMASS, L.P., Air Products Ref-Fuel of SEMASS, Inc, Air Products Ref-Fuel Operations of SEMASS, Inc., Duke/UAE Ref-Fuel LLC, Duke/UAE of SEMASS, LLC, and Duke/UAE Operations of SEMASS, LLC; Notice of Filing

November 10, 1997.

Take notice that SEMASS Partnership, Air Products Ref-Fuel of SEMASS, Inc., Air Products Ref-Fuel Operations of SEMASS, Inc., Duke/UAE Ref-Fuel LLC, Duke/UAE Operations of SEMASS, LLC, Duke/UAE SEMASS, LLC, and American Ref-Fuel Company of SEMASS, L.P., on November 5, 1997, tendered for filing, at the request of Commission staff, a Purchase Agreement reflecting the disposition for which Commission approval is sought in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene to 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 November 17, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30066 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG98–4–000]

Tennessee Gas Pipeline Company; Notice of Filing

November 10, 1997.

Take notice that on November 6, 1997, Tennessee Gas Pipeline Company (Tennessee) filed updated standards of conduct under Standard I, 18 CFR 161.3(i), and to reflect changes resulting from the corporate merger with El Paso Natural Gas Company and sale of Kern River Gas Transmission Company.

Tennessee states that it served a copy of the filing on all of its customers and affected state regulatory 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 or 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. All such motions to intervene or protest should be filed on or before November 25, 2997. 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. 97–30072 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–534–001]

Viking Gas Transmission Company; Notice of Compliance Filing

November 10, 1997.

Take notice that on November 5, 1997, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing to be effective November 1, 1997.

Viking states that the purpose of this filing is to comply with the Office of Pipeline Regulation's October 22, 1997 Letter in Docket No. RP97–534–000 requesting that the subject tariff sheets state that they were filed to comply with the Commission's May 6, 1997 ''Order Issuing Certificate'' in Docket No. CP97–93–000, 79 FERC ¶ 61,136 (1997). As required by § 154.201(a) of the Commission's regulations, 18 CFR 154.201(a) Viking is submitting a marked version of each tariff sheet with this filing.

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. All such protests should 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. 97–30078 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–25–001]

West Texas Gas, Inc.; Notice of Proposed Changes in FERC Gas Tariff

November 10, 1997.

Take notice that on November 6, 1997, West Texas Gas, Inc. (WTG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective December 1, 1997:

Second Revised Sheet No. 22

WTG states that this tariff sheet was inadvertently omitted from its October 31, 1997 Notice of Change in Rates. According to WTG, although the redlined version of Second Revised Sheet No. 22 was submitted with the filing, the clean version was omitted. WTG states that the only change on this tariff sheets was the elimination of a portion of its Purchased Gas Adjustment clause, as explained in its transmittal letter.

Any persons desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the 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. 97–30079 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC97–35–002, et al.]

Electric Rate and Corporate Regulation Filings; New England Power Pool, et al.

November 6, 1997.

Take notice that the following filings have been made with the Commission:

1. New England Power Pool

[Docket No. EC97–35–002]

Take notice that on September 18, 1997, the New England Power Pool (NEPOOL) Executive Committee submitted the Thirty-Fourth Agreement amending New England Power Pool Agreement and related materials, in compliance with the Commission's order in *New England Power Pool* 79 FERC ¶ 61,374, 62,576 (June 25, 1997) (Order Conditionally Authorizing Establishment of an Independent System Operator and Disposition of Control over Jurisdictional Facilities).

The NEPOOL Executive Committee states that copies of these materials were sent to all entities on the service list in Docket No. EC97–35–000, the participants in the New England Power Pool, and the New England state governors and regulatory commissions.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. ISO New England Inc.

[Docket No. EC97–35–003]

Take notice that on September 24, 1997, Counsel for ISO New England Inc. (ISO) tendered for filing copies of the following documents: (1) Certificate of Incorporation; (2) By-Laws of the ISO; (3) Code of Conduct and Ethics Policy of the ISO; and (4) Interim ISO Agreement. The letter states that these documents have been conformed to the Commission's June 25, 1997 order issued in this docket.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Heartland Energy Services, Inc., LG&E Energy Marketing Inc., Illinova Energy Partners, Inc., Entergy Power Marketing Corp., Duke/Louis Dreyfus, L.L.C., Plum Street Energy Marketing, Inc., and CNG Energy Services Corporation

[Docket Nos. ER94–108–014, ER94–1188–019, ER94–1475–010, ER95–1615–009, ER96–108–010, ER96–2525–005, and ER96–3068–002 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On November 3, 1997, Heartland Energy Services, Inc. filed certain information as required by the Commission's August 9, 1994, order in Docket No. ER94–108–000.

On November 3, 1997, LG&E Energy Marketing Inc. filed certain information as required by the Commission's August 9, 1994, order in Docket No. ER94–1188–000.

On October 29, 1997, Illinova Energy Partners, Inc. filed certain information as required by the Commission's May 18, 1995, order in Docket No. ER94–1475–000.

On November 3, 1997, Entergy Power Marketing, Inc. filed certain information as required by the Commission's March 26, 1997, order in Docket No. ER95–1615–000.

On November 3, 1997, Duke/Louis Dreyfus, L.L.C. filed certain information as required by the Commission's December 14, 1995, order in Docket No. ER96–108–000.

On November 3, 1997, Plum Street Energy Marketing, Inc. filed certain information as required by the Commission's September 25, 1996, order in Docket No. ER96–2525–000.

On November 3, 1997, CNG Energy Services Corporation filed certain information as required by the Commission's October 30, 1996, order in Docket No. ER96–3068–000.

4. Electrade Corporation, Howard Energy Marketing, Inc., Enpower, Inc., Russell Energy Services Company, Brennan Power, Inc., Colonial Energy, Inc., and Fina Energy Services Company

[Docket Nos. ER94–1478–012, ER95–252–011, ER95–1752–005, ER96–2882–004, ER97–1630–002, ER97–1968–002, and ER97–2413–002 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On October 28, 1997, Electrade Corporation filed certain information as required by the Commission's August 25, 1994, order in Docket No. ER94–1478–000.

On October 28, 1997, Howard Energy Marketing, Inc. filed certain information as required by the Commission's February 24, 1995, order in Docket No. ER95–252–000.

On October 28, 1997, Enpower, Inc. filed certain information as required by

the Commission's October 23, 1995, order in Docket No. ER95–1752–000.

On October 27, 1997, Russell Energy Services Company filed certain information as required by the Commission's October 30, 1996, order in Docket No. ER96–2882–000.

On October 27, 1997, Brennan Power, Inc. filed certain information as required by the Commission's April 9, 1997, order in Docket No. ER97–1630–000.

On October 28, 1997, Colonial Energy, Inc. filed certain information as required by the Commission's April 9, 1997, order in Docket No. ER97–1968–000.

On October 27, 1997, Fina Energy Services Company filed certain information as required by the Commission's June 18, 1997, order in Docket No. ER97–2413–000.

5. Hartford Power Sales, L.L.C., Energy2, Inc., American Hunter Energy Inc., ProLiance Energy, LLC, Pacific Northwest Generating Cooperative, CNG Retail Services Corporation, and UTIL Power Marketing Inc.

[Docket Nos. ER95–393–016, ER96–3086–004, ER97–144–003, ER97–420–003, ER97–504–005, ER97–1845–001, and ER97–3306–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On October 29, 1997, Hartford Power Sales, L.L.C. filed certain information as required by the Commission's February 22, 1995, order in Docket No. ER95–393–000.

On November 3, 1997, Energy2, Inc. filed certain information as required by the Commission's October 22, 1996, order in Docket No. ER96–3086–000.

On October 29, 1997, American Hunter Energy Inc. filed certain information as required by the Commission's November 13, 1996, order in Docket No. ER97–144–000.

On October 29, 1997, ProLiance Energy, LLC filed certain information as required by the Commission's January 16, 1997, order in Docket No. ER97–420–000.

On November 3, 1997, Pacific Northwest Generating Cooperative filed certain information as required by the Commission's January 3, 1997, order in Docket No. ER97–504–000.

On November 3, 1997, CNG Retail Services Corporation filed certain information as required by the Commission's April 1, 1997, order in Docket No. ER97–1845–000.

On November 3, 1997, UTIL Power Marketing Inc. filed certain information as required by the Commission's July 22, 1997, order in Docket No. ER97–3306–000.

6. Energy Resource Management Corporation, Westar Electric Marketing Inc. Sandia Energy Resources Company, AYP Energy, Inc., American Hunter Energy Inc., Con Edison Solutions, Inc., and ConAgra Energy Service, Inc.

[Docket Nos. ER96–358–005, ER96–458–007, ER96–2538–004, ER96–2673–004, ER97–144–002, ER97–705–002, and ER97–1751–001]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On Energy Resource Management Corporation filed certain information as required by the Commission's December 20, 1995, order in Docket No. ER96–358–000.

On April 7, 1997, Westar Electric Marketing Inc. filed certain information as required by the Commission's February 14, 1996, order in Docket No. ER96–458–000.

On September 4, 1997, Sandia Energy Resources Company filed certain information as required by the Commission's September 26, 1996, order in Docket No. ER96–2538–000.

On October 30, 1997, AYP Energy, Inc. filed certain information as required by the Commission's October 8, 1996, order in Docket No. ER96–2673–000.

On September 4, 1997, American Hunter Energy Inc. filed certain information as required by the Commission's November 13, 1996, order in Docket No. ER97–144–000.

On October 29, 1997, Con Edison Solutions, Inc. filed certain information as required by the Commission's March 14, 1997, order in Docket No. ER97–705–000.

On October 29, 1997, ConAgra Energy Service Inc. filed certain information as required by the Commission's April 1, 1997, order in Docket No. ER97–1751–000.

7. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company

[Docket No. ER97–1793–001]

Take notice that on October 27, 1997, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company (collectively, the ''CSW Operating Companies'') submitted for filing supplemental information in compliance with the Commission's April 9, 1997 letter order in Docket No. ER97–1793–000.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. San Diego Gas & Electric Company

[Docket No. ER97–2364–000]

Take notice that on October 31, 1997, San Diego Gas & Electric Company (''SDG&E'') tendered for filing revised original sheets governing rates for ancillary services under which it provides ancillary services to the California Independent System Operators (''ISO'') in a competitive market that will commence on January 1, 1998. SDG&E requests that these ancillary service rates be made effective subject to refund within 60 days of this filing but no later than January 1, 1998. The proposed ancillary service rates would supersede SDG&E's Open Access Tariff terms relating to ancillary services presently on file with the Commission.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Clean Air Capital Markets Corporation

[Docket No. ER97–4434–000]

Take notice that on October 27, 1997 Clean Air Capital Markets Corporation (CACM) petitioned the Commission for acceptance of CACM Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

CACM intends to engage in wholesale electric power and energy purchases and sales as a marketer. CACM is not in the business of generating or transmitting electric power.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Southern Indiana Gas and Electric Company

[Docket No. ER98–250–000]

Take notice that on October 23, 1997, Southern Indiana Gas and Electric Company (''SIGECO''), tendered for filing summary information on transactions that occurred during the period June 30, 1997 through September 30, 1997, pursuant to its Market Based Rate Sales Tariff accepted by the Commission in Docket No. ER96–2734–000.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Louisville Gas and Electric Company

[Docket No. ER98–251–000]

Take notice that on October 23, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing an executed Non-Firm Point-To-Point Transmission Service Agreement between LG&E and Kansas City Power & Light under LG&E's Open Access Transmission Tariff.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Delmarva Power & Light Company

[Docket No. ER98–252–000]

Take notice that on October 23, 1997, Delmarva Power & Light Company, tendered for filing executed umbrella service agreements with Entergy Power Marketing Corp., Koch Energy Trading, Inc., Market Responsive Energy, Inc. and New Energy Ventures, L.L.C. under Delmarva's market rate sales tariff, FERC Electric Tariff, Original Volume No. 14, filed by Delmarva in Docket No. ER96-2571–000. Delmarva requests that the Commission make the agreements with Entergy Power Marketing Corp., Koch Energy Trading, Inc. and New Energy Ventures, L.L.C. effective as of their respective execution dates and requests waiver of notice to make the agreement with Market Responsive Energy, Inc. effective as of October 23, 1997.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Washington Water Power

[Docket No. ER98–253–000]

Take notice that on October 23, 1997, Washington Water Power, tendered for filing their summary of activity for the quarter ending September 30, 1997.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Montaup Electric Company

[Docket No. ER98–254–000]

Take notice that on October 20, 1997, Montaup Electric Company (Montaup), filed revised Attachment 1s to its Service Agreements for Network Integration Service to its retail distribution affiliates Blackstone Valley Electric Company, Newport Electric Corporation and Eastern Edison Company. The filing corrects errors in the delivery points shown on the Attachment 1s as originally filed.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Northern States Power Company (Minnesota Company)

[Docket No. ER98–256–000]

Take notice that on October 23, 1997, Northern States Power Company (Minnesota) (''NSP''), tendered for filing the Short-Term Firm Point-to-Point Transmission Service Agreement between NSP and North Central Power Co., Inc.

NSP requests that the Commission accept the agreement effective October 1, 1997, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Northern States Power Company (Minnesota Company)

[Docket No. ER98–257–000]

Take notice that on October 23, 1997, Northern States Power Company (Minnesota) (''NSP''), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Transmission Service Agreement between NSP and Tenaska Power Services Co.

NSP requests that the Commission accept both the agreements effective October 9, 1997, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Tucson Electric Power Company

[Docket No. ER98–258–000]

Take notice that on October 23, 1997, Tucson Electric Power Company(TEP), tendered for filing one (1) service agreement for firm point-to-point transmission service under Part II of its Open Access Transmission Tariff filed in Docket No. OA96–140–000. TEP requests waiver of notice to permit the service agreement to become effective as of the earliest date service commenced under this agreement. The details of the service agreement are as follows:

1. Service Agreement for Firm Point-to-Point Transmission Service with Enron Power Marketing, Inc. dated October 23, 1997. Service under this agreement commenced on September 23, 1997.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Northern States Power Company (Minnesota Company)

[Docket No. ER98–259–000]

Take notice that on October 23, 1997, Northern States Power Company (Minnesota) (''NSP''), tendered for filing the Short-Term Firm Point-to-Point Transmission Service Agreement between NSP and Northwestern Wisconsin Electric Company.

NSP requests that the Commission accept the agreement effective October 1, 1997, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Northern States Power Company (Minnesota Company)

[Docket No. ER98–260–000]

Take notice that on October 23, 1997, Northern States Power Company (Minnesota) (''NSP''), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Transmission Service Agreement between NSP and Powerex.

NSP requests that the Commission accept both the agreements effective October 3, 1997, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Northern Indiana Public Service Company

[Docket No. ER98–262–000]

Take notice that on October 22, 1997, Northern Indiana Public Service Company, tendered for filing its Transaction Report for short-term transactions for the third second quarter of 1997 pursuant to the Commission's order issued January 10, 1997 in *Northern Indiana Public Service Company*, 78 FERC ¶ 61,015 (1997).

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Wisconsin Public Service Corporation

[Docket No. ER98–263–000]

Take notice that on October 24, 1997, Wisconsin Public Service Corporation (''WPSC''), tendered for filing an executed Network Service Agreement and an executed Network Operating Agreement for service with the Wisconsin Public Power Inc. (WPPI) under the WPSC's Open Access

Transmission Tariff. WPSC requests that the Commission make the service agreements effective on October 16, 1997.

WPSC states that copies of this filing have been served on WPPI, on the Michigan Public Service Commission and on the Public Service Commission of Wisconsin.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–264–000]

Take notice that on October 24, 1997, Consolidated Edison Company of New York, Inc. (''Con Edison''), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to New Energy Ventures, L.L.C.

Con Edison states that a copy of this filing has been served by mail upon New Energy Ventures, L.L.C.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–265–000]

Take notice that on October 24, 1997, Consolidated Edison Company of New York, Inc. (''Con Edison''), tendered for filing, pursuant to its FERC Electric Tariff Rate Schedule No. 2, a service agreement for PECO Energy Company to purchase electric capacity and energy pursuant at negotiated rates, terms, and conditions.

Con Edison states that a copy of this filing has been served by mail upon PECO Energy Company.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–266–000]

Take notice that on October 24, 1997, Company of New York, Inc. (''Con Edison''), tendered for filing, pursuant to its FERC Electric Tariff Rate Schedule No. 2, a service agreement for SONAT Power Marketing L.P. to purchase electric capacity and energy pursuant at negotiated rates, terms, and conditions.

Con Edison states that a copy of this filing has been served by mail upon SONAT Power Marketing L.P.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–267–000]

Take notice that on October 24, 1997, Consolidated Edison Company of New York, Inc. (''Con Edison''), tendered for filing, pursuant to its FERC Electric Tariff Rate Schedule No. 2, a service agreement for the Cinergy Operating Companies to purchase electric capacity and energy pursuant at negotiated rates, terms, and conditions.

Con Edison states that a copy of this filing has been served by mail upon the Cinergy Operating Companies.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Washington Water Power

[Docket No. ER98–268–000]

Take notice that on October 24, 1997, Washington Water Power, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35 of the Commission Rules and Regulations, an executed Long Term Service Agreement under WWP's FERC Electric Tariff First Revised Volume No. 9 with Public Utility District No. 1 of Pend Oreille County, Washington.

Notice of the filing has been served upon the following:

Mr. Larry Weis, General Manager, Public Utility District No. 1 of Pend Oreille County, Washington, PO Box 190, Newport, Washington 99156

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Kansas City Power & Light Company

[Docket No. ER98–269–000]

Take notice that on October 24, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated August 26, 1997, between KCPL and Northern Indiana Public Service Company. KCPL proposes an effective date of October 10, 1997, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order 888–A in Docket No. OA97–636.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–270–000]

Take notice that on October 24, 1997, Consolidated Edison Company of New York, Inc. (''Con Edison''), tendered for filing an electric tariff providing for the sale of energy and capacity to implement retail access in New York City and Westchester County.

Con Edison states that a copy of this filing has been served by mail upon The New York State Public Service Commission.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Central Illinois Public Service Company

[Docket No. ES98–4–000]

Take notice that on October 30, 1997, Central Illinois Public Service Company filed an application under Section 204 of the Federal Power Act seeking authorization to issue unsecured promissory notes or commercial paper, from time to time, in an aggregate principal amount not to exceed $150 million outstanding at any one time, during the period from January 1, 1998 to December 31, 1999, with final maturities not later than December 31, 2000.

Comment date: November 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Androscoggin Energy LLC

[Docket No. QF96–114–001]

On October 27, 1997, Androscoggin Energy LLC (Applicant), c/o Polsky Energy Corporation, 650 Dundee Road, Suite 150, Northbrook, Illinois 60062, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the Applicant, the topping-cycle cogeneration facility, which will be located in Franklin County, Jay, Maine, will consist of three (3) combustion turbines generators and three (3) separately-fired heat recovery steam generators. Steam recovered from the facility will be purchased for process use by International Paper Company's Androscoggin paper mill for the production of paper products. The maximum net electric power production capacity of the facility will be 147 MW. Applicant intends to sell electric power output to International Paper Company and other qualified buyers. The primary energy source of the facility will be

natural gas. Construction of the facility is expected to commence by the end of 1997, with commercial operation projected by the end of 1998. Earlier, on August 28, 1996, Applicant filed a notice of self certification in Docket No. QF96–114–000.

Comment date: December 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30113 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–14–000, et al.]

Southern California Edison Company, et al.; Electric Rate and Corporate Regulation Filings

November 5, 1997.

Take notice that the following filings have been made with the Commission:

1. Southern California Edison Company

[Docket No. EC98–14–000]

Take notice that Southern California Edison Company (Edison), on October 31, 1997, tendered for filing pursuant to Section 203 of the Federal Power Act, an Application For Authorization To Assign Must-Run Agreements.

Comment date: December 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Bangor Hydro-Electric Company and Bangor Energy Resale, Inc.

[Docket No. EC98–15–000]

Take notice that on October 31, 1997, Bangor Hydro-Electric Company (Bangor Hydro) and Bangor Energy Resale, Inc. (Bangor Energy), a wholly-owned subsidiary of Bangor Hydro, tendered for filing an application under Section 203 of the Federal Power Act for Bangor Hydro to dispose, by transfer to Bangor Energy, of Bangor Hydro's FERC Rate Schedule No. 46, a power sales agreement for the sale of energy and capacity by Bangor Hydro to UNITIL Power Corporation.

The Applicants state that the purpose of the transfer is to refinance certain debt arrangements and provide lenders with a security interest that is necessary in order for Bangor Hydro to receive certain loans. The Applicants also request expedited treatment of their proposal in order to allow the transfer to take place no later than December 31, 1997.

Comment date: December 1, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Boston Edison Company

[Docket No. EC98–16–000]

Take notice that on October 31, 1997, Boston Edison Company (Boston Edison) filed an application under Section 203 of the Federal Power Act for the sale of transmission facilities and transmission use rights in connection with voluntary divestiture of its fossil generation business. Boston Edison seeks approval of the sale at the earliest possible date.

Comment date: December 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. National Gas & Electric L.P., Rainbow Energy Marketing Corporation, and Powermarketing Coal Services, Inc., et, al.

[Docket Nos. ER90–168–035, ER94–1061–014, and Docket No. ER97–1548–002 (not consolidated), et, al.]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On October 20, 1997, National Gas & Electric L.P. filed certain information as required by the Commission's March 20, 1990, order in Docket No. ER90–168–000.

On October 22, 1997, Rainbow Energy Marketing Corporation filed certain information as required by the Commission's June 10, 1994, order in Docket No. ER94–1061–000.

On October 23, 1997, IEP Power Marketing, LLC filed certain information as required by the Commission's May 11, 1995, order in Docket No. ER95–802–000.

On October 22, 1997, E Prime filed certain information as required by the Commission's March 29, 1996, order in Docket No. ER95–1269–000.

On October 20, 1997, Wicor Energy Services, Inc. filed certain information as required by the Commission's November 9, 1995, order in Docket No. ER96–34–000.

On October 20, 1997, Global Petroleum Corp. filed certain information as required by the Commission's December 20, 1995, order in Docket No. ER96–359–000.

On October 21, 1997, Powermarketing Coal Services, Inc. filed certain information as required by the Commission's March 28, 1997, order in Docket No. ER97–1548–000.

5. Western Systems Power Pool

[Docket No. ER91–195–030]

Take notice that on October 30, 1997, the Western Systems Power Pool (WSPP) filed certain information as required by Ordering Paragraph (D) of the Commission's June 27, 1991 Order (55 FERC ¶ 61,495) and Ordering Paragraph (C) of the Commission's June 1, 1992 Order On Rehearing Denying Request Not To Submit Information, And Granting In Part And Denying In Part Privileged Treatment. Pursuant to 18 CFR 385.211, WSPP has requested privileged treatment for some of the information filed consistent with the June 1, 1992 order. Copies of WSPP's informational filing are on file with the Commission, and the non-privileged portions are available for public inspection.

6. Enron Power Marketing, Inc., PG&E Power Service Company, and El Paso Energy Marketing Co., et al.

[Docket No. ER94–24–021 (ER94–1394–013 and Docket No. ER96–118–010 (not consolidated), et. al.]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On November 3, 1997, Enron Power Marketing, Inc. filed certain information as required by the Commission's December 2, 1993, order in Docket No. ER94–24–000.

On October 24, 1997, PG&E Power Service Company filed certain information as required by the Commission's August 24, 1994, order in Docket No. ER94–1394–000.

On October 24, 1997, EPEM Marketing Company filed certain information as required by the Commission's March 30, 1995, order in Docket No. ER94–428–000.

On October 28, 1997, Phibro Inc. filed certain information as required by the Commission's March 14, 1995, order in Docket No. ER95–430–000.

On October 30, 1997, Southern Energy Trading and Marketing, Inc. filed certain information as required by the Commission's September 29, 1995, order in Docket No. ER95–976–000.

On October 28, 1997, DuPont Power Marketing Inc. filed certain information as required by the Commission's August 30, 1995, order in Docket No. ER95–1441–000.

On October 24, 1997, El Paso Energy Marketing Company filed certain information as required by the Commission's November 28, 1995, order in Docket No. ER96–118–000.

7. North American Energy Conservation, Tenaska Power Services Company, Enserve, L.C., et al.

[Docket Nos. ER94–152–015, ER94–389–013, and Docket No. ER96–182–008 (not consolidated), et, al.]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On October 30, 1997, North American Energy Conservation filed certain information as required by the Commission's February 10, 1994, order in Docket No. ER94–152–000.

On October 24, 1997, Tenaska Power Services Company filed certain information as required by the Commission's May 26, 1994, order in Docket No. ER94–389–000.

On October 30, 1997, NorAm Energy Services, Inc. filed certain information as required by the Commission's July 25, 1994, order in Docket No. ER94–1247–000.

On October 30, 1997, CNG Power Services Corporation filed certain information as required by the Commission's October 25, 1994, order in Docket No. ER94–1554–000.

On October 30, 1997, The Power Company of America, L.P. filed certain information as required by the Commission's December 30, 1994, order in Docket No. ER95–111–000.

On October 27, 1997, Gateway Energy Inc. filed certain information as required by the Commission's August 4, 1995, order in Docket No. ER95–1049–000.

On October 27, 1997, Enserve, L.C. filed certain information as required by the Commission's December 28, 1995, order in Docket No. ER96–182–000.

8. Vitol Gas & Electric LLC, American Power Exchange Inc., CMS Marketing, Services and Trading Company, et al.

[Docket Nos. ER94–155–019, ER94–1578–010 and ER94–1099–012 and Docket No. ER96–2350–008 (not consolidated), et al.]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On October 22, 1997, Vitol Gas & Electric LLC filed certain information as required by the Commission's January 14, 1994, order in Docket No. ER94–155–000.

On April 7, 1997, American Power Exchange, Inc. filed certain information as required by the Commission's October 19, 1994, order in Docket No. ER94–1578–000.

On April 7, 1997, Eclipse Energy Inc. filed certain information as required by the Commission's June 15, 1994, order in Docket No. ER94–1099–000.

On April 7, 1997, Prairie Winds Energy, Inc. filed certain information as required by the Commission's August 28, 1995, order in Docket No. ER95–1234–000.

On April 7, 1997, Enpower, Inc. filed certain information as required by the Commission's October 23, 1995, order in Docket No. ER95–1752–000.

On October 22, 1997, Northwest Power Marketing Company filed certain information as required by the Commission's June 3, 1996, order in Docket No. ER96–688–000.

On October 21, 1997, CMS Marketing, Services and Trading Company filed certain information as required by the Commission's September 6, 1996, order in Docket No. ER96–2350–000.

9. Eastern Power Distribution, Inc., Morgan Stanley Capital Group Inc., PacifiCorp, et al.

[Docket Nos. ER94–964–016, ER94–1384–016 and Docket No. ER97–2801–001 (not consolidated), et al.]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On October 30, 1997, Eastern Power Distribution, Inc., filed certain information as required by the Commission's April 5, 1994, order in Docket No. ER94–964–000.

On October 24, 1997, Morgan Stanley Capital Group Inc., filed certain information as required by the Commission's November 8, 1994, order in Docket No. ER94–1384–000.

On October 30, 1997, Federal Energy Sales, Inc., filed certain information as required by the Commission's March 1, 1996 order in Docket No. ER96–918–000.

On October 30, 1997, American Energy Solutions, Inc., filed certain information as required by the Commission's December 5, 1996, order in Docket No. ER97–360–000.

On October 29, 1997, Competitive Utility Services Corp. filed certain information as required by the Commission's April 8, 1997, order in Docket No. ER97–1932–000.

On October 30, 1997, Constellation Power Sources, Inc., filed certain information as required by the Commission's May 15, 1997, order in Docket No. ER97–2261–000.

On October 29, 1997, PacifiCorp filed certain information as required by the Commission's June 26, 1997, order in Docket No. ER97–2801–000.

10. C.C. Pace Energy Services, JEB Corporation, and Engage Energy US, L.P., et al.

[Docket Nos. ER94–1181–013, ER94–1432–013, and Docket No. ER97–654–003 (not consolidated), et al.]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On October 30, 1997, C.C. Pace Energy Services filed certain information as required by the Commission's July 25, 1994, order in Docket No. ER94–1181–000.

On October 30, 1997, JEB Corporation filed certain information as required by the Commission's September 8, 1994, order in Docket No. ER94–1432–000.

On October 28, 1997, Williams Energy Services Company filed certain information as required by the Commission's March 10, 1995, order in Docket No. ER95–305–000.

On October 29, 1997, Duke Energy Marketing Corp., filed certain information as required by the Commission's December 14, 1995, order in Docket No. ER96–109–000.

On October 30, 1997, Entergy West Power Company, LLC filed certain information as required by the Commission's December 28, 1995, order in Docket No. ER96–392–000.

On October 20, 1997, Power Fuels, Inc., filed certain information as required by the Commission's July 5, 1996, order in Docket No. ER96–1930–000.

On October 30, 1997, Engage Energy US, L.P., filed certain information as required by the Commission's December

30, 1996, order in Docket No. ER97–654–000.

11. Citizens Power Sales, AIG Trading Corporation, and Sonat Power Marketing, Inc., et al.

[Docket Nos. ER94–1685–016, ER94–1691–016, and Docket No. ER96–2343–005 (not consolidated), et al.]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On October 29, 1997, Citizens Power Sales filed certain information as required by the Commission's February 2, 1995, order in Docket No. ER94–1685–000.

On October 29, 1997, AIG Trading Corporation filed certain information as required by the Commission's January 19, 1995, order in Docket No. ER94–1691–000.

On October 29, 1997, Delhi Energy Services, Inc., filed certain information as required by the Commission's June 1, 1995, order in Docket No. ER95–940–000.

On October 28, 1997, Sonat Power Marketing, Inc., filed certain information as required by the Commission's August 18, 1995, order in Docket No. ER95–1050–010.

On October 29, 1997, Amoco Energy Trading Corporation filed certain information as required by the Commission's November 29, 1995, order in Docket No. ER95–1359–000.

On October 29, 1997, Vastar Power Marketing, Inc., filed certain information as required by the Commission's October 26, 1995, order in Docket No. ER95–1685–000.

On October 28, 1997, Sonat Power Marketing, Inc., filed certain information as required by the Commission's August 12, 1996, order in Docket No. ER96–2343–000.

12. Tennessee Power Company, PacifiCorp Power Marketing Inc., Northrop Grumman Corporation, et al.

[Docket Nos. ER95–581–010, ER95–1096–011, and Docket No. ER96–2957–004 (not consolidated), et al.]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On October 14, 1997, Tennessee Power Company filed certain information as required by the Commission's April 28, 1995, order in Docket No. ER95–581–000.

On October 16, 1997, PacifiCorp Power Marketing, Inc., filed certain information as required by the Commission's February 2, 1996, order in Docket No. ER96–1096–000.

On October 15, 1997, PG&E Energy Services, Energy Trading Corporation filed certain information as required by the Commission's October 20, 1995, order in Docket No. ER95–1614–000.

On October 15, 1997, Powertec International, LLC filed certain information as required by the Commission's December 1, 1995, order in Docket No. ER96–1–000.

On October 15, 1997, Energy Transfer Group, L.L.C., filed certain information as required by the Commission's January 29, 1996, order in Docket No. ER96–280–000.

On October 14, 1997, CPS Capital, Ltd., filed certain information as required by the Commission's June 27, 1996, order in Docket No. ER96–1798–000.

On October 14, 1997, Northrop Grumman Corporation filed certain information as required by the Commission's November 13, 1996, order in Docket No. ER96–2957–000.

13. QST Energy Trading Inc., CoEnergy Trading Company, and Central Hudson Enterprises Corporation, et al.

[Docket Nos. ER96–553–008, ER96–1040–008, and Docket No. ER97–2869–001, (not consolidated), et al.]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On October 27, 1997, QST Energy Trading Inc., filed certain information as required by the Commission's March 14, 1996, order in Docket No. ER96–553–000.

On October 27, 1997, CoEnergy Trading Company filed certain information as required by the Commission's March 14, 1996, order in Docket No. ER96–1040–000.

On October 24, 1997, NIPSCO Energy Service Inc., filed certain information as required by the Commission's May 29, 1996, order in Docket No. ER96–1431–000.

On October 24, 1997, NIPSCO Energy Service Inc., filed certain information as required by the Commission's May 29, 1996, order in Docket No. ER96–1431–000.

On October 27, 1997, LS Power Marketing, LLC filed certain information as required by the Commission's August 5, 1996, order in Docket No. ER96–1947–000.

On October 24, 1997, CSW Power Marketing, Inc., filed certain information as required by the Commission's June 11, 1997, order in Docket No. ER97–1238–000.

On October 24, 1997, Central Hudson Enterprises Corporation filed certain information as required by the Commission's June 26, 1997, order in Docket No. ER97–2869–000.

14. Edison Source, DPL Energy, and GPU Advanced Resources Inc., et al.

[Docket Nos. ER96–2150–007, ER96–2601–005, and Docket No. ER97–3666–002, (not consolidated), et al.]

Take notice that the following informational filings have been made with the Commission and are on file and available for public inspection and copying in the Commission's Public Reference Room:

On October 30, 1997, Edison Source filed certain information as required by the Commission's August 13, 1996, order in Docket No. ER96–2150–000.

On October 30, 1997, DPL Energy filed certain information as required by the Commission's September 30, 1996, order in Docket No. ER96–2601–000.

On October 30, 1997, NP Energy Inc. filed certain information as required by the Commission's February 24, 1997, order in Docket No. ER97–1315–000.

On October 30, 1997, Unitil Power Corp. filed certain information as required by the Commission's September 25, 1997, order in Docket No. ER97–2460–000.

On October 30, 1997, Unitil Resources, Inc. filed certain information as required by the Commission's September 25, 1997, order in Docket No. ER97–2462–000.

On October 30, 1997, GPU Advanced Resources, Inc. filed certain information as required by the Commission's September 4, 1997, order in docket No. ER97–3666–000.

15. Southwestern Electric Power Company, West Texas Utilities Company

[Docket No. ER97–4133–000]

Take notice that on October 3, 1997, Southwestern Electric Power Company (SWEPCO) and West Texas Utilities Company (WTU) tendered for filing additional information in support of their filing made in this docket on August 8, 1997.

SWEPCO and WTU state that a copy of this supplemental filing has been served on East Texas Electric Cooperative, Inc., Tex-La Electric Cooperative, Inc., and the Public Utility Commission of Texas.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Niagara Mohawk Power Corporation

[Docket No. ER98–227–000]

Take notice that on October 21, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Revised Form of Service Agreement (FSA) for Firm Point-to-Point Transmission service between Niagara Mohawk and the Power Authority of the State of New York (Power Authority) for retail delivery of High Load Factor Fitzpatrick Power to BOC Gases in Selkirk, New York.

Service is not to begin until approval by the Commission of the Settlement Agreement between Niagara Mohawk, the Power Authority and the New York State Department of Public Service dated May 22, 1997 and filed with the Commission in Docket Nos. EL97–29–000 (the May 22, 1997, Settlement Agreement). As of the date of this letter, the Commission has yet to approve the May 22, 1997, Settlement Agreement. As a result, no service has been provided under the Original FSA.

Niagara Mohawk does not seek Commission action on this Revised FSA at this time. In order to implement terms of the May 22, 1997, Settlement Agreement, however, Niagara Mohawk respectfully requests waiver of the Commission's 60-day notice requirement to permit service to be provided under the Revised FSA retroactive to July 1, 1997 once the May 22, 1997 Settlement Agreement is approved by the Commission. Upon approval, Niagara Mohawk will notify the Commission that further action is needed on the enclosed Revised FSA.

NMPC has served copies of the filing upon the New York State Public Service Commission and the New York Power Authority.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Arizona Public Service Company

[Docket No. ER98–228–000]

Take notice that on October 22, 1997, Arizona Public Service Company (APS), tendered for filing an Umbrella Service Agreement to provide Firm Point-to-Point Transmission Service under APS' Open Access Transmission Tariff with Tucson Electric Power Company and AIG Trading Corporation.

A copy of this filing has been served on Tucson Electric Power Company, AIG Trading Corporation and the Arizona Corporation Commission.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Arizona Public Service Company

[Docket No. ER98–229–000]

Take notice that on October 22, 1997, Arizona Public Service Company (APS), tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service under APS' Open Access Transmission Tariff with Tucson Electric Power Company.

A copy of this filing has been served on Tucson Electric Power Company and the Arizona Corporation Commission.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Arizona Public Service Company

[Docket No. ER98–230–000]

Take notice that on October 22, 1997, Arizona Public Service Company (APS), tendered for filing a revised Contract Demand Exhibit for Southern California Edison applicable under the APS–FERC Rate Schedule No. 120.

Current rate levels are unaffected, revenue levels are unchanged from those currently on file with the Commission, and no other significant change in service to these or any other customer results from the revisions proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

Copies of this filing have been served on SCE, the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Central Illinois Public Service Company

[Docket No. ER98–231–000]

Take notice that on October 22, 1997, Central Illinois Public Service Company (CIPS) submitted one non-firm point-to-point service agreement and two umbrella short-term firm transmission service agreements, dated October 13, 1997 and October 14, 1997, establishing the following as customers under the terms of CIPS' Open Access Transmission Tariff: ProLiance Energy, L.L.C., and Williams Energy Services Company.

CIPS requests an effective date of October 14, 1997, for the service agreements. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served on the two customers and the Illinois Commerce Commission.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Arizona Public Service Company

[Docket No. ER98–232–000]

Take notice that on October 22, 1997, Arizona Public Service Company (APS), tendered for filing a transaction report for the third quarter of 1997, under APS FERC Electric Tariff, Original Volume No. 3.

A copy of this filing has been served the Arizona Corporation Commission.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Southern Company Services, Inc.

[Docket No. ER98–233–000]

Take notice that on October 22, 1997, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company, filed a Notice of Cancellation for seventy-one (71) expired service agreements that were for short-term firm point-to-point transmission service under Part II of Southern Companies Open Access Transmission Tariff (Tariff) (FERC Electric Tariff, Original Volume No. 5).

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. PP&L, Inc.

[Docket No. ER98–234–000]

Take notice that on October 22, 1997, PP&L, Inc., (formerly known as Pennsylvania Power & Light Company)(PP&L), filed a Service Agreement dated October 13, 1997, with Carolina Power & Light Company (Carolina) under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds Carolina as an eligible customer under the Tariff.

PP&L requests an effective date of October 22, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Carolina and to the Pennsylvania Public Utility Commission.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER98–235–000]

Take notice that on October 22, 1997, Jersey Central Power & Light Company,

Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and Eastern Power Distribution, Inc. (EPD), dated October 17, 1997. This Service Agreement specifies that EPD has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995, in Jersey Central Power & Light Co., Metropolitan Edison Co., and Pennsylvania Electric Co., Docket No. ER95–276–000 and allows GPU Energy and EPD to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of October 17, 1997, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER98–236–000]

Take notice that on October 22, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and New Energy Ventures, L.L.C. (NEV), dated October 17, 1997. This Service Agreement specifies that NEV has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995, in Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co., Docket No. ER95–276–000 and allows GPU Energy and NEV to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of October 17, 1997, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Jersey Central Power & Light Company, et al.

[Docket No. ER98–237–000]

Take notice that on October 22, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and PacifiCorp Power Marketing, Inc. (PPM), dated October 17, 1997. This Service Agreement specifies that PPM has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995, in Jersey Central Power & Light Co., Metropolitan Edison Co., and Pennsylvania Electric Co., Docket No. ER95–276–000 and allows GPU Energy and PPM to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of October 17, 1997 for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Cinergy Services, Inc.

[Docket No. ER98–238–000]

Take notice that on October 22, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and E Prime, Inc. (E prime).

Cinergy and E Prime are requesting an effective date of August 31, 1997.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Western Resources, Inc.

[Docket No. ER98–239–000]

Take notice that on October 22, 1997, Western Resources, Inc., tendered for filing a non-firm transmission agreement between Western Resources and Entergy Power Marketing Corporation. Western Resources states that the purpose of the agreement is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources—open access transmission tariff on file with the Commission. The agreement is proposed to become effective October 20, 1997.

Copies of the filing were served upon Entergy Power Marketing Corporation and the Kansas Corporation Commission.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Jersey Central Power & Light Company, et al.

[Docket No. ER98–240–000]

Take notice that on October 22, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and EnerZ Corporation (NRZ), dated October 17, 1997. This Service Agreement specifies that NRZ has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995, in Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co., Docket No. ER95–276–000 and allows GPU Energy and NRZ to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of October 17, 1997, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Jersey Central Power & Light Company, et al

[Docket No. ER98–241–000]

Take notice that on October 22, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (d/b/a GPU Energy), filed an executed Service Agreement between GPU Energy and Woodruff Oil Company (d/b/a Woodruff Energy)(WOC), dated October 10, 1997. This Service Agreement specifies that WOC has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995, in Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co., Docket No. ER95–276–000 and allows GPU Energy and WOC to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of October 10, 1997, for the Service Agreement.

GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. North American Energy, Inc.

[Docket No. ER98–242–000]

Take notice that on October 22, 1997, North American Energy, Inc. (NAE), petitioned the Commission for acceptance of NAE Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

NAE intends to engage in wholesale electric power and energy purchases and sales as a marketer. NAE is not in the business of generating or transmitting electric power.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Louisville Gas and Electric Company

[Docket No. ER98–243–000]

Take notice that on October 22, 1997, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Hamilton Department of Public Utilities under Rate GSS.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Louisville Gas and Electric Company

[Docket No. ER98–244–000]

Take notice that on October 22, 1997, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Electric Clearinghouse, Inc., under Rate GSS.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Cinergy Services, Inc.

[Docket No. ER98–245–000]

Take notice that on October 22, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and PECO Energy Company (PECO).

Cinergy and PECO are requesting an effective date of October 7, 1997.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

35. Valley Electric Association, Inc.

[Docket No. ER98–246–000]

Take notice that on October 22, 1997, Valley Electric Association, Inc. (Valley), tendered for filing nine purchase and sale agreements with various electric utilities. Valley intends to utilize the agreements primarily for the purchase of supplemental power, but is authorized to make sales for resale under the agreements. Valley seeks a waiver of the Commission's prior notice requirements.

A copy of the filing was served upon each of the parties to the agreements: Citizens Lehman Power Sales, Duke Energy Trading & Marketing L.L.C. Electric Clearinghouse, Inc., Enron Power Marketing, Inc., Illinova Energy Partners, LG&E Energy Marketing Inc., Department of Water and Power of the City of Los Angeles, Salt River Project Agricultural Improvement and Power District, and USGen Power Services, L.P.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

36. Rochester Gas and Electric Corporation

[Docket No. ER98–247–000]

Take notice that on October 22, 1997, Rochester Gas and Electric Corporation (RG&E), tendered for filing a summary of their first quarterly report of transactions under their market-based rate tariff for the period of July 1, 1997 to September 30, 1997.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

37. UtiliCorp United Inc.

[Docket No. ER98–248–000]

Take notice that on October 23, 1997, UtiliCorp United Inc., (UtiliCorp) filed service agreements with Tenaska Power Services Company for service under its Short-Term Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

38. Maine Public Service Company

[Docket No. ER98–249–000]

Take notice that on October 22, 1997, Maine Public Service Company submitted a Quarterly Report of Transactions for the period July 1 through September 30, 1997. This filing was made in compliance with Commission orders dated May 31, 1995 (Docket No. ER95–851) and April 30, 1996 (Docket No. ER96–780).

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

39. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER98–255–000]

Take notice that on October 23, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement for Non-Firm Point-to-Point Transmission Service with Public Service Electric & Gas Company and Ohio Edison Company pursuant to Ohio Edison's Open Access Tariff. This Service Agreement will enable the parties to obtain Non-Firm Point-to-Point Transmission Service in accordance with the terms of the Tariff.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

40. Northeast Utilities Service Company

[Docket No. ER98–277–000]

Take notice that Northeast Utilities Service Company (NUSCO), on October 24, 1997, tendered for filing, a Service Agreement with the Northern Indiana Public Service Company under the NU System Companies' Sale for Resale, Tariff No. 7.

NUSCO states that a copy of this filing has been mailed to the Northern Indiana Public Service Company.

NUSCO requests that the Service Agreement become effective October 23, 1997.

Comment date: November 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

41. Allegheny Power Service Corp. on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER98–336–000]

Take notice that on October 28, 1997, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed a market rate tariff of general applicability under which it proposes to sell capacity and energy at market-based rates. Allegheny Power also seeks to amend its Standard Generation Service Rate Schedule to permit sales to affiliates at cost-based rates subject to limitations established by the Commission in previous orders.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public State Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

42. Horizon Energy Company

[Docket No. ER98–380–000]

Take notice that on October 30, 1997, Horizon Energy Company (Horizon Energy) tendered for filing an application for waivers and approvals under regulations of the Commission and for an order accepting its Market Based Rate Tariff—FERC Electric Rate Schedule No. 1, which is necessary for Horizon Energy to make sales to certain Electric Distribution Companies to participate in those Electric Distribution Companies' pilot programs to address load balancing requirements. Horizon Energy has further requested that the Commission waive its regulations to the extent necessary such that its Market-Based Rates Tariff be permitted to take effect on November 1, 1997. Horizon Energy is an affiliate of PECO Energy Company.

In these transactions, Horizon Energy intends to charge rates as mutually agreed to by Horizon Energy and the Electric Distribution company purchaser. All other terms of the transactions also would be determined by negotiation between the parties. All sales and purchases will be arms-length transactions.

Comment date: November 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

43. New England Power Pool

[Docket No. ER98–499–000]

Take notice that on October 31, 1997, the New England Power Pool (NEPOOL) Executive Committee submitted the Fourth Supplement to Thirty-Third Agreement Amending New England Power Pool Agreement and related materials.

The NEPOOL Executive Committee states that copies of these materials were sent to all entities on the service list in Docket No. ER97–4421–000, Docket Nos. OA97–608–000 and ER97–3574–000, Docket Nos. OA97–237–000, ER97–1079–000 and EC97–35–000, the participants in the New England Power Pool, and the New England state governors and regulatory commissions.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30117 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1894–193]

South Carolina Electric and Gas Company; Notice of Availability of Draft Environmental Assessment

November 10, 1997.

A draft environmental assessment (DEA) is available for public review. The DEA was prepared for an application filed by the South Carolina Electric and Gas Company, licensee for the Parr Hydroelectric Project. In its application, the licensee requests Commission approval of a land use and shoreline management plan for the project. The proposed plan provides for the conservation, development, and use of 142 miles of shoreline around the project's Parr Reservoir, Monticello Reservoir, and recreation subimpoundment.

Based on the comparative environmental analyses presented in the DEA, the Commission's staff has selected the licensee's proposed plan with staff modifications as the preferred alternative. The DEA finds that approving the staff modified plan would not be a major federal action significantly affecting the quality of the human environment.

The DEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the DEA can be obtained by calling the Commission's public reference room at (202) 208–1371.

Comments on the DEA must be filed with the Commission within 40 days from the date of this notice. Comments should be addressed to: Ms. Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please include the project number (1894–193) on any comments filed.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30081 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of Exemption

November 10, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Proposed Action:* Amendment of Exemption.

b. *Project No.:* 4478–005.

c. *Exemptee:* Bell Enterprises.

d. *Name of Project:* Bell Hydroelectric.

e. *Location:* Battle Creek, in Trinity County, California.

f. *Action Pursuant to:* Federal Power Act, 16 USC §§ 791—825(r).

g. *Ememptee Contact:* C. Larry Bell, Bell Enterprises, 2500 SE Nevada Court, Portland, OR 97219, (503) 245–8594.

h. *FERC Contact:* Regina Saizan, (202) 219–2673.

i. *Comment Date:* December 26, 1977.

j. *Description of the proposed action:* The proposed amendment will remove the existing diversion structure, the water ditch, the 4,860-foot-long penstock, and the 500–kw powerhouse from the exemption to reflect the project's as-built condition.

k. *this notice also consists of the following standard paragraphs:* B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, State, and local agencies are invited to filed comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30074 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis

November 10, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major License.

b. *Project No.:* P–11282–001.

c. *Date Filed:* November 21, 1995.

d. *Applicant:* Summit Hydropower, Inc.

e. *Name of Project:* Gainer Dam.

f. *Location:* On the North Branch of the Pawtuxet River, Town of Scituate, Providence County, Rhode Island.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Duncan S. Broatch, 92 Rocky HIll Road, Woodstock, CT 06281, (860) 974–1620.

i. *FERC Contact:* Lee Emery (202) 219–2779.

j. *Deadline Date:* See paragraph D9.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Project:* The existing inoperative project would consist of: (1) A 3,500-foot-long, 109-foot-high earthen dam having a 450-foot-long overflow-type spillway at its right (southwest) abutment; (2) a reservoir, known as the Scituate Reservoir, having a 3,400-acre surface area and a 112,270 acre-foot gross storage capacity at spillway crest elevation of 283 feet MSL; (3) an intake structure; (4) a powerhouse containing a rehabilitated 1,500-kW generating unit operated at an 82-foot-net head and at a flow of 300 cfs and containing a new 70-kW generating unit operated at an 82-foot-net head and at a flow of 14 cfs; (5) a 400-foot-long tailrace tunnel and a 700-foot-long excavated tailrace; (6) a 500-foot-long underground, 2.3-kV transmission line; (7) A 2.3/23-kV Substation; (8) A 1.5-mile-long 23-kV transmission line; and (9) appurtenant facilities.

The primary purpose for the existing facilities, owned and operated by the Providence Water Supply Board (PWSB), is water supply for the city of Providence. Applicant estimates that the project's average annual generation would be 2,968,000 kWh. The applicant's estimated net investment in the project would amount to $494.607.

m. *Purpose of Project:* All project energy will be used on site with the excess power sold to a public utility company.

n. *This notice also consists of the following standard paragraphs:* A4 and D9.

o. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E., Room 2A–1, Washington, D.C. 20426, or by calling (202) 208–2326. A copy is also available for inspection and reproduction at Summit Hydropower, Inc., 92 Rocky Hill Road, Woodstock, CT 06281, or by calling (860) 974–1620.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Lois D. Cashell,

Secretary.

[FR Doc. 97–30075 Filed 11–14–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5922–3]

Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the first meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held on December 2 and 3, 1997, in Arlington, Virginia. The CHPAC was created to advise the Environmental Protection Agency in the development of regulations, guidance and policies to address children's environmental health.

DATES: Tuesday, December 2, 1997, from 9:30 a.m. to 5:00 p.m. and Wednesday, December 3, 1997, from 9:00 a.m. to 12:45 p.m.

ADDRESSES: Hyatt Regency Crystal City at the Washington National Airport, 2799 Jefferson Davis Highway, Arlington, VA 22202.

AGENDA ITEMS: The meeting of the CHPAC is open to the public. On Tuesday, December 2, 1997, the meeting will open with introductions, a review of the agenda and meeting objectives. The remaining agenda items for the first day of the meeting include (1) background and context of the Committee, (2) Office of Children's Health Protection's (OCHP) plan, (3) OCHP's Healthy Homes, Healthy Schools, Healthy Kids outreach campaign, and (4) introduction of the Work Groups. The meeting will continue on Wednesday, December 3, with (1) CHPAC Operating Principles and Ground Rules, (2) Work Group sessions and, (3) will conclude with a Plenary Session at which time the Work Groups will present their individual Work Plans and discuss future activities. The public will have an opportunity to comment at the end of both days.

FOR FURTHER INFORMATION CONTACT: Persons needing further information should contact Paula R. Goode, Office of Children's Health Protection, USEPA, WSM, 913, MC 1107, 401 M Street, SW, Washington, DC 20460, (202) 260–7778, goode.paula@epamail.epa.gov.

Dated: November 10, 1997.

E. Ramona Trovato,

Director, Office of Children's Health Protection.

[FR Doc. 97–30139 Filed 11–14–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Draft American Indian and Alaska Native Policy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice, with request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) has developed a draft American Indian and Alaska Native Policy that reflects the Agency's commitment to a government-to-government relationship. The draft policy reinforces the importance of partnership between and among all levels of government on issues related to disaster preparedness, mitigation, response and recovery. Contained within this draft policy are guiding principles for FEMA's interactions with Tribal governments.

DATES: We invite your comments, which should be submitted on or before January 5, 1998.

ADDRESSES: Please send written comments to the Office of Policy and Regional Operations, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472. Comments may also be submitted via facsimile, (202) 646–4215, or by e-mail to Tribal.Liaison@fema.gov.

FOR FURTHER INFORMATION CONTACT: Rachael A. Rowland, Intergovernmental Affairs, Office of Policy and Regional Operations, Federal Emergency Management Agency, 500 C Street SW., Washington DC 20472, (202) 646–2889.

SUPPLEMENTARY INFORMATION: The draft FEMA American Indian and Alaska Native Policy follows:

The United States has historically bonded together during times of disaster to provide assistance to those who have suffered the losses of loved ones or personal belongings. The guiding principle of the Federal Emergency Management Agency is ''people helping people.'' It is in this spirit that the Federal Emergency Management Agency declares its policy towards America Indians and Alaska Natives.

Introduction

The American Indian and Alaska Native tribal governments hold a unique status in the United States with the rights and benefits of sovereign nations. This policy outlines the principles under which all employees of the Federal Emergency Management Agency are to operate with regard to American Indian and Alaska Native tribal governments. This policy is based on the United States Constitution, Federal treaties, policy, statutes, court decisions, and the ongoing political relationship between Indian tribes and the Federal Government.

In recognition of the historic relationship between the United States, the American Indians and Alaska Native tribal governments, the Federal Emergency Management Agency supports a government-to-government relationship between the Federal Government and American Indian and Alaska Native tribes.

This policy pertains to federally recognized tribes and provides guidance to employees of the Federal Emergency Management Agency for issues affecting American Indians and Alaska Natives. This policy does not apply to Federal Emergency Management Agency interactions with State-recognized tribes, Indians, or Alaska Natives who

are not members of tribes with respect to matters provided for by Federal statute or regulation.

This partnership is intended to be flexible and dynamic to provide for the evolution of the partnerships between the Federal Emergency Management Agency and American Indian governments. Working relationships between the Federal Emergency Management Agency and the American Indian governments will be generally consistent nationwide; however, they will vary according to the legal basis and management requirements for each relationship.

This policy is adopted pursuant to and consistent with existing law and does not pre-empt or modify the authorities of the Federal Emergency Management Agency *or* other Federal departments and agencies. Nor does the policy suggest recognition of tribal authority that does not currently exist. However, the Federal Emergency Management Agency need not wait for judicial recognition over emergency management programs when such authority is already supported by law. This policy is for internal management only and shall not be construed to grant or vest any right to any party in respect to any Federal action not otherwise granted or vested by existing law or regulations.

Definitions

Indian Tribe: Any tribe, band, nation, Pueblo, or other organized group or community, including any Alaska Native Village (as defined in, or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*)), that is acknowledged by the Federal Government to constitute a tribe with a government-to-government relationship with the United States and eligible for the programs, services, and other relationships established by the United States for Indians because of their status as Indians and tribes.

Tribal Government: The recognized government of an Indian tribe and any affiliated or component Band government of such tribe that has been determined eligible for specific services by Congress or officially recognized by inclusion in 61 Fed. Reg. 58211, November 13, 1996, ''Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs.''

Policy Principles

The following policy statements provide general guidance to Federal Emergency Management Agency employees for responsibilities associated with interactions with American Indian and Alaska Native governments.

1. The Federal Emergency Management Agency recognizes and commits to a government-to-government relationship with American Indian and Alaska Native tribal governments.

The Federal Emergency Management Agency recognizes that the tribal right of self-government flows from the inherent sovereignty of Indian tribes and Indian nations and that Federally recognized tribes have a unique and direct relationship with the Federal Government. The Federal Emergency Management Agency further recognizes the rights of each tribal government to set its own priorities and goals for the welfare of its membership and that the Federal Emergency Management Agency will deal with each tribal government, when appropriate as determined by FEMA, to meet that tribe's needs.

2. The Federal Emergency Management Agency acknowledges the policy commitments of the U.S. Congress and the Chief Executive as precedents.

The Federal Emergency Management Agency recognizes House Concurrent Resolution #331, passed in 1988, which declares the policy ''To Acknowledge the Contribution of the Iroquois Confederacy of Nations to Reaffirm the Continuing Government-to-Government Relationship between Indian Tribes and the United States Established in the Constitution.'' In addition, the Federal Emergency Management Agency incorporates the Policy Memorandum of the White House, issued April 29, 1994, herein, as it guides the Executive Departments and Agencies in the ''Government-to-Government Relations with Native American Tribal Governments.''

3. The Federal Emergency Management Agency acknowledges the trust relationship between the Federal Government and American Indian and Alaska Native tribes as established by specific statutes, treaties, court decisions, executive orders, regulations, and policies.

The Federal Emergency Management Agency recognizes its fiduciary relationship and recognizes its trust responsibility. Where appropriate as determined by FEMA, the Federal Emergency Management Agency will consult and work with tribal governments prior to implementing certain actions when developing legislation, regulations, or policies that will affect the sovereignty of tribal governments, their development efforts and their lands and resources.

4. The Federal Emergency Management Agency will, where appropriate as determined by FEMA, consult and work with tribal governments before making decisions or implementing policy, rules or programs that may affect tribes to ensure that tribal rights and concerns are addressed.

The Federal Emergency Management Agency recognizes that, as a sovereign government, the tribe is responsible for the welfare and rights of its membership. FEMA will, where appropriate as determined by FEMA, involve Indian tribes and seek tribal input at the appropriate level on policies, rules, programs and issues that may affect a tribe's sovereignty.

5. The Federal Emergency Management Agency will encourage cooperation and partnership among Tribal, State, and local governments to resolve issues of mutual concern relating to emergency management.

Effective emergency management requires the cooperation, partnership, and mutual consideration of neighboring governments, whether those governments are neighboring tribes, States, local governments, or Indian nations. Accordingly, the Federal Emergency Management Agency will encourage early communication and partnership among tribes, States, local governments, and Indian nations. This is not intended to lend Federal support to any one party to the jeopardy of the interests of the other. Instead, it recognizes that, in the field of emergency management, problems are often shared and the principle of partnership between equals and neighbors often serves the best interests of both.

6. The Federal Emergency Management Agency will identify and take appropriate steps to remove any impediments that diminish working directly and effectively with tribal governments.

The Federal Emergency Management Agency recognizes that there may be legal, procedural, organizational or other impediments that affect its working relationships with Indian tribes. The Federal Emergency Management Agency will apply the requirements of Executive Order 12875 (''Enhancing the Intergovernmental Partnership'') to design solutions and tailor Federal programs, when appropriate as determined by FEMA, to address specific or unique needs of tribal communities. The Federal Emergency Management Agency will also use the National Performance Review and government reorganization to implement effective means for direct cooperation with tribal governments on issues that directly affect them.

7. The Federal Emergency Management Agency will work cooperatively with other Federal Departments and agencies, where appropriate as determined by FEMA, to further the goals of this policy.

The Federal Emergency Management Agency recognizes the importance of and is fully committed to the fulfillment of interagency partnership and will encourage communication, coordination and cooperation among all governmental agencies to ensure that the rights of tribal governments are fully represented and upheld.

8. The Federal Emergency Management Agency will internalize this policy to the extent possible so that it will be incorporated into ongoing and long-term planning and management processes, as well as day-to-day operations.

The Federal Emergency Management Agency will to the extent possible effectively and fully incorporate all of the principles of this policy into all operations and basic tenets of its mission. The Agency will identify the office or individual to coordinate this policy and act as a liaison with American Indian and Alaska Native Tribes in implementing and working with the policy and principles.

9. The effective date of this policy is upon signature by the Federal Emergency Management Agency after coordination and consultation with tribal governments.

As Director of the Federal Emergency Management Agency, I am designating Intergovernmental Affairs, Office of Policy and Regional Operations, as the focal point for coordination and implementation of this Interim Policy. I am further appointing a task force of representatives of the various program and support elements of the Federal Emergency Management Agency to define those ways in which the Agency can, when appropriate as determined by FEMA, fulfill the terms of this Interim Policy.

Therefore, as Director of the Federal Emergency Management Agency, I hereby direct all Agency components to implement this policy by incorporating all of the above principles in their planning and management activities, their legislative initiatives, as well as their policy development.

Dated: November 7, 1997.

James L. Witt,

Director.

[FR Doc. 97–30128 Filed 11–14–97; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 97–21]

Pyramids International, Inc. v. Stuart Roland and Container X-Press, Inc.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Pyramids International, Inc., (''Complainant'') against Stuart Roland and Container X-Press, Inc. (''Respondents'') was served November 10, 1997. Complainant alleges that Respondents have violated sections 8(a), 10(d)(1), and 23(a) of the Shipping Act of 1984, 46 U.S.C. app. Sections 1707(a), 1709(d)(1), and 1721(a), by contracting to provide ocean transport for a shipment from New Orleans, Louisiana to Kotka, Finland and issuing a bill of lading without a proper tariff on file with the Federal Maritime Commission and subsequent to cancellation of Respondents' bond; booking the shipment with a third party entity without informing Complainant; accepting Complainant's check, while failing to pay the third party entity, thus delaying delivery and causing the third party to refuse to release Complainant's cargo until Complainant paid it ocean freight and one month's demurrage.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by November 10, 1998, and the final decision of the Commission shall be issued by March 10, 1999.

Joseph C. Polking,

Secretary.

[FR Doc. 97–30102 Filed 11–14–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 97–20]

Shipco Transport, Inc. v. Mr. Syed N. Shirazi a/k/a Mr. Bobby Shaida and American Packers & Shippers, Inc. and Homebound International Shipping, Inc.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Shipco Transport, Inc., (''Complainant'') against Mr. Syed N. Shirazi aka MR. Bobby Shaida and American Packers & Shippers, Inc. and Homebound International Shipping, Inc. (''Respondents'') was served November 10, 1997. Complainant alleges that Respondents have violated sections 8(a), 10(a)(1), 19(a) and (d)(1), and 23(a) of the Shipping Act of 1984, 46 U.S.C. app. Sections 1707(a), 1709(a)(1), 1718(a) and (d)(1), and 1721(a), by contracting for Complainant to provide ocean transport on three ships from Los Angeles to destinations in the United Kingdom and Germany; issuing checks in payments for the transport that were returned for insufficient funds, in order to fraudulently secure the release of cargo and cause Complainant to lose its lien; failing to remit ocean freight and charges due despite repeated demands for payment; acting as a non-vessel operating common carrier without a tariff or bond; and acting as a freight forwarder without a Federal Maritime Commission license or bond.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by November 10, 1998, and the final decision of the Commission shall be issued by March 10, 1999.

Joseph C. Polking,

Secretary.

[FR Doc. 97–30101 Filed 11–14–97; 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 November 28, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Bruce A. Mahon, Jupiter, Florida; Michael Edward Golden, Boca Raton, Florida; Thomas L. Gray, Jr., Princeton, New Jersey; Mark A. Wolters, Hamilton Square, New Jersey; Richard P. Rosa, Andover, New Jersey; and Ben Jeffrey Lichtenberg, Berwyn, Pennsylvania; to collectively acquire voting shares White Eagle Financial Group, Inc., Palm Beach Gardens, Florida, and thereby indirectly acquire Admiralty Bank, Palm Beach Gardens, Florida.

Board of Governors of the Federal Reserve System, November 10, 1997.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 97–30041 Filed 11–14–97; 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 December 8, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Colonial BancGroup, Inc., Montgomery, Alabama; to merge with United American Holding Corporation, Orlando, Florida, and thereby indirectly acquire United American Bank of Central Florida, Orlando, Florida.

2. Riverside Banking Company, Fort Pierce, Florida; to acquire 23.53 percent of Class A, and 8.89 percent of Class B, voting shares of Riverside Gulf Coast Banking Company, Cape Coral, Florida (in organization), and thereby indirectly acquire Riverside Bank of the Gulf Coast, Cape Coral, Florida (in organization). Comments regarding this application must be received by December 1, 1997.

Board of Governors of the Federal Reserve System, November 10, 1997.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 97–30042 Filed 11–14–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 28, 1997.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Community National Bancorporation, Waterloo, Iowa; to engage *de novo* in the making and servicing of loans, pursuant to § 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 10, 1997.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 97–30040 Filed 11–14–97; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–130]

Notice of the Revised Priority List of Hazardous Substances That Will be the Subject of Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), as amended by the Superfund Amendments and Reauthorization Act (SARA), requires that ATSDR and the Environmental

Protection Agency (EPA) revise the Priority List of Hazardous Substances. This list includes substances most commonly found at facilities on the CERCLA National Priorities List (NPL) which have been determined to be of greatest concern to public health at or around these NPL hazardous waste sites. This announcement provides notice that the agencies have developed and are making available a revised CERCLA Priority List of 275 Hazardous Substances, based on the most recent information available to ATSDR and EPA. Each substance on the priority list is a candidate to become the subject of a toxicological profile prepared by ATSDR and subsequently a candidate for the identification of priority data needs.

In addition to the Priority List of Hazardous Substances, ATSDR has developed a Completed Exposure Pathway Site Count Report. This report lists the number of sites or events with ATSDR activities where a substance has been found in a completed exposure pathway (CEP). This report has been added to the Support Document of the Priority List.

ADDRESSES: Requests for a copy of the report, the 1997 CERCLA Priority List of Hazardous Substances That Will Be The Subject of Toxicological Profiles and Support Document, including the CEP report, should bear the docket control number ATSDR–130, and should be submitted to: Lydia Wilcox, ATSDR Information Center, Division of Toxicology, Mail Stop E–29, 1600 Clifton Rd., N.E., Atlanta, GA 30333. Requests must be in writing.

Electronic Availability: The 1997 Priority List of Hazardous Substances will be posted on ATSDR's World-Wide Web server on the Internet located at http://atsdr1.atsdr.cdc.gov:8080/atsdrhome.html. The priority list will also be posted on the Federal Bulletin Board on or near the day of publication of this notice in the **Federal Register**.

To access the Federal Bulletin Board via the Internet, telnet fedbbs.access.gpo.gov. This file is available in WordPerfect 5.1, Dbase III, and ASCII formats.

This is an informational notice only, and comments are not being solicited at this time. However, any comments received will be considered for inclusion in the next revision of the list and placed in a publicly accessible docket; therefore, please do not submit confidential business information.

FOR FURTHER INFORMATION CONTACT: ATSDR, Division of Toxicology, Emergency Response and Scientific Assessment Branch, 1600 Clifton Road NE, Mail Stop E–29, Atlanta, GA 30333, telephone 800–447–1544.

SUPPLEMENTARY INFORMATION: CERCLA establishes certain requirements for ATSDR and EPA with regard to hazardous substances that are most commonly found at facilities on the CERCLA NPL. Section 104(i)(2) of CERCLA, as amended (42 U.S.C. 9604(i)(2)), requires that the two agencies prepare a list, in order of priority, of at least 100 hazardous substances that are most commonly found at facilities on the NPL and which, in their sole discretion, have been determined to pose the most significant potential threat to human health (see 52 FR 12866, April 17, 1987). CERCLA also requires the agencies to revise the priority list to include 100 or more additional hazardous substances (see 53 FR 41280, October 20, 1988), and to include at least 25 additional hazardous substances in each of the three successive years following the 1988 revision (see 54 FR 43619, October 26, 1989; 55 FR 42067, October 17, 1990; 56 FR 52166, October 17, 1991). CERCLA also requires that ATSDR and EPA shall, at least annually thereafter, revise the list to include additional hazardous substances that have been determined to pose the most significant potential threat to human health. In 1995, the agencies altered the publication schedule of the priority list by moving to a 2-year publication schedule, reflecting the stability of this listing activity (60 FR 16478, March 30, 1995). As a result, the priority list is now on a 2-year publication schedule with a yearly informal review and revision. Each substance on the CERCLA Priority List of Hazardous Substances is a candidate to become the subject of a toxicological profile prepared by ATSDR and subsequently a candidate for the identification of priority data needs.

The initial priority lists of hazardous substances (1987–1990) were based on the most comprehensive and relevant information available when the lists were developed. More comprehensive sources of information on the frequency of occurrence and the potential for human exposure to substances at NPL sites became available for use in the 1991 priority list with the development of ATSDR's HazDat database. Utilizing this database, a revised approach and algorithm for ranking substances was developed in 1991, and a notice announcing the intention of ATSDR and EPA to revise and rerank the Priority List of Hazardous Substances was published on June 27, 1991 (56 FR 29485). The subsequent 1991 Priority List and revised approach used for its compilation was summarized in the ''Revised Priority List of Hazardous Substances'' **Federal Register** notice published October 17, 1991 (56 FR 52166). The same approach and the same algorithm have been used in all subsequent activities, including the 1997 listing activity. The algorithm used in ranking hazardous substances on the priority list consists of three criteria, which are combined to result in the total score. The three criteria are: frequency of occurrence at NPL sites; toxicity; and potential for human exposure.

Since HazDat is a dynamic database with ongoing data collection, additional information from the HazDat database became available for the 1997 listing activity. This additional information has been entered into HazDat since the development of the 1995 Priority List of Hazardous Substances. The site-specific information from HazDat that is used in the listing activity has been collected from ATSDR public health assessments, health consultations, and from site file data packages that are used to develop these public health assessments. The new information may include more recent NPL frequency of occurrence data, additional concentration data, and more information on exposure to substances at NPL sites. With these additional data, 28 substances have been replaced on the list of 275 substances. Of the 28 replacement substances, 10 are new candidate substances, and 18 are substances that were previously under consideration. These replacement substances and changes in the order of substances appearing on the CERCLA Priority List of Hazardous Substances will be reflected in the program activities that rely on the list for future direction. These changes reflect the dynamic nature of scientific data on substances present at NPL hazardous waste sites.

In 1996, an extensive review of the toxicity values (Reportable Quantities or Toxicity/Environmental Scores) for the candidate substances was performed. The purpose of this review was to determine if any new information on the toxicity of the candidate substances had become available since the substances were first evaluated (most in 1991). As a result, a number of substances had their toxicity values revised to reflect the new information. Lead is one of the few substances with a Reportable Quantity (RQ) change that was identified during this review (changed from RQ of 1 to RQ of 10). Since the toxicity component of the listing algorithm is based on the RQ, this

change caused Lead to drop from the number one rank on the priority list to the number two rank, with Arsenic replacing it at number one.

The 1997 Priority List of Hazardous Substances includes 275 substances that have been determined to be of greatest concern to public health based on the criteria of CERCLA section 104(i)(2) (42 U.S.C. 9604(i)(2)). A total of 775 candidate substances have been analyzed and ranked with the current algorithm. Of these candidates, the 275 substances on the priority list may become the subject of toxicological profiles in the future. The top 25 substances on the 1997 Priority List of Hazardous Substances are listed below.

Rank	Substance name
–1	Arsenic.
–2	Lead.
–3	Mercury.
–4	Vinyl chloride.
–5	Benzene.
–6	Polychlorinated biphenyls.
–7	Cadmium.
–8	Benzo (a) pyrene.
–9	Benzo (b) fluoranthene.
10	Polycyclic aromatic hydrocarbons.
11	Chloroform.
12	Aroclor 1254.
13	P,P'—DDT.
14	Aroclor 1260.
15	Trichloroethylene.
16	Hexavalent chromium.
17	dibenzo (a,h) anthracene.
18	Dieldrin.
19	Hexachlorobutadiene.
20	Chlordane.
21	Creosote.
22	P,P'—DDE.
23	Benzidine.
24	Cyanide.
25	Aldrin.

This evaluation activity and announcement of a revised Priority List of Hazardous Substances fulfills the conditions of CERCLA section 104(i), as amended. ATSDR and EPA intend to publish the next revised list of hazardous substances in two years, with an informal review and revision performed in one year. These revisions will reflect changes and improvements in data collection and availability. Additional information on the existing methodology used in the development of the CERCLA Priority List of Hazardous Substances can be found in the Support Document to the List and in the **Federal Register** notices mentioned previously.

In addition to the revised priority list, ATSDR is also releasing a Completed Exposure Pathway Site Count Report. A completed exposure pathway (CEP) is an exposure pathway that links a contaminant source to a receptor population. The CEP ranking is very similar to a sub-component of the potential-for-human-exposure component of the listing algorithm. The CEP ranking is based on a site frequency count, and thus lists the number of sites at which a substance has been found in a CEP. ATSDR's HazDat database contains this information which is derived from ATSDR public health assessments and health consultations. Because exposure to hazardous substances is of significant concern, ATSDR has been tabulating the substances to which people have been exposed at hazardous waste sites. Recently much interest has been focused on this tabulation. Therefore, ATSDR will henceforth publish this CEP report along with the CERCLA Priority List of Hazardous Substances. Since this CEP report focuses on documented exposure, it provides an important prioritization based on substances to which people are exposed.

The substances on the CEP report are similar to the substances on the CERCLA Priority List of Hazardous Substances. However, there are some substances that are on the CEP report, because they are frequently found in completed exposure pathways, but are not on the CERCLA Priority List because they have a very low toxicity (e.g., sodium). Since the CERCLA Priority List incorporates three different components (toxicity, frequency of occurrence, and potential for human exposure) to determine its priority substances, substances with very low toxicity are not on the CERCLA Priority List and consequently are not the subject of toxicological profiles. Of the 100 substances on the CEP report, the 25 substances found at the most number of sites in a CEP are presented below.

Substance name	No. of sites with substance in a CEP	
	All sites	NPL sites
TRICHLOROETHYLENE	227	213
LEAD	206	181
TETRACHLOROETHYLENE	171	157
ARSENIC	138	121
BENZENE	121	110
CADMIUM	102	91
CHROMIUM	99	91
1,1,1-TRICHLOROETHANE	95	86
POLYCHLORINATED BIPHENYLS	90	79
1,1-DICHLOROETHENE	77	73
CHLOROFORM	76	73
ZINC	76	66
MERCURY	74	61
1,1-DICHLOROETHANE	71	69
VINYL CHLORIDE	71	69
MANGANESE	70	60
1,2-DICHLOROETHANE	67	63
METHYLENE CHLORIDE	65	62
VOLATILE ORGANIC COMPOUNDS	61	54
TOLUENE	60	54
COPPER	60	51
NICKEL	53	49
CARBON TETRACHLORIDE	49	42
BARIUM	48	43
POLYCYCLIC AROMATIC HYDROCARBONS	47	44

Note: Sorted by the All Sites column.
ALL Sites = all sites with ATSDR activities; NPL sites = current and former sites on the National Priorities List, as mandated.

Administrative Record

An administrative record entitled ATSDR–130 will be established for materials pertaining to this notice. All materials received as a result of this notice will be included in the public file available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, except Federal legal holidays, at the Agency for Toxic Substances and Disease Registry, #4 Executive Park Drive, Suite 2400, Atlanta, Georgia (not a mailing address).

Dated: November 7, 1997.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 97–30055 Filed 11–14–97; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–03–98]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

1. Validation of Self-Reported Health Outcomes from the Health Assessment of Persian Gulf War Veterans From Iowa—New—The purpose of this proposed study is to collect additional data to validate health outcomes reported by participants in the Health Assessment of Persian Gulf War Veterans From Iowa. The original data collection consisted of a telephone survey of 3,695 military personnel who served during the time of the Persian Gulf War and listed Iowa as their home of residence. Data will be collected from subjects who participated in the telephone survey to validate the self-report of four health outcomes: cognitive dysfunction, depression, asthma, and multi systemic conditions. Neuropsychological testing will be administered to validate cognitive dysfunction. Structured clinical interviews for mental disorders and paper-and-pencil questionnaires will be administered to validate depression. Lung function assessment, tests of airways hyperactivity, and standard respiratory health questionnaires will be administered to validate asthma. Review of medical records, standard physical examination, and laboratory evaluation will be conducted to validate multi systemic conditions, including chronic fatigue syndrome and fibromyalgia. In addition, a feasibility study will be conducted to explore the usefulness of two databases established by the Department of Defense, the Troop Exposure Assessment Model and the Registry of Unit Locations, to validate self-reported exposures among Persian Gulf War veterans who participated in the Iowa telephone survey.

The total annual burden hours are 947.

Form names	No. of respondents	No. of responses/ respondent	Avg. burden/ response (in hrs.)
Introductory Call (Attachment 1, Appendix C)	285	1	0.166
Scheduling of Appt. (Attachment 1, Appendix C)	200	1	0.083
Consent Procedures	200	1	0.166
Questionnaire Administration (Attachment 1, Appendix K):			
a. Medical Questionnaire	200	1	0.250
b. Occupational and Exposure History	200	1	0.250
c. Mental Health and Social Support History (Battery of standardized psychological tests)	200	1	1.583
d. American Thoracic Society Questionnaire	200	1	0.166
e. Iowa Persian Gulf Study Questionnaire (Selected questions on asthma)	200	1	1.583
f. Iowa Persian Gulf Study Questionnaire (Selected questions on health-related quality of life-SF36)	200	1	0.166
Physical Examination	200	1	0.500
Lung Function Testing	200	1	1.250

2. NCHS Laboratory-Based Questionnaire Research (0920–0222)—Revision—The QDRL conducts pretesting activities related to the development of NCHS and other Federal survey questionnaires, such as the National Health Interview Survey (NHIS). These activities mainly involve use of the cognitive interview, in which volunteer respondents (''laboratory subjects'') are administered draft survey questions, and are asked to react to those questions. The cognitive interviewer notes sources of error in these questions, based on problems that subjects have in comprehending the questions and in attempting to recall the information requested. After several cycles of testing of small numbers of respondents (generally 10–12), and development of the questions between testing ''rounds,'' the questionnaires are improved to the point to which they are ready for field testing and household administration. QDRL staff are also engaged in the conduct of general questionnaire design research, in which survey questions are administered to laboratory subjects using different phrasings, or under different administration modes (e.g., face-to-face versus telephone), in order to determine the optimal means for presenting the questions. These investigative pretesting activities are now routinely used by NCHS and by other survey organizations for testing and development purposes, and result in high data quality at a minimal cost, especially in terms of

respondent burden. The total annual burden hours are 500.

Project	No. of respondents	No. of responses/ respondent	Avg. burden/ response (in hrs.)
QDRL Laboratory Interviews:			
(1) NHIS modules	150	1	1.0
(2) Behavioral Risk Factors Survey	100	1	1.0
(3) Other Questionnaire Testing:			
1998	200	1	1.0
1999	200	1	1.0
2000	200	1	1.0
(4) Perceptions of Quality of Life Project	100	1	1.0
(5) Perceptions of Confidentiality Project	50	1	1.0
(6) Perception of Statistical Maps Project	100	1	1.0
(7) General Methodological Research	200	1	0.5
Pilot Household Interviews:			
1999 NHIS Modules	100	1	1.0
2000 NHIS Modules	100	1	1.0
2001 NHIS Modules	100	1	1.0

Dated: November 10, 1997.

Wilma G. Johnson,

Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–30099 Filed 11–14–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Injury Prevention and Control Meeting: Change of Time and Location

Federal Register Citation of Previous Announcement: 62 FR 54639—dated October 21, 1997.

SUMMARY: Notice is given that the meeting time and location of the Advisory Committee for Injury Prevention and Control (ACIPC) has changed. The meeting date, status, purpose, and matters to be discussed announced in the original notice remain unchanged. There will be no change in the meeting location of the Science and Program Review Work Group, which will be meeting prior to the full Committee from 1–1:45 p.m. at the Sheraton Washington Hotel.

Original Time and Location: 1–4:30 p.m., Sheraton Washington Hotel, 2660 Woodley Road at Connecticut Avenue, NW, Washington, DC 20008.

New Time and Location: 2–4:30 p.m., Omni Shoreham Hotel, 2500 Calvert Street, NW, Washington, DC 20008.

CONTACT PERSON FOR MORE INFORMATION: Thomas E. Blakeney, Executive Secretary, ACIPC, National Center for Injury Prevention and Control, CDC, 4770 Buford Highway, NE, M/S K61, Atlanta, Georgia 30341–3724, telephone 770/488–1481.

Dated: November 10, 1997.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–30098 Filed 11–14–97; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Fees for Sanitation Inspections of Cruise Ships and Consultation Services for Ship Construction and Renovation

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Notice and request for public comment.

SUMMARY: This notice announces fees for vessel sanitation inspections effective January 1, 1998. The Public Health Service (PHS) proposes an additional vessel size category for ships >90,000 gross register tonnage. The purpose of the new ''Mega'' size category is to more accurately recover costs of the Vessel Sanitation Program (VSP) for conducting sanitary inspections of these super-large ships. The PHS also proposes to begin charging fees for consultation services for ship construction and renovation. The purpose of these charges would be to recover costs of conducting the consultation services for ship construction and renovation.

Public comment is requested on the proposed administrative policies to add the new size category for inspections, and to charge for consultation services for ship construction and renovation.

DATES: To ensure consideration, respondents must have their written comments regarding the new size category and charges for services for ship construction and renovation to the VSP by January 2, 1998. Fees for vessel sanitation inspections are effective January 1, 1998.

ADDRESSES: Written comments should be sent by mail or facsimile to the Vessel Sanitation Program, Special Programs Group, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., (F16), Atlanta, Georgia 30341–3724, facsimile (770) 488–4127.

FOR FURTHER INFORMATION CONTACT: Daniel M. Harper, Program Manager, Vessel Sanitation Program, National Center for Environmental Health, telephone (770) 488–7093 or e-mail DMH2@CDC.GOV, or Dave Forney, Public Health Advisor, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, telephone (770) 488–7333 or e-mail DLF1@CDC.GOV.

SUPPLEMENTARY INFORMATION:

Purpose and Background

The Centers for Disease Control and Prevention (CDC) operates a vessel sanitation inspection program for cruise ships with international itineraries and calling at United States ports under sections 361–369 (42 U.S.C. 264–272) of the Public Health Service Act, as amended. Regulations for the inspection program appear at 42 CFR part 71.

The Vessel Sanitation Program is a cooperative activity between the cruise ship industry and CDC. The purpose and goals of the VSP are to achieve and maintain a level of sanitation that will lower the risk for gastrointestinal disease outbreaks and assist the passenger line industry in its effort to provide a healthful environment for passengers and crew.

The fee schedule for sanitation inspections of passenger cruise ships currently inspected under the VSP was first published in the **Federal Register** on November 24, 1987 (52 FR 45019), and revised in a schedule published in the **Federal Register** on November 28, 1989 (54 FR 48942). Since then, CDC has published the fee schedule annually. The purpose of this notice is to announce the revised fee schedule for the period January 1, 1998, through September 31, 1998. Public comment is also being requested on the proposal to create a new ''Mega'' category and on the proposal to charge fees for consultation services for ship construction and renovation.

Revised Inspection Fee Schedule

This notice announces fees effective January 1, 1998. The proposed revised size/cost factor is presented in Appendix A. The formula used to determine the fees is as follows:

$$\text{Average cost per inspection} = \frac{\text{Total Cost of VSP}}{\text{Weighted No. of Annual Inspections}}$$

The average cost per inspection is multiplied by a size/cost factor to determine the fee for vessels in each size category. The fee schedule for sanitation inspections is presented in Appendix A and will be effective January 1, 1998, through September 30, 1998. Beginning October 1, 1999, all VSP fiscal activities will be on a Federal fiscal year basis (October 1–September 30). Should a substantial increase occur in the cost of air transportation, it may be necessary to readjust the fees before September 30, 1998, since travel constitutes a sizable portion of the costs of this program. If such a readjustment in the fee schedule is necessary, a notice will be published in the **Federal Register** 30 days before the effective date.

Calender year 1997 opened with the delivery of the first cruise ship exceeding 100,000 gross tonnage. Records for new ship construction document that additional ships of equal or greater tonnage are coming into the U.S. market in 1998 and beyond. As set out in Appendix A, the PHS proposes an additional vessel size category for ships >90,000 gross register tonnage. The purpose of the new ''Mega'' size category is to more accurately recover the VSP's costs for conducting sanitary inspections of these super-large ships.

Construction and Renovation Consultation Fees

As part of the program designed to assist cruise ship operators in achieving and maintaining a healthy level of sanitation, the VSP offers consultative services upon the request of a ship's owner or operator. The VSP staff review ship construction or renovation plans before construction begins and conduct on-site inspections of the cruise ship during construction as needed. After each review or inspection, VSP staff members issue a written advisory report summarizing any recommended changes to conform to CDC inspection guidelines.

The proposed fees for consultation services by VSP for ship construction and renovation will be three times the cost of a routine sanitation inspection of a passenger cruise ship (based on tonnage) inspected under the VSP, plus travel and per diem costs. The fee schedule for sanitation inspections of passenger cruise ships is published annually in the **Federal Register** and is determined by dividing the full cost of the VSP by the estimated number of inspections and multiplying by a size/cost factor based on the size of the vessel and the number of vessels in each category.

The proposed fee structure for consultation services is based on the following time commitment from two VSP inspectors:

Gross tonnage	Number of days for plan reviews	Number of days for office consultations	Number of days for shipyard visit (including travel)	Initial U.S. inspection	Total number of days consultation provided
<3,000	1	3	3	1	8
3,000–15,000	2	3	3	1	9
15,000–30,000	2	3	4	1	10
30,001–60,000	2	4	4	1	11
60,001–90,000	2	5	5	1	13
>90,000	2	5	6	1	14

Procedure for Requesting Consultation Services

Requests for consultation services for ship construction and renovation must be in writing and received at least 45 days prior to the requested travel dates. (See Appendix B for a sample request.)

Applicability

The inspection fees will be applicable to all passenger cruise vessels for which sanitation inspections are conducted as part of CDC's VSP. The construction and renovation fees will be applicable to all passenger cruise vessels for which CDC provides consultation on ship construction and renovations.

Dated: November 7, 1997.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

Appendix A

SIZE/COST FACTOR

Vessel size (GRT[1])	Average cost X
Extra Small (< 3,001)	0.25
Small (3,001–15,000)	0.50
Medium (15,001–30,000)	1.00
Large (30,001–60,000)	1.50
Extra Large (60,001—90,000)	2.00
Mega (>90,000)	2.50

FEE SCHEDULE JANUARY 1, 1998—SEPTEMBER 30, 1998

Vessel size (GRT[1])	Inspection[2]	Consultation
Extra Small (< 3,001)	$ 1,075	$ 3,225
Small (3,001–15,000)	$ 2,150	$ 6,450
Medium (15,001–30,000)	$ 4,300	$12,900
Large (30,001–60,000)	$ 6,450	$19,350
Extra Large (60,001–90,000	$ 8,600	$25,800
Mega (>90,000)	$10,750	$32,250

[1] GRT-Gross Register Tonnage in cubic feet, as shown in Lloyd's Register of Shipping.
[2] Inspections and reinspections involve the same procedure, require the same amount of time, and will, therefore, be charged at the same rate.

Appendix B

Sample

Fax to: Henry Falk, M.D., Director, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., (F28), Atlanta, GA 30341–3724 Facsimile (770) 488–4127

Fax copy to: Program Manager, Vessel Sanitation Program, Special Programs Group, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., (F16), Atlanta, GA 30341–3724, Facsimile (770) 488–4127

We request the presence of a DHHS representative for consultation on cruise liner (NAME). We tentatively expect to take delivery of the cruise liner on (DATE). We would like to schedule the consultation for (DATE). We expect the consultation to take approximately (NUMBER OF DAYS).

We will pay CDC in accordance with the consultation fee published in the **Federal Register**, and for all expenses in connection with the shipyard inspection. We will make all necessary arrangements for lodging and transportation, which includes airfare and ground transportation in (CITY, STATE, COUNTRY). We will provide in-kind for lodging and transportation expenses. All remaining expenses, such as en route per diem and meals and miscellaneous expenses, including ground transportation to and from the airport nearest the representatives work site or residence, should be sent to the following address:

Company
Attention:
Street Address
City, State, Country
Zip Code
Office Telephone Number
Facsimile Number

If you have questions regarding this confirmation, please contact:

Signed:

[FR Doc. 97–30056 Filed 11–14–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 97N–0263 and 87N–0262]

European Research Associates, Ltd. et al.; Withdrawal of Approval of Three New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of three new drug applications (NDA's). The basis for the withdrawals is that the holders of the applications have repeatedly failed to file required annual reports on these NDA's.

EFFECTIVE DATE: November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Olivia A. Pritzlaff, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The holders of approved applications to market new drugs or antibiotics for human use are required to submit annual reports to FDA concerning each of their approved applications in accordance with § 314.81 (21 CFR 314.81).

In the **Federal Register** of July 10, 1997 (62 FR 37063), FDA offered an opportunity for a hearing on a proposal to withdraw approval of four NDA's because the firms had failed to submit the required annual reports for these NDA's.

The agency received one request for a hearing from Global Pharmaceutical Corp., Castor and Kensington Aves., Philadelphia, PA 19124–5694. Global has filed an annual report for NDA 9–273, Rauwolfia Serpentina Tablets, 50 and 100 milligram (mg). Therefore, approval of this NDA is not being withdrawn.

The holders of the other three applications did not respond to the notice of opportunity for hearing. Failure to file a written notice of participation and request for a hearing as required by 21 CFR 314.200 constitutes an election by the applicant not to make use of the opportunity for a hearing concerning the proposal to withdraw approval of the applications and a waiver of any contentions concerning the legal status of the drug products. Therefore, the Director, Center for Drug Evaluation and Research, is withdrawing approval of the NDA's listed in the table in this document.

Application No.	Drug	Applicant
NDA 11–623	Mucilose Super Powder	European Research Associates, Ltd., Pailinakis Bldg., Elisabeth Ave., P.O. Box N3334, Nassau, N.P., Bahamas.
NDA 12–748	Duotrate (pentaerythritol tetranitrate) Capsules, 45 mg	Jones Medical Industries, Inc., 1945 Craig Rd., St. Louis, MO 63146.
NDA 16–470	Duotrate (pentaerythritol tetranitrate) Capsules, 30 mg	Do.

The last two products listed, NDA's 12–748 and 16–470, were named in a notice of opportunity for hearing published in the **Federal Register** of October 14, 1984 (49 FR 40213), proposing to withdraw the applications, along with other applicants' products, because they lack substantial evidence of effectiveness. In response to that notice, hearings were requested and a hearing was granted (52 FR 32170; August 26, 1987); Jones Medical, the

successor in interest to NDA's 12–748 and 16–470, filed a Notice of Participation; on May 10, 1989, the Administrative Law Judge issued his Initial Decision, ordering that NDA's 12–748 and 16–470, and others, be withdrawn; Jones Medical, as well as two other parties, appealed that decision to the Commissioner. On the basis of the present withdrawal of approval of NDA's 12–748 and 16–470 for failing to file required annual reports, the appeal by Jones Medical in Docket No. 87N–0262 is regarded as withdrawn.

The Director, Center for Drug Evaluation and Research, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), and under authority of 21 CFR 5.82, finds that the holders of the applications listed above have repeatedly failed to submit reports required by § 314.81. Therefore, under this finding, approval of the NDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective November 17, 1997.

Dated: November 6, 1997.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 97–30148 Filed 11–14–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97M–0459]

Osteonics Corp.; Premarket Approval of the Osteonics Constrained Acetabular Insert

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application submitted by Osteonics Corp., Allendale, NJ, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the Osteonics Constrained Acetabular Insert. After reviewing the recommendation of the Orthopedic and Rehabilitation Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of June 13, 1997, of the approval of the application.

DATES: Petitions for administrative review by December 17, 1997.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Erin I. Keith, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036.

SUPPLEMENTARY INFORMATION: On December 16, 1996, Osteonics Corp., Allendale, NJ 07401–1677, submitted to CDRH an application for premarket approval of the Osteonics Constrained Acetabular Insert. The device is a constrained hip and is indicated for use as a component of a total hip prosthesis in primary and revision patients at high risk of hip dislocation due to a history of prior dislocation, bone loss, joint or soft tissue laxity, neuromuscular disease, or intraoperative instability.

On June 10, 1997, the Orthopedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On June 13, 1997, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 17, 1997, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 16, 1997.

Joseph A. Levitt,

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

[FR Doc. 97–30149 Filed 11–14–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Meeting of Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, December 8 and 9, 1997 in Building 10, Room 10B16, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on December 8 from 9 a.m. until approximately 10 a.m. for general remarks by the Director, Intramural Research Program, National Eye Institute (NEI), on matters concerning the intramural program of the NEI. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meting will be closed to the public on December 8 from approximately 10 a.m. until recess and

on December 9 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual projects conducted by the Laboratory of Sensory Motor Research. These evaluations and discussions could reveal personal information concerning individuals associated with the projects, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Colleen Genovese, Counselor Assistant, NEI, Building 10, Room 10N202 Bethesda, Maryland 20892, (301) 496–3123, will provide a summary of the meeting, roster of committee members, and substantive program information upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Genovese in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.867, Vision Research; National Institutes of Health)

Dated: November 7, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–30083 Filed 11–14–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke Division of Extramural Activities; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel (Telephone Conference Call).

Date: November 19, 1997.

Time: 11:00 am.

Place: National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892.

Contact Person: Dr. Katherine Woodbury/ Mr. Phillip Wiethorn, Scientific Review Administrators, NINDS, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

Purpose/Agenda: To review and evaluate Phase II RFP Contract Proposal(s).

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: November 7, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–30084 Filed 11–14–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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 Center for Scientific Review Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Chemistry and Related Sciences.

Date: November 17, 1997.

Time: 8:30 a.m.

Place: One Washington Circle, Washington, DC.

Contact Person: Dr. Alec Liacouras, Scientific Review Administrator, 6701 Rockledge Drive, Room 5154, Bethesda, Maryland 20892, (301) 435–1740.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Microbiological and Immunological Sciences.

Date: December 5, 1997.

Time: 10:00 a.m.

Place: NIH, Rockledge 2, Room 4190, Telephone Conference.

Contact Person: Dr. Garrett Keefer, Scientific Review Administrator, 6701 Rockledge Drive, Room 4190, Bethesda, Maryland 20892, (301) 435–1152.

Name of SEP: Clinical Sciences.

Date: December 5, 1997.

Time: 3:00 p.m.

Place: NIH, Rockledge 2, Room 4144, Telephone Conference.

Contact Person: Dr. Paul Strudler, Scientific Review Administrator, 6701 Rockledge Drive, Room 4144, Bethesda, Maryland 20892, (301) 435–1716.

Name of SEP: Clinical Sciences.

Date: December 9, 1997.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4112, Telephone Conference.

Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda, Maryland 20892, (301) 435–1783.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93,893, National Institutes of Health, HHS)

Dated: November 7, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–30085 Filed 11–14–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Center for Scientific Review Special Emphasis Panel (SEP) meeting:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: November 14, 1997.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 5140, Telephone Conference,

Contact Person: Dr. Gerald Greenhouse, Scientific Review Administrator, 6701 Rockledge Drive, Room 5140, Bethesda, Maryland 20892, (301) 435–1023.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892 93.893, National Institutes of Health, HHS)

Dated: November 7, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–30086 Filed 11–14–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Assessment Plan: Grand Calumet River, Indiana Harbor Ship Canal, Indiana Harbor and Associated Lake Michigan Environments; Notice of Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of comment period.

SUMMARY: Notice is given that the public comment period for the document titled ''Assessment Plan: Grand Calumet River, Indiana Harbor Ship Canal, Indiana Harbor and Associated Lake Michigan Environments'' is extended for 30 days. Initial notice of availability was published on October 14, 1997 with a deadline for submittal of comments of November 13, 1997. This notice extends the comment period until 30 days from the date of publication in the **Federal Register**.

The U.S. Department of the Interior, and the State of Indiana (''trustees'') are trustees for natural resources considered in this assessment, pursuant to subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 300.600 and 300.610, and Executive Order 12580.

The trustees are following the guidance of the Natural Resource Damage Assessment Regulations found at 43 CFR Part 11. The public review of the Plan announced by this Notice is provided for in 43 CFR 11.32(c).

Interested members of the public are invited to review and comment on the Plan. Copies of the Plan can be requested from the address listed below. All written comments will be considered by the trustees and included in the Report of Assessment, at the conclusion of the assessment process.

DATES: Written comments on the Plan must be submitted on or before December 17, 1997.

ADDRESSES: Requests for copies of the Plan may be made to: Supervisor, Ecological Services Office, U.S. Fish and Wildlife Service, 620 S. Walker Street, Bloomington, Indiana 47403 or:

Ms. Elizabeth Admire, Indiana Department of Environmental Management, 100 N. Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206–6015.

Comments on the Plan should be sent to the Indiana Department of Environmental Management at the address listed above. The trustees will coordinate comment review.

SUPPLEMENTARY INFORMATION: The trustees are undertaking an assessment of damages resulting from the suspected injury to natural resources of the Grand Calumet River, Indiana Harbor Ship Canal, Indiana Harbor and Associated Lake Michigan Environments which have been exposed to hazardous substances released by area steel mills, refineries and other potential sources. It is suspected that this exposure has caused injury and resultant damages to trustee resources. The injury and resultant damages will be assessed under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, and the Clean Water Act, as amended. The Plan addresses the trustees' overall assessment approach and utilizes existing data. Plan addenda may be prepared by the trustees to provide public notice of additional data collection activities.

William F. Hartwig,

Regional Director, Region 3, U.S. Fish and Wildlife Service.

[FR Doc. 97–30094 Filed 11–14–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research and Development Agreement (CRADA) negotiations.

SUMMARY: The U.S. Geological Survey (USGS) is planning to enter into a Cooperative Research and Development Agreement (CRADA) with Lizardtech Company, Seattle, Washington. The purpose of the CRADA is to jointly discover the most efficient and affordable delivery mechanisms and product development methods for digital image data; specifically large numbers of Digital Orthophoto Quadrangles in more acceptable formats to a wider market segment.

ADDRESSES: Inquiries may be addressed to the Acting Chief of Research, U.S. Geological Survey, National Mapping Division, 500 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192; Telephone (703) 648–4643, facsimile (703) 648–4706; Internet ''ebrunson@usgs.gov''.

FOR FURTHER INFORMATION CONTACT: Ernest B. Brunson, address above.

SUPPLEMENTARY INFORMATION: This notice is to meet the USGS requirement stipulated in the USGS Survey Manual.

Dated: October 31, 1997.

Richard E. Witmer,

Chief, National Mapping Division.

[FR Doc. 97–30064 Filed 11–14–97; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–017–1430–00/G010–G8–0250]

Emergency Closure for the Elk Springs Area of Critical Environmental Concern (ACEC), Sandoval County, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of emergency closure of access.

SUMMARY: Notice is hereby given that effective November 17, 1997, a road located within the NE¼ of section 29, T. 19 N., R. 1 W., NMPM, is closed to all forms of access except as specifically authorized by the Bureau of Land Management. The purpose of this road closure is to prevent unnecessary degradation of resources, undue environmental damage and to ensure resource protection on public lands. The area is being temporarily closed during the winter and spring when the elk/deer are most heavily occupying the area. All roads within the proximity of the Elks Spring ACEC are limited to motorized vehicles, using existing roads and trials.

The emergency access closure is in accordance with the provisions of 43 CFR 8364.1. This designation remains in effect until further notice.

FOR FURTHER INFORMATION CONTACT: Joe Jaramillo, Realty Specialist at Bureau of Land Management, Rio Puerco Resource Area, 435 Montano NE, Albuquerque, New Mexico 87107, (505) 761–8779.

Dated: November 5, 1997.

Michael R. Ford,

District Manager.

[FR Doc. 97–30060 Filed 11–14–97; 8:45 am]

BILLING CODE 4310–A6–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–070–96–1990–00]

Resource Advisory Council Meeting, Butte, Montana

AGENCY: Butte District Office, Bureau of Land Management, DOI.

ACTION: Notice of Butte District Resource Advisory Council Meeting, Butte, Montana.

SUMMARY: The Council will convene at 9:00 a.m., Wednesday, December 17, 1997. Issues that will be discussed include Whitetail/Pipestone ORV alternatives, and how the BLM's two-tier system will affect the Resource Advisory Councils.

The meeting will be held at the Butte District Office, 106 N. Parkmont, Butte, Montana.

The meeting is open to the public and written comments may be given to the Council. Oral comments may be presented to the Council at 11 a.m. The time allotted for oral comment may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting, or need special assistance, such as sign language or other reasonable accommodations, should contact the Butte District, 106 North Parkmont (P.O. 3388), Butte, Montana 59702–3388, telephone 406–494–5059.

FOR FURTHER INFORMATION CONTACT: Jim Owings at the above address or telephone number.

Dated: November 7, 1997.

Michele Good,

Acting District Manager.

[FR Doc. 97–30132 Filed 11–14–97; 8:45 am]

BILLING CODE 4310–DN–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–942–5700–00]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATE: Unless otherwise noted, filing was effective at 10:00 a.m. on the next federal work day following the plat acceptance date.

FOR FURTHER INFORMATION CONTACT: Lance J. Bishop, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2135 Butano Drive, Sacramento, CA 95825–0451, (916) 978–4310.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, CA.

Humboldt Meridian, California

Ts. 11N., Rs. 4 & 5 E.,—Dependent resurvey and corrective dependent resurvey, (Group 997) accepted October 29, 1997, to meet certain administrative needs of the US Forest Service, Six Rivers National Forest.

Mount Diablo Meridian, California

T. 8 N., R. 9 E.,—Dependent resurvey and metes-and-bounds survey, (Group 1279) accepted October 3, 1997, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 37 N., R. 16 E.,—Dependent resurvey and subdivision of sections, (Group 1162) accepted October 31, 1997, to meet certain administrative needs of the BLM, Surprise Resource Area.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: November 7, 1997.

Lance J. Bishop,

Chief, Branch of Cadastral Survey.

[FR Doc. 97–30130 Filed 11–14–97; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1430–00]

Idaho: Filing of Plats of Survey; Idaho

The protraction diagram of unsurveyed T. 30 N., R. 7 E., Boise Meridian, Idaho, was accepted on November 6, 1997 and was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. November 6, 1997. The preparation of this diagram was necessary to meet certain administrative needs of the USDA Forest Service, Geometronics Service Center, to support its mapping program. All inquiries concerning the protraction diagram of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho 83709–1657.

Dated: November 6, 1997.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 97–30059 Filed 11–13–97; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–01; GP8–0031; OR–53486]

Proposed Withdrawal and Opportunity for Public Meeting; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 207.22 acres of lands, of which 143.32 acres are public lands and 63.90 acres are non-Federal lands, to protect the natural and recreational values of four recreation sites. This notice closes the lands for up to 2 years from surface entry and mining. The public lands have been and will remain open to mineral leasing. Upon acquisition, the non-Federal lands will be opened to the mineral leasing laws.

DATES: Comments and requests for a public meeting must be received by February 16, 1998.

ADDRESSES: Comments and meetings requests should be sent to the Oregon/Washington State Director, BLM, P.O. Box 2965, Portland, Oregon 97208–2965.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/Washington State Office, 503–952–6155.

SUPPLEMENTARY INFORMATION: On October 21, 1997, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public lands and non-Federal lands from settlement, sale, location, or entry under the United States mining laws (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, subject to valid existing rights:

Willamette Meridian

Public Lands

Iron Mountain Gold Panning Area

T. 31 S., R. 7 W.,

sec. 4, NE¼SE¼, excluding that portion granted to the railroad under the Act of July 25, 1866 (14 Stat. 239).

Revested Oregon and California Railroad Grant Lands

Pickett Bridge Recreation Site

T. 30 S., R. 2 W.,
sec. 23, SW¼NE¼.

Olalla-Thompson Creek Day Use Area

T. 30 S., R. 7 W.,
sec. 5, SW¼NE¼NE¼SW¼, SE¼NW¼SW¼, and N½NE¼SW¼SW¼.

Island Creek Recreation Site

T. 31 S., R. 7 W.,
sec. 1, lot 5, excluding that portion granted to the railroad under the Act of July 25, 1866 (14 Stat. 239).

The areas described aggregate 143.32 acres in Douglas County.

Non-Federal Lands

Island Creek

T. 30 S., R. 7 W.,
sec. 36, S½S½S½SW¼.
T. 31 S., R. 7 W.,
sec. 1, that portion of lot 5 granted to the railroad under the Act of July 25, 1866 (14 Stat. 239), and NW¼NW¼.

Iron Mountain

T. 31 S., R. 7 W.,
sec. 4, that portion of the NE¼SW¼ granted as right-of-way to the railroad under the Act of July 25, 1866 (14 Stat. 239).

The areas described aggregate 63.90 acres in Douglas County.

The purpose of the proposed withdrawal is to expand opportunities for general recreation and recreational gold panning, to protect the public health and safety, and to protect current road improvements and future site development investments as to the public and non-Federal lands located in the four recreational sites.

For a period of 91 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Director at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director at the address indicated above within 91 days from the publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary land uses which may be permitted during this segregative period include licenses, permits, rights-of-way, and disposal of vegetative resources.

Dated: October 31, 1997.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 97–30061 Filed 11–14–97; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Petroglyph National Monument Advisory Commission

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, that a meeting of the Petroglyph National Monument Advisory Commission will be held at 9:00 a.m., Friday December 12, 1997, at the Indian Pueblo Cultural Center, 2401 12th Street, N.W., Albuquerque, New Mexico.

The Petroglyph National Monument Advisory Commission was established pursuant to Public Law 101–313, establishing Petroglyph National Monument, to advise the Secretary of the Interior on the management and development of the monument and on the preparation of the monument's general management plan.

Matters to be discussed at the December 12, 1997 meeting include:

Introduction of Commission members and guests
Superintendent's Report
Old Business
New Business
Public Comment

The meeting will be open to the public. Any member of the public may file a written statement concerning the matters to be discussed at the Commission meeting with the Superintendent.

Persons who wish further information concerning the meeting, or who wish to submit written comments may contact Judith Cordova, Superintendent, Petroglyph National Monument, 6001 Unser Boulevard N.W., Albuquerque, New Mexico 87120, telephone (505) 899–0205.

Minutes of the Commission meeting will be available for public inspection six weeks after the meeting at Petroglyph National Monument headquarters.

Dated: November 5, 1997.

Elizabeth Montano,

Acting Superintendent, Petroglyph National Monument

[FR Doc. 97–30134 Filed 11–14–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Klamath Project Interim Operations Plan, Klamath Project, Oregon and California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) proposes to prepare a draft environmental impact statement (DEIS) on a plan for operations of the Klamath Project (Project) to cover an interim period, pending completion of a water rights adjudication, currently underway by the State of Oregon. The plan will be developed to define project operations in relation to Reclamation's responsibilities and obligations concerning the Endangered Species Act, senior water rights, tribal trust resources, Project water users' contractual rights, wildlife refuges, and other requirements mandated by law and within the authority of the Secretary of Interior.

ADDRESSES: Ms. Laura Allen, NEPA Team Leader, Klamath Basin Area Office, Bureau of Reclamation, 6600 Washburn Way, Klamath Falls, OR 97603.

FOR FURTHER INFORMATION CONTACT: Ms. Laura Allen at (541) 883–6935.

SUPPLEMENTARY INFORMATION: Drought conditions in the early 1990s demonstrated the need for Reclamation to develop an operations plan for the Project to assist those affected by Project operations to understand how Reclamation will manage the project, consistent with its responsibilities and obligations. Since 1995, Reclamation has operated the Project according to annual operations plans/advisories. During this time, Reclamation has received considerable information which will aid in the development of an interim operations plan for the Project.

When completed, the interim operations plan will supersede the annual operations plans/advisories and will guide Project operations until completion of the adjudication. At that time, the interim plan will be revised as necessary and additional NEPA documentation may be required.

Dated: November 5, 1997.

John F. Davis,

Acting Regional Director.

[FR Doc. 97–30096 Filed 11–14–97; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Westland Irrigation District Boundary Adjustment, Hermiston, OR

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) intends to prepare an environmental impact statement (EIS) for a proposed boundary adjustment to include additional lands into the Westland Irrigation District. Westland Irrigation District (WID) proposes the addition of 21,100 acres, of which 9,912 acres are currently irrigated, into their boundaries.

The NEPA process was initiated in late 1993 and, as a result of comments received then, has been on hold until additional information was obtained. This notice is to inform the public of the resumption of the NEPA process and the preparation of an EIS.

FOR FURTHER INFORMATION CONTACT: Mr. John Tiedeman, UCA–1607, Upper Columbia Area Office, Bureau of Reclamation, PO Box 1749, Yakima WA 98907–1749; Telephone (509) 575–5848 extension 238.

SUPPLEMENTARY INFORMATION: WID is one of several districts in the Umatilla basin either served by federally owned facilities or receiving federally controlled water. A Federal repayment contract with WID requires that changes to district boundaries must be approved by the Secretary of the Interior. During studies undertaken to implement the Umatilla Basin Project Act, it became apparent that WID was providing federally supplied water to lands outside of the district boundaries. In 1993, to address this problem, WID requested that Reclamation allow a change in their boundaries so that they may provide irrigation water to lands outside the current boundaries. In the interim Reclamation entered into a series of annual water service contracts with WID so irrigation of lands outside of the district boundaries with federally supplied water could continue while issues surrounding the boundary expansion were resolved.

Reclamation and the Natural Resources Department of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) held public meetings on November 4 and December 17, 1993, to gather comments from the public concerning the ''Proposed Boundary Changes for Irrigation Districts in the Umatilla Project, Oregon.'' Key issues identified in the scoping effort included Umatilla River hydrology and passage conditions for anadromous fish, Native American trust resources, and continued viability of irrigated agriculture. Based on the complex and often controversial nature of the issues involved, the high level of public and agency interest, and Reclamation's Native American trust responsibilities, Reclamation concluded that an EIS should be prepared. Since then, a hydrologic model of the Umatilla basin, necessary to complete the assessment of the proposed boundary adjustment, has been developed. Completion of the hydrologic model is anticipated for February 1998.

Four alternatives are proposed, including the no action alternative. Under the no action alternative all deliveries of federally supplied water by WID to lands outside of the current district boundaries would cease. Under the action alternatives some, or all, of these deliveries could continue. The draft EIS is expected to be completed in March of 1999.

At this time, no additional scoping meetings are planned. A summary of scoping issues identified through previous meetings is available upon request. Anyone interested in more information concerning the proposed action or who has information concerning significant environmental issues, should contact Mr. Tiedeman as provided under the **FOR FURTHER INFORMATION CONTACT** section.

Dated: October 17, 1997.

John W. Keys, III,

Regional Director, Pacific Northwest Region.

[FR Doc. 97–30062 Filed 11–14–97; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF JUSTICE

[AG Order No. 2129–97]

Interim Guidance on Verficiation of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

AGENCY: Department of Justice.

ACTION: Notice of interim guidance with request for comments.

SUMMARY: Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (''PRWORA'') requires the Attorney General, by February 1998, to promulgate regulations requiring verification that an applicant for federal public benefits is a qualified alien eligible to receive federal public benefits under the Act. Amendments to the PRWORA by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 also require the Attorney General, within the same time period, to establish fair and nondiscriminatory procedures for applicants to provide proof of citizenship. Amendments to the PRWORA by the Balanced Budget Act of 1997 require the Attorney General, by November 3, 1997, to issue interim verification guidance that sets forth procedures that benefit providers can use to verify citizenship, qualified alien status, and eligibility under Title IV of the PRWORA prior to issuance of the final regulations. In accordance with this last statutory requirement, the Attorney General, in consultation with federal benefit-granting agencies, has developed this interim guidance.

DATES: This Interim Guidance is effective October 29, 1997.

ADDRESSES: Comments should be submitted to: John E. Nahan, Immigration and Naturalization Service, 425 I St., N.W., ULLICO Building, 4th Floor, Washington, D.C. 20536, (202) 514–2317.

FOR FURTHER INFORMATION CONTACT: John E. Nahan, Immigration and Naturalization Service, 425 I St., N.W., ULLICO Building, 4th Floor, Washington, D.C. 20536, (202) 514–2317.

SUPPLEMENTARY INFORMATION: By the authority vested in me as Attorney General by law, including section 432(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (as amended), I hereby issue the following Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and

Work Opportunity Reconciliation Act of 1996.

Dated: October 29, 1997.

Janet Reno,

Attorney General.

Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996

Introduction

A. Summary

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the ''Act'') provides that, with certain exceptions, only United States citizens, United States non-citizen nationals and ''qualified aliens'' (and sometimes only particular categories of qualified aliens) are eligible for federal, state and local public benefits. The Act, as amended by the Balanced Budget Act of 1997, requires the Attorney General, by November 3, 1997, to issue interim guidance on the verification of eligibility of aliens for federal public benefits. The Act also requires the Attorney General, by February 1998, to promulgate final regulations requiring verification that an applicant is a qualified alien eligible to receive federal public benefits under the Act. States have an additional twenty-four months to put into effect a verification system that complies with those regulations. Amendments to the Act by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 further require the Attorney General to establish fair and nondiscriminatory procedures for applicants to provide proof of citizenship. Benefit providers, however, are required to implement the Act, and hence to make determinations regarding citizenship, qualified alien status, and eligibility under Title IV of the Act, before the Attorney General's issuance of new regulations and the States' development of conforming verification systems.

This memorandum provides guidance on how to verify citizenship, immigration status and eligibility under Title IV of the Act during this interim period. This guidance adopts a four-step procedure: (1) Determine if your program provides a ''federal public benefit'' subject to the Act's verification requirements; (2) Determine whether the applicant is otherwise eligible for benefits under general program requirements; (3) Verify the applicant's status as a U.S. citizen, U.S. non-citizen national or qualified alien; and (4) Verify the applicant's eligibility for benefits under the Act. If at any step you determine that you are not required to verify (or further verify) immigration status, you should not go on to the following step(s). If you have any questions regarding verification of immigration status pursuant to this Guidance, contact the local office of the Immigration and Naturalization Service (''INS'') serving your geographic area. A list of local INS offices is set forth in Attachment 1. Attachment 1 also includes a copy of INS Form G–845 and the Supplement thereto to be used to verify immigration status pursuant to this Guidance.

This Guidance applies only to federal public benefits, and does not directly address the citizenship and immigration requirements that Title IV of the Act imposes on the provision of state and local public benefits. To the extent that you are required to verify that an applicant is a U.S. citizen, U.S. non-citizen national or qualified alien when determining eligibility for a state or local program, however, the Attorney General will be promulgating regulations that set forth procedures by which state and local providers can verify alien eligibility for such benefits. During the interim, we advise that you use this Guidance in consultation with state and local authorities.

B. Programs With Governmental Verification

Some federal programs (*e.g.*, Medicaid) require federal, state and local governmental agencies, but not private providers, to verify citizenship and immigration status as part of program eligibility determinations. The private entities actually providing the benefits must abide by the verification determination made by the governmental agency; they engage in no independent verification. Nothing in this Guidance modifies such program requirements: providers of benefits under programs where verification is performed by a governmental agency are not required by this Guidance to verify that an applicant is a U.S. citizen, non-citizen national or qualified alien, and they should not engage in such verification. They should continue to provide benefits pursuant to program requirements based on the verification determinations made by the appropriate governmental agency.

C. Programs Currently Required To Use the SAVE System

Some federal programs (*e.g.*, Medicaid, unemployment compensation, educational assistance under Title IV of the Higher Education Act of 1965, assisted housing programs administered by the Department of Housing and Urban Development) already require, absent a waiver, verification of the immigration status of noncitizens applying for benefits through the Systematic Alien Verification for Entitlements (''SAVE'') system. SAVE is an intergovernmental information-sharing program that is available to benefit-granting agencies that need to determine an alien's immigration status. With one exception, nothing in the Act changes preexisting legal requirements regarding use of the SAVE system or relieves the administrators of statutorily mandated programs of their obligations to comply with the SAVE program (including the terms of any waiver of SAVE program requirements received from the appropriate federal agency); section 840 of the Act, however, did remove the requirement that a state agency use the SAVE system to verify eligibility for Food Stamps. You should note that SAVE does not provide all of the information that may now be necessary to determine an individual's eligibility under Title IV of the Act. You should use this Guidance to obtain or verify that new information.

D. Exemption for Nonprofit Charitable Organizations

Subject to such verification regulations as the Attorney General may subsequently adopt and the limitations set forth immediately below, a ''nonprofit charitable organization'' providing a federal, state or local public benefit covered by the Act is *not* required under Title IV of the Act to determine, verify, or otherwise require proof of an applicant's eligibility for such benefits based on the applicant's status as a U.S. citizen, U.S. non-citizen national or qualified alien. Thus, a nonprofit charitable organization is not required by the Act to seek an applicant's confirmation that he or she is a qualified alien, or to have a separate entity verify the applicant's status before providing benefits. To be eligible for this exemption, an organization must be both ''nonprofit'' and ''charitable.'' For purposes of this Guidance, an organization is ''nonprofit'' if it is organized and operated for purposes other than making gains or profits for the organization, its members or its shareholders, and is precluded from distributing any gains or profits to its members or shareholders. An organization is ''charitable'' if it is organized and operated for charitable purposes. The term ''charitable'' should be interpreted in its generally accepted legal sense as developed by judicial decisions. It includes organizations

dedicated to relief of the poor and distressed or the underprivileged, as well as religiously-affiliated organizations and educational organizations. If you have any questions as to whether your organization is a nonprofit charitable organization exempt from the Act's verification requirements, you should contact the federal, state or local agency overseeing the program you administer to obtain guidance.

The exemption for nonprofit charitable organizations is limited to verification requirements imposed by Title IV of the Act and to those instances in which the nonprofit charitable organization itself would be required by Title IV to engage in verification. Certain programs, however, require federal, state and local agencies to verify citizenship and immigration status as part of program eligibility determinations, while benefits are provided, at least in part, by charitable organizations. Other programs currently require verification by the charitable organization itself. These independent requirements are not altered by the provision exempting nonprofit charitable organizations from the Act's verification requirements. If a non-exempt entity (*e.g.*, a state agency) performs verification for benefits provided through a nonprofit charitable organization, you must abide by those determinations. Similarly, if your program has procedures unrelated to Title IV of the Act that require verification by your charitable organization, or adopts such procedures in the future, you must comply with such procedures.

A nonprofit charitable organization that chooses not to verify cannot be penalized (*e.g.*, through cancellation of its grant or denial of reimbursement for benefit expenditures) for providing federal public benefits to an individual who is not a U.S. citizen, U.S. non-citizen national or qualified alien, except when it does so either in violation of independent program verification requirements or in the face of a verification determination made by a non-exempt entity. However, if your organization chooses to verify, even though it is a nonprofit charitable organization that is not required to do so under the Act, you should comply with the procedures set forth in this Guidance and provide benefits only to those whom you verify to be U.S. citizens, U.S. non-citizen nationals or qualified aliens. Any verification request to INS by a nonprofit charitable organization must be accompanied by the written consent of the individual whose status is to be verified to the release of information about the individual to a nongovernmental entity. The consent must be notarized or executed under penalty of perjury. (INS Form G–639 may be used for this purpose.)

E. Nondiscrimination and Privacy Requirements

Various federal civil rights laws and regulations prohibit discrimination by governmental and private entities on the basis of race, color, national origin, gender, religion, age and disability. They include Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* (''Title VI''), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*, the Age Discrimination Act of 1975, 42 U.S.C. 6101 *et seq.*, and the Fair Housing Act, 42 U.S.C. 3601 *et seq.* These laws apply to entities' provision of any public benefits, including their implementation of the Act. In particular, Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity, whether operated by a public or private entity, that receives federal funds or other federal financial assistance. Thus, in operating or participating in a federally assisted program and implementing the requirements of the Act, including those set forth in this Guidance, a provider should not, on the basis of race, color or national origin, directly or indirectly differentiate among persons in the types of program services, aids or benefits it provides or the manner in which it provides them. For example, benefit providers should treat all similarly situated individuals in the same manner, and should not single out individuals who look or sound foreign for closer scrutiny or require them to provide additional documentation of citizenship or immigration status. The nondiscrimination requirements of Title VI and other applicable civil rights laws are discussed more fully in Attachment 2.

If you have questions regarding issues of discrimination that may arise with respect to benefit-granting procedures or the implementation of this Guidance, you should contact the civil rights office of the pertinent benefit-granting agency or the applicable office in the Civil Rights Division of the U.S. Department of Justice. Contact numbers in the U.S. Department of Justice, Civil rights Division are set forth in Attachment 2.

When implementing the Act's verification requirements, you should be sensitive to privacy interests, and should use the citizenship and immigration status information received only for purposes of verifying the applicant's eligibility for benefits under the Act and, if you are a governmental entity, for sharing such information with the INS and other governmental entities as provided by the Act. You should also review the Privacy Act (5 U.S.C. 552a), state and local privacy laws, and your program's requirements to ensure that you comply with all applicable privacy requirements.

Verification Procedures

Step 1: Determine if Your Program Provides a ''Federal Public Benefit'' Subject to the Act's Verification Requirements

The Act's requirement that benefit recipients be U.S. citizens, U.S. non-citizen nationals or qualified aliens does not apply to all federally funded activity or programs; it applies only to non-exempted ''federal public benefits''. Therefore, benefit providers should first determine whether the particular program they are administering provides a ''federal public benefit'' for which the Act requires them to verify citizenship, nationality or immigration status. Preliminary guidance on which programs provide ''federal public benefits'' subject to the Act's verification requirements is set forth in Attachment 3. *If the federal program does not provide a ''federal public benefit'' covered by the Act* (*e.g.*, the program is exempted by Attorney General Order No. 2049, 61 FR. 45,985 (1996), regarding government-funded community programs, services or assistance that are necessary for the protection of life or safety), *the benefit provider is not required to, and should not attempt to, verify an applicant's status, unless otherwise required or authorized to do so by law*, because all aliens, regardless of their immigration status, are eligible for such benefits.

If one program provides several public benefits, the Act's requirements apply only to those benefits that are non-exempted federal public benefits under the Act. A provider is not required to, and should not, verify the citizenship, nationality and immigration status of applicants for other benefits provided by the program that do not constitute federal public benefits.

Step 2: Determine Whether Applicant is Eligible for Benefits Under General Program Requirements

Given the potential intrusiveness and possibly time-consuming nature of the citizenship and alien status verification inquiry, a provider should determine whether an applicant otherwise meets specific program requirements for

benefit eligibility before initiating the verification process, unless determining program eligibility would be considerably more complex and time-consuming than verifying immigration status. This will reduce verification inquiries that prove unnecessary because the applicant is not otherwise eligible for the benefits requested. This Guidance does not address these other program eligibility requirements; a provider should refer to the statute, regulations and agency guidance (if any) governing its program for such requirements. (Note, however, that Title IV contains provisions requiring that, upon the effective date of the new affidavit of support, required under section 213A of the Act, when determining eligibility for federal means-tested public benefits and the amount of such benefits to which an alien is entitled, the income and resources of the alien be deemed to include those of any person executing an affidavit of support on behalf of the alien and that person's spouse, if applicable, with certain exceptions for indigent qualified aliens and aliens who (or whose children or parents) have been battered or subjected to extreme cruelty in the U.S. by a spouse, parent or member of the spouse or parent's family. See Exhibit B of Attachment 5.)

Determining program eligibility will normally include verifying that the applicant is who he or she claims to be. Although many of the documents and procedures relevant to determining citizenship or immigration status may also be relevant to identity verification, this Guidance is designed to provide assistance in determining the status of applicants whose identity has already been verified, and does not address appropriate identity verification procedures. It is your responsibility to assure yourself, pursuant to non-discriminatory procedures, of the identity of the applicant.

Step 3: Verify Applicant's Status as A U.S. Citizen, U.S. Non-Citizen National or Qualified Alien

Because the process of verifying an individual's status as a U.S. citizen, U.S. non-citizen national or qualified alien raises significant issues involving privacy and anti-discrimination protections, no verification of an applicant's status as a U.S. citizen, U.S. non-citizen national or qualified alien should be undertaken where benefits are not contingent on such status. In addition, if an alien is applying for benefits on behalf of another person, you may, under federal law, only verify the status of the person who will actually be receiving the benefits.

Except as set forth in this paragraph, if your program provides a non-exempted ''federal public benefit,'' and thus is available only to U.S. citizens, U.S. non-citizen nationals and qualified aliens, you should verify an applicant's status as set forth below. If you are a private provider of a ''federal public benefit'' and your program requires verification by a federal, state or local governmental agency, but not by a private provider, you should not engage in any independent verification and should continue to comply with the verification determinations made by the appropriate governmental entity. If you are on the SAVE system, you should continue following the SAVE procedures and should use this Guidance only for matters not addressed under the SAVE program.

A. U.S. Citizen or Non-Citizen National

1. *Ask for Declaration of Status.* If you are required to verify an applicant's status as a U.S. citizen, U.S. non-citizen national or qualified alien, you should begin by asking the applicant to submit a written declaration, under penalty of perjury, that he or she is a citizen or non-citizen national of the U.S. (or that he or she is a qualified alien—see Paragraph B.1. below).

Subject to certain exceptions and qualifications (particularly with respect to derivative citizenship), a United States citizen is:

- A person (other than the child of a foreign diplomat) born in one of the several States or in the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the Northern Mariana Islands who has not renounced or otherwise lost his or her citizenship;
- A person born outside of the United States to at least one U.S. citizen parent (sometimes referred to as a ''derivative citizen''); or
- A naturalized U.S. citizen.

As a general matter, a United States non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals (subject to certain residency requirements).

The law regarding U.S. citizenship and nationality is complex. These broad definitions are provided for general guidance only, and do not address all of the complexities involved in attaining or losing status as a U.S. citizen or non-citizen national. See 8 U.S.C. 1401 *et seq.*

If you have any questions regarding whether an applicant is a U.S. citizen or non-citizen national, you should consult with the INS (in the case of a naturalized citizen) or the federal agency or department that oversees your program.

2. *Verify Status.* A number of programs have existing procedures for verifying that an applicant is a U.S. citizen or non-citizen national for purposes of program eligibility. You should continue to comply with any existing or future legal requirements for verifying citizenship and nationality that are imposed on your program, as well as with any applicable existing or future guidance provided by the agency or department overseeing your program. If a program has no requirements or guidance regarding verification, a benefit provider should refer to this Guidance.

The appropriate method of verifying an applicant's citizenship will depend upon the requirements and needs of the particular program, including, but not limited to , the nature of the benefits to be provided, the need for benefits to be provided on an expedited basis, the length of time during which benefits will be provided, the cost of providing the benefits, the length of time it will take to verify based on a particular method, and the cost of a particular method of verification. For example, a benefit provider could adopt a quick and simple verification procedure if it provides short-term benefits and the cost of extensive verification will outweigh the cost of the benefits or if verification will be time-consuming and the benefits are needed in the short term. On the other hand, if the benefit provider provides substantial, long-term benefits, it may be reasonable to require more extensive verification of citizenship.

Regardless, a benefit provider's decision as to the appropriate method must be made in a non-discriminatory fashion; for example, it cannot turn on the fact that the applicant looks or sounds foreign or has an ethnic surname. A benefit provider should adopt neutral procedures that apply equally to all applicants regardless of their appearance, ethnicity or accent. A benefit provider should not implement its procedures in a manner that discriminates against applicants whom it assumes to be foreign; nor should a benefit provider treat any applicant in a more beneficial manner based on assumptions as to the applicant's citizenship. (See Nondiscrimination Advisory in Attachment 2.)

To verify that an applicant is a U.S. citizen or non-citizen national, a benefit provider could do any one of the following:

(a) Ask the applicant to present a document demonstrating that he or she is a U.S. citizen or non-citizen national. Documents that can be used to make this demonstration are described in Attachment 4. (A benefit provider may also consult records of verified citizenship, if any, maintained by the agency overseeing its program.)

(i) If the document reasonably appears on its face to be genuine and to relate to the individual presenting it (or, if your program already has existing guidance or procedures mandating a higher standard of proof for acceptance of documentary evidence of status, the document satisfied that higher standard), the provider should accept the document as conclusive evidence that the applicant *is* a U.S. citizen or non-citizen national, and should not verify status any further.

(ii) If the document presented does not on its face reasonably appear to be genuine (or to satisfy a higher applicable standard) or to relate to the individual presenting it, the benefit provider should contact the governmental entity that originally issued the document presented or that can confirm the applicant's status as a U.S. citizen or non-citizen national. (With regard to naturalized citizens and derivative citizens presenting certificates of citizenship, the INS is the appropriate governmental entity to contact for verification of such status. If the applicant presents a document relating to such status and that document does not on its face reasonably appear to be genuine or to relate to the applicant (or to satisfy a higher applicable standard), the provider may request verification of status by filing INS Form G–845 along with copies of the pertinent documents provided by the applicant with the local INS office. If an applicant has lost his or her original documents or never had an original document demonstrating naturalized or derivative citizenship, refer the applicant to the local INS office to obtain documentation of status.)

(b) Accept a written declaration, made under penalty of perjury and possibly subject to later verification of status, from one or more third parties indicating a reasonable basis for personal knowledge that the applicant is a U.S. citizen or non-citizen national.

(c) Accept the applicant's written declaration, made under penalty of perjury and possibly subject to later verification of status, that he or she is a U.S. citizen or non-citizen national.

The options described in subparagraphs (b) and (c) above present a greater potential for undetected false claims of being a United States citizen or non-citizen national, and therefore should be used with caution in appropriate circumstances. For example, before using these options, a provider might require the applicant to demonstrate why a document evidencing that he or she is a U.S. citizen or non-citizen national does not exist or cannot be readily obtained. Such a requirement must be imposed equally on all applicants, and cannot be applied in a discriminatory manner.

3. *Action Pending Verification.* In an applicant has satisfied the above requirements regarding submission of a sworn declaration and presentation of any other required evidence of status, you should refer to the legal requirements of your program and to any applicable guidance provided by the federal agency or department overseeing your program to determine if you should grant or withheld benefits during the period of time in which you are verifying the applicant's status. If your program has no such requirements or guidance and the applicant has submitted a written declaration, under penalty of perjury, that he or she is a U.S. citizen or non-citizen national, you should not delay, deny, reduce or terminate the applicant's eligibility for benefits under the program on the basis of an applicant's citizenship or nationality during the period of time it takes to verify his or her status.

4. *Take Action Based on Results of Verification.* If you verify that the applicant is a U.S. citizen or non-citizen nation, you are subject to no further verification requirements under Title IV of the Act and should grant the benefits requested if the applicant is otherwise eligible for them under the specific program's requirements. If you cannot verify that the applicant is a U.S. citizen or non-citizen national after exhausting the above-described methods (and the applicant is not a qualified alien—see below), you should deny the benefits requested, and notify the applicant pursuant to your regular procedures of his or her rights under the applicable program to appeal the denial of benefits. If the INS was involved in the provider's attempt to verify naturalized or derivative citizenship, the INS will, upon request of the agency or department handling the appeal, conduct a thorough review of its initial verification response and will provide the agency or department with information in its possession necessary to resolve the appeal.

B. Qualified Alien

1. *Ask for Declaration of Status.* If an applicant is not a U.S. citizen or U.S. non-citizen national, you may grant the applicant non-exempt federal public benefits only if the applicant submits a written declaration, under penalty of perjury, that he or she has an immigration status that makes him or her a ''qualified alien'' and you verify that status as set forth below.

A ''qualified alien'' is:

- An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (''INA'');
- An alien granted asylum under section 208 of the INA;
- A refugee admitted to the U.S. under section 207 of the INA;
- An alien paroled into the U.S. under section 212(d)(5) of the INA for at least one year;
- An alien whose deportation is being withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is being withheld under section 241(b)(3) of the INA;
- An alien granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980;
- An alien who is a Cuban or Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or
- An alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act (see Exhibit B of Attachment 5).

2. *Request Documentation of Immigration Status.* Ask the applicant to provide documentation evidencing his or her status as a qualified alien. The documents that will demonstrate that an applicant is a ''qualified alien'' are described in Attachment 5. *Note that,* if the applicant is applying for federal means-tested public benefits covered by the Act, or possibly a program funded by a Social Services Block Grant, the applicant may well have to present additional documentation demonstrating eligibility under the Act—see Step 4 below—and you will also want to ask the applicant to provide any such additional documentation demonstrating eligibility.

3. *If Supported by Documents, Conclude that the Applicant is a Qualified Alien.* If the documentation reasonably appears on its face to be genuine (or, if your program already has existing guidance or procedures mandating a higher standard of proof for acceptance of documentary evidence of immigration status, the document satisfies that higher standard) and to relate to the individual presenting it, you should accept the documentation as conclusive evidence that the applicant *is* a qualified alien, you should *not* further verify immigration status with

the INS (unless you are a SAVE user, in which case you should proceed to verify status according to SAVE procedures), and you should proceed to determine if the applicant satisfies the Act's other eligibility requirements for the particular benefits discussed in Step 4 below (addressing SSI, Food Stamps, TANF, Medicaid, programs funded by a Social Services Block Grant, and federal means-tested public benefits).

4. *If, Based on the Documents Presented, You Are Considering Concluding that the Applicant Is Not a Qualified Alien, Take the Following Steps.*

(a) *Verify Status.* If, based on your review of the documents presented, you are considering determining that an applicant is *not* a qualified alien and thus is *not* eligible for the benefits requested based on his or her immigration status—*e.g.*, because the document does not on its face reasonably appear to be genuine (or to satisfy a higher applicable standard) or to relate to the person presenting it—you should check with the INS to verify the information presented as set forth below. (You do not need to check with the INS if the applicant presents a document that is valid and demonstrates lawful immigration status but that simply does not qualify him or her for status as a qualified alien: *e.g.*, INS Form I–94 showing admission as a nonimmigrant visitor.) **Do not determine that an applicant is not a qualified alien, and do not conclusively deny benefits on that basis, without first verifying the applicant's status with the INS as follows.**

If you are connected to the INS SAVE system, check the applicant's immigration status using the standard procedures for use of the SAVE system, including both the electronic mechanism and, if necessary (*e.g.*, if information regarding the pertinent immigration status cannot be confirmed through the electronic SAVE database), the procedures for secondary verification. If you are not connected to the SAVE system and the applicant presents documents relating to such status, request verification of immigration status by filing INS Form G–845 and Supplement along with copies of the pertinent immigration documents provided by the applicant with the local INS office. In either instance, the INS will conduct a thorough review of its records to determine if the applicant is a qualified alien. If the applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the applicant to the local INS office to obtain documentation of status. In unusual cases involving applicants who are hospitalized or medically disabled, or who can otherwise show good cause for their inability to present documentation, and for whom securing such documentation would constitute an undue hardship, if the applicant can provide an alien registration number, you may file INS Form G–845 and Supplement, along with the alien registration number a copy of any expired INS document presented, with the local INS office to verify status. As with any documentation of immigration status, you should confirm that the status information you receive back from INS pertains to the applicant whose identity you have verified.

(b) *Action Pending Verification.* You should refer to the legal requirements of your program and to any applicable guidance provided by the federal agency or department overseeing your program, if any, to determine whether you should grant or withhold benefits during the period of time in which you are verifying the applicant's immigration status. If your program has not such requirements or guidance and the applicant has submitted a written declaration, under penalty of perjury, that he or she is a qualified alien, you should not delay, deny, reduce or terminate the applicant's eligibility for benefits under the program on the basis of an applicant's immigration status during the period of time it takes to verify his or her immigration status. If you are to grant benefits pending verification, you should first determine if the applicant satisfies the Act's other eligibility requirements (if any) for the benefits requested as set forth in Step 4 below.

(c) *Take Action Based on Response to Verification Inquiry.* If the INS notifies you that the applicant has an immigration status that makes him or her a qualified alien within the meaning of the Act, you should accept the INS verification of and proceed to determine whether the applicant satisfies the Act's other eligibility requirements (if any) for the benefits requested as set forth in Step 4 below.

If the INS modifies you that it cannot verify that the applicant has an immigration status that makes him or her a qualified alien within the meaning of the Act, you should deny benefits and notify the applicant pursuant to your program's regular procedures of his or her rights under the applicable program to appeal the denial of benefits. Upon request of the agency or department handling the appeal, the INS will conduct a thorough review of its initial verification response and will provide the agency or department with information in its possession necessary to resolve the appeal.

Step 4: Verify Eligibility Under the Act

Title IV of the Act provides that all qualified aliens are eligible for some federal public benefits, while it imposes additional eligibility requirements for receipt of other benefits. If the qualified alien is applying for a benefit for which all qualified aliens are eligible, you should not engage in any further verification of immigration status. If he or she is applying for a program for which the Act imposes additional eligibility requirements, however, you should determine whether the applicant satisfies those requirements.

A. Federal Public Benefits With No Further Immigration Eligibility Requirements for Qualified Aliens

Except as set forth below, all qualified aliens are eligible for all federal public benefits. If the qualified alien is applying for a federal public benefit for which all qualified aliens are eligible, you should not engage in any further verification of immigration status.

Wtih some exceptions, individuals receiving SSI as of August 22, 1996, continue to be eligible for such benefits until the Commissioner of Social Security, prior to September 30, 1998, redetermines their eligibility; if, as a result of that redetermination, an individual is found to be ineligible for SSI, the individual can nevertheless continue receiving benefits until September 30, 1998.

In the absence of a State's decision to restrict eligibility for programs funded by a Social Services Block Grant, all qualified aliens are eligible for Social Services Block Grant programs. In the absence of a State's decision to restrict eligibility for TANF and Medicaid, the Act does not restrict the availability of these benefits to qualified aliens who entered the United States prior to August 22, 1996, and who were continuously present in the United States until attaining qualified alien status; however, because the Department of Health and Human Services has determined that TANF and Medicaid are federal means-tested public benefits, *see* 62 FR 45,256 (August 26, 1997), aliens who entered the United States on or after August 22, 1996, are ineligible for those programs for five years from the date that they attain qualified alien status (see discussion of federal means-tested public benefits in Paragraph B below and Attachment 7). You should determine whether your State is continuing to provide TANF, Medicaid,

and programs funded by a Social Services Block Grant to all qualified aliens:

′ If the State is continuing to provide programs funded by a Social Services Block Grant to all qualified aliens, you should not engage in any further verification of immigration status;

′ If the State is continuing to provide TANF and Medicaid to all qualified aliens, you should refer to Paragraph B below and Attachment 7 for further guidance on additional eligibility requirements; and

′ If the State has restricted qualified aliens' eligibility for TANF and Medicaid, you should determine whether the applicant is eligible for such benefits as set forth in Paragraph B below.

B. Federal Benefits With Additional Eligibility Requirements for Qualified Aliens SSI, Food Stamps, TANF, Medicaid, and Programs Funded by a Social Services Block Grant

The Act provides that only certain excepted categories of aliens are eligible for SSI and Food Stamps. A State may, however, choose to issue Food Stamp benefits to individuals that are otherwise ineligible for such benefits under sections 402 or 403 of the Act, provided that the State reimburses the federal government for the costs of such benefits and complies with certain administrative requirements. In addition, if a State has exercised its right to limit qualified aliens' eligibility for TANF, Medicaid, and programs funded by a Social Services Block Grant, certain excepted categories of aliens remain eligible for such programs. The excepted categories of aliens that remain eligible for SSI are somewhat broader than the excepted categories for Food Stamps, Medicaid, TANF and programs funded by a Social Services Block Grant. Consult Attachment 6 for a more specific description of these excepted categories and the documentation that will demonstrate that an alien falls within such an exception and thus remains eligible for these programs.

Federal Means-Tested Public Benefits. With certain exceptions discussed in greater detail in Attachment 7, qualified aliens are ineligible to receive federal means-tested public benefits for five years from the date that they attain qualified alien status. However, aliens who entered the United States prior to August 22, 1996, and who were continuously present in the United States until attaining qualified alien status are not subject to this restriction. In addition, exceptions are made for refugees, asylees, aliens whose deportation or removal has been withheld, Cuban/Haitian entrants, certain Amerasian immigrants, and aliens who are veterans honorably discharged or on non-training active duty and their families. This restriction, moreover, does not apply after the expiration of the five-year period. If a qualified alien is applying for such a benefit, you should determine, in accordance with Attachment 7, whether he or she arrived in the United States prior to August 22, 1996, whether he or she falls within one of the enumerated exceptions, or whether he or she has been a qualified alien for at least five years.

Attachment 1

LOCAL INS OFFICE ADDRESSES

State or territory	County	File control office	Address
Alabama		Atlanta, GA	77 Forsyth Street, S.W., Atlanta, GA 30303–3427.
Alaska		Anchorage, AK	620 East 10th Avenue, Suite 102, Anchorage, AK 99501.
Arizona		Phoenix, AZ	2035 North Central Avenue, Phoenix, AZ 85004–1548.
Arkansas		Memphis, TN	1341 Sycamore View, Suite 100, Memphis, TN 38134.
California	Inyo, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura.	Los Angeles, CA	300 North Los Angeles Street, Los Angeles, CA 90012.
	Imperial and San Diego	San Diego, CA	880 Front Street, Suite 1234, San Diego, CA 92101–8834.
	Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solono, Sonoma, Stainislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba.	San Francisco, CA	630 Sansome Street, Room 300, San Francisco, CA 94111–2280.
Colorado		Denver, CO	4730 Paris Street, Albrook Center, Denver, CO 80239–2804.
Connecticut		Hartford, CT	Ribicoff Federal Building, 450 Main Street, Hartford, CT 06103–3060.
Delaware		Philadelphia, PA	1600 Callowhill Street, Philadelphia, PA 19130–4112.
District of Columbia		Arlington, VA	4420 North Fairfax Drive, Arlington, VA 22203.

LOCAL INS OFFICE ADDRESSES—Continued

State or territory	County	File control office	Address
Florida		Miami, FL	7880 Biscayne Blvd. Miami, FL 33138–4797.
Georgia		Atlanta, GA	77 Forsyth Street, S.W., Atlanta, GA 30303–3427.
Guam		Agana, GU	Pacific News Bldg., Room 801, 238 Archbishop Flores Street, Agana, GU 96910.
Hawaii		Honolulu, HI	595 Ala Moana Blvd., Honolulu, HI 96813.
Idaho		Helena, MT	2800 Skyway Drive, Helena, MT 59601.
Illinois		Chicago, IL	10 West Jackson Blvd., Chicago, IL 60604.
Indiana		Indianapolis, IN	Gateway Plaza, 950 North Meridian Street, Room 400, Indianapolis, IN 46204.
Iowa		Omaha, NE	3736 132nd Street, Omaha, NE 68144.
Kansas		Kansas City, MO	9747 North Conant Avenue, Kansas City, MO 64153.
Kentucky		Memphis, TN	1341 Sycamore View, Suite 100, Memphis,TN 38134.
Louisiana		New Orleans,LA	Postal Services Building, 701 Loyola Avenue, Room T–8011, New Orleans, LA 70113–1912.
Maine		Portland, ME	739 Warren Avenue, Portland, ME 04103–1187.
Maryland		Baltimore, MD	Nations Bank Center, Tower One, 100 South Charles/ 12th Floor, Baltimore, MD 21201–2725.
Massachusetts		Boston, MA	John F. Kennedy Federal Bldg., Government Center, Room E–160, Boston, MA 02203–0701.
Michigan		Detroit, MI	Federal Building, 333 Mt. Elliott Street, Detroit, MI 48207–4381.
Minnesota		St. Paul, MN	2901 Metro Drive, Suite 100, Bloomington, MN 55425.
Mississippi	Alcron, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Clay, Coahoma, DeSoto, Grenada, Humphreys, Itawamba, Lafayette, Lee, Leflore, Lowndes, Marshall, Monroe, Montgomery, Oktibbeha, Panola, Pontotoc, Prentiss, Quitman, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Washington, Webster, Winston, and Yalobusha.	Memphis, TN	1341 Sycamore View, Suite 100, Memphis, TN 38134.
	Adams, Amite, Claiborne, Clarke, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Holmes, Issaquena, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lincoln, Madison, Marion, Neshoba, Newton, Noxubee, Pearl River, Perry, Pike, Rankin, Scott, Sharkey, Simpson, Smith, Stone, Walthall, Warren, Wayne, Wilkinson, and Yazoo.	New Orleans, LA	Postal Services Building, 701 Loyola Avenue, Room T–8011, New Orleans, LA 70113–1912.
Missouri	Andrew, Atchison, Barry, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Camden, Carroll, Cass, Cedar, Christian, Clay, Clinton, Cole, Cooper, Dade, Dallas, Daviess, De Kalb, Douglas, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Howard, Howell, Jackson, Jasper, Johnson, Laclede, Lafayette, Lawrence, Livingston, McDonald, Mercer, Miller, Moniteau, Morgan, Newton, Nodaway, Oregon, Osage, Ozark, Pettis, Platte, Polk, Pulaski, Putnam, Ray, St. Clair, Saline, Stone, Sullivan, Taney, Texas, Vernon, Webster, Worth, and Wright.	Kansas City, MO	9747 North Conant Avenue, Kansas City, MO 64153.

LOCAL INS OFFICE ADDRESSES—Continued

State or territory	County	File control office	Address
	Adair, Audrain, Bollinger, Butler, Cape Girardeau, Carter, Chariton, Clark, Crawford, Dent, Dunklin, Franklin, Gasconade, Iron, Jefferson, Knox, Lewis, Lincoln, Linn, Macon, Madison, Maries, Marion, Mississippi, Monroe, Montgomery, New Madrid, Pemiscot, Perry, Phelps, Pike, Ralls, Randolph, Reynolds, Ripley, St. Charles, St. Francois, St. Louis, Ste. Genevieve, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Warren, Washington, and Wayne.	St. Louis, MO	Robert A. Young Federal Bldg., 1222 Spruce Street, Room 1100, St. Louis, MO 63103–2815.
Montana		Helena, MT	2800 Skyway Drive, Helena, MT 59601.
Nebraska		Omaha, NE	3736 132nd Street, Omaha, NE 68144.
Nevada	Clark, Esmeralda, Lincoln, and Nye	Las Vegas, NV	3373 Pepper Lane, Las Vegas, NV 89120.
	Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe, and White Pine.	Reno, NV	1351 Corporate Boulevard, Reno, NV 89502.
New Hampshire		Boston, MA	John F. Kennedy Federal Bldg., Government Center, Room E–160, Boston, MA 02203–0701.
New Jersey		Newark, NJ	Peter Rodino Federal Building, 970 Broad Street, Newark, NJ 07102–2506.
New Mexico		El Paso, TX	1545 Hawkins, Suite 167, El Paso, TX 79925.
New York	Albany, Broome, Chenango, Columbia, Delaware, Fulton, Greene, Hamilton, Herkimer, Madison, Montgomery, Onoeida, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Tioga, Warren, and Washington.	Albany, NY	James T. Foley Federal Courthouse, 445 Broadway, Room 227, Albany, NY 12207–2999.
	Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Clinton, Cortland, Erie, Essex, Franklin, Genesee, Jefferson, Lewis, Livingston, Monroe, Niagara, Onandaga, Ontario, Orleans, Oswego, St. Lawrence, Schuyler, Seneca, Steuben, Tompkins, Wayne, Wyoming, and Yates.	Buffalo, NY	130 Delaware Avenue, Buffalo, NY 14202–2404.
	Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester.	New York, NY	26 Federal Plaza, New York, NY 10278–0127.
North Carolina		Charlotte, NC	6 Woodlawn Green, Bldg. 6, Suite 138, Charlotte, NC 28217–2216.
North Dakota		St. Paul, MN	2901 Metro Drive, Suite 100, Bloomington, MN 55425.
Ohio	Adams, Athens, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Delaware, Fairfield, Fayette, Franklin, Gallia, Greene, Hamilton, Highland, Hocking, Jackson, Licking, Lawrence, Logan, Madison, Meigs, Miami, Montgomery, Perry, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union, Vinton, and Warren.	Cincinnati, OH	J.W. Peck Federal Building, 550 Main Street, Room 8525, Cincinnati, OH 45202.
	Allen, Ashland, Ashtabula, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Cuyahoga, Defiance, Erie, Fulton, Geauga, Guernsey, Hancock, Hardin, Harrison, Henry, Holmes, Huron, Jefferson, Knox, Lake, Lorain, Lucas, Mahoning, Marion, Medina, Mercer, Monroe, Morgan, Morrow, Muskingum, Noble, Ottawa, Paulding, Portage, Putman, Richland, Sandusky, Seneca, Stark, Summit, Trumbull, Tuscarawas, Van Weft, Washington, Wayne, Williams, Wood, and Wyandot.	Cleveland, OH	Anthony J. Celebreeze Federal Bldg., 1240 E. 9th Street, Room 1917, Cleveland, OH 44199.

LOCAL INS OFFICE ADDRESSES—Continued

State or territory	County	File control office	Address
Oklahoma		Dallas, TX	8101 North Stemmons Freeway, Dallas, TX 75247.
Oregon		Portland, OR	511 N.W. Broadway, Portland, OR 97209.
Pennsylvania	Adams, Berks, Bradford, Bucks, Cameron, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monore, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union Wayne, Wyoming, and York.	Philadelphia, PA	1600 Callowhill Street, Philadelphia, PA 19130–4112.
	Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland.	Pittsburgh, PA	Federal Building, Room 314, 1000 Liberty Avenue, Pittsburgh, PA 15222–4181.
Puerto Rico		San Juan, PR	P.O. Box 365068, San Juan, PR 00936–5068.
Rhode Island		Providence, RI	200 Dyer Street, Providence, RI 02903–3993.
South Carolina		Charlotte, NC	6 Woodlawn Green, Bldg. 6, Suite 138, Charlotte, NC 28217–2216.
South Dakota		St. Paul, MN	2901 Metro Drive, Suite 100, Bloomington, MN 55425.
Tennessee		Memphis, TN	1341 Sycamore View, Suite 100, Memphis, TN 38134.
Texas	Anderson, Andrews, Archer, Armstrong, Bailey, Baylor, Borden, Bosque, Bowie, Briscoe, Callahan, Camp, Carson, Cass, Castro, Cherokee, Childress, Clay, Cochran, Collin, Collingsworth, Comanche, Cooke, Cottie, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, Dickens, Donley, Eastland, Ellis, Erath, Fannin, Fisher, Floyd, Foard, Franklin, Freestone, Gaines, Garza, Gray, Grayson, Gregg, Hale, Hall, Hamilton, Hansford, Hardeman, Harrison, Hartley, Haskell, Hemphill, Henderson, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Hutchinson, Jack, Johnson, Jones, Kaufman, Kent, King, Knox, Lamar, Lamb, Leon, Limestone, Lipscomb, Lubbock, Lynn, Marion, Martin, Mitchell, Montague, Moore, Morris, Motley, Navarro, Nolan, Ochiltree, Oldham, Palo Pinto, Panola, Parker, Parmer, Potter, Rains, Randall, Red River, Roberts, Rockwall, Rusk, Scurry, Shackelford, Sherman, Smith, Somervell, Stephens, Stonewall, Swishers, Tarrant, Taylor, Terry, Throckmorton, Titus, Upshur, Van Zandt, Wheeler, Wichita, Wilbarger, Wise, Wood, Yoakum, and Young.	Dallas, TX	8101 North Stemmons Freeway, Dallas, TX 75247.
	Brewster, Crane, Culberson, Ector, El Paso, Hudspeth, Jeff Davis, Loving, Midland, Pecos, Presidio, Reeves, Terrell, Upton, Ward, and Winkler.	El Paso, TX	1545 Hawkins Suite 167, El Paso, TX 79925.
	Brooks, Cameron, Hidalgo, Kenedy, Kleberg, Starr, and Willacy.	Harlingen, TX	2102 Teege Road, Harlingen, TX 78550.

LOCAL INS OFFICE ADDRESSES—Continued

State or territory	County	File control office	Address
	Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Grimes, Hardin, Harris, Jasper, Jefferson, Liberty, Madison, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler, Walker, Waller, Washingoton, and Wharton.	Houston, TX	509 N. Sam Houston Parkway East, Houston, TX 77060.
	Aransas, Aascosa, Bandera, Bastrop, Bee, Bell, Bexar, Blanco, Brozos, Brown, Burleson, Burner, Caldwell, Calhoun, Coke, Coleman, Comal, Concho, Coryell, Crockett, De Witt, Dimmit, Duval, Edwards, Falls, Fayette, Frio, Gillespie, Glasscock, Goliad, Gonzales, Guadalupe, Harp, Haynes, Irion, Jackson, Jim Hogg, Jim Wells, Karnes, Kendall, Kerr, Kimble, Kinney, Lampasas, La Salle, Lavaca, Lee, Live Oak, Llano, McCulloch, McLennan, McMullen, Mason, Maverick, Medina, Menard, Milam, Mills, Nueces, Reagan, Real, Refugio, Robertson, Runnels, San Patricio, San Saba, Schleicher, Sterling, Sutton, Tom Green, Travis, Uvalde, Val Verde, Victoria, Webb, Williamson, Wilson, Zapata, and Zavala.	San Antonia, TX	8940 Four Winds Drive, Suite 2020, San Antonia, TX 78239.
Utah		Salt Lake City, UT	5272 South College Drive, Suite 100, Salt Lake, UT 84123.
Vermont		St. Albans, VT	Federal Building, P.O. Box 328, 50 South Maine Street, St. Albans, VT 05478–0238.
Virginia	Accomack, Amelia, Brunswick, Caroline, Charles City, Chesterfield, Colonial Heights, Dinwiddie, Essex, Fredericksburg, Gloucester, Goochland, Greensville, Hanover, Henrico, Isle of Wight, James City, King and Queen, King William, Lancaster, Louisa, Lunenburg, Mathews, Mecklenburg, Middlesex, New Kent, Northampton, Northumberland, Nottoway, Powhatan, Prince Edward, Prince George, Richmond, Southhampton, Spotsylvania, Surry, Sussex, Westmoreland, and York.	Norfolk, VA	Norfolk Commerce Park, 5280 Hennenman Drive, Norfolk, VA 23513.
	Albemarle, Alleghany, Amherst, Appomattox, Arlington, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Buckingham, Campbell, Carroll, Charlotte, Clarke, Craig, Culpepper, Cumberland, Dickenson, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Grayson, Greene, Halifax, Henry, Highland, King George, Lee, Loudoun, Madison, Montgomery, Nelson, Orange, Page, Patrick, Pittsylvania, Prince William, Pulaski, Rappahannock, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Stafford, Tazewell, Warren, Warwick, Washington, Wise, and Wythe.	Arlington, VA	4420 North Fairfax Drive, Arlington, VA 22203.
Virgin Islands		St. Thomas, VI	P.C. Box 610, Federal Building, Suite 117, Veterans Drive, Charlotte Amalie, St. Thomas, U.S. Virgin Islands, 00801.
Washington		Seattle, WA	815 Airport Way South, Seattle, WA 98134.
West Virginia		Pittsburgh, PA	Federal Building, Room 314, 1000 Liberty Avenue, Pittsburgh, PA 15222–4181.

LOCAL INS OFFICE ADDRESSES—Continued

State or territory	County	File control office	Address
Wisconsin		Milwaukee, WI	Federal Building, 517 East Wisconsin Avenue, Room 186, Milwaukee, WI 53202.
Wyoming		Denver, CO	4730 Paris Street, Albrook Center, Denver, CO 80239–2804.

Submitting Verification Requests to INS

A copy of INS Form G–845 is attached, along with a supplemental form that should be used to obtain more detailed information on immigration status, citizenship, and sponsorship. (The supplemental form may only be used in conjunction with Form G–845, not separately.) Requests for verification on Form G–845 may be mailed to the Immigration and Naturalization Service at the addresses listed on the following pages. To speed processing, please indicate ''Attention: Immigration Status Verifier'' on the envelope.

The attached form G–845 may be copied for submission to the INS; it should be reproduced as a two-sided document. Additional copies may be obtained in three ways:

1. Request Form G–845 from the INS Forms Distribution Center serving your region:

Eastern Forms Center, P.O. Box 567, Williston, VT 05497 (east of the Mississippi River)

Forms Center West, 5600 Rickenbacker Road, Building 701A, Bell, CA 90201 (west of the Mississippi River)

2. Download Form G–845 from the Internet: www.usdoj.gov/ins/forms.

3. Call the INS Forms Request Line: 1–800–870–3676. (Due to the high volume of calls to this line, the best time to call is early on weekday mornings.)

INS formerly required that Form G–845 be printed on blue paper stock to distinguish it from Form G–845S, which is printed on white paper. Form G–845 may now be submitted on white stock, and existing copies on blue stock may also be submitted during this transition period. As a result of this change, *it is particularly important that copies of the forms include the form number at the bottom of the page to allow INS to distinguish between them.*

When submitting copies of documents with Form G–845, please send copies made from the originals, if possible, in order to enhance the quality of the reproduction.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-0122
Document Verification Request

Section A - *to be completed by the submitting agency*

To: Immigration and Naturalization Service

6. Verification Number

7. ☐ Photocopy of Document Attached.
(If printed on both sides, attach a copy of the front and of the back.)
☐ Other Information Attached *(Specify documents).*

From: Typed or Stamped Name and Address of Submitting Agency

8. Organization (specify)

Attn: Status Verifier

(INS may use above address with a #20 window envelope.)

1. Alien Registration or I-94 Number
2. Applicant's Name *(Last, First, Middle)*
3. Nationality
4. Date of Birth *(Month/Day/Year)*
5. Social Security Number

9. Name of Submitting Official
10. Title of Submitting Official
11. Date
12. Telephone Number

Section B - *to be completed by INS*

INS RESPONSE: From the documents or information submitted and/or a review of our records we find that:

1. ☐ This document appears valid and relates to a **Lawful Permanent Resident alien** of the United States.
2. ☐ This document appears valid and relates to a **Conditional Resident alien** of the United States.
3. ☐ This document appears valid and relates to an alien **authorized employment** as indicated below:
   a. ☐ Full-Time
   b. ☐ Part-Time
   c. ☐ No Expiration (Indefinite)
   d. ☐ Expires on _____
   (specify Month/Day/Year, below)
4. ☐ This document appears valid and relates to an alien who has an application pending for _____
   (specify INS benefit below)
5. ☐ This document relates to an alien having been **granted asylum/refugee** status in the United States.
6. ☐ This document appears valid and relates to an alien **paroled** into the United States pursuant to Section 212 of the I&N Act.
7. ☐ This document appears valid and relates to an alien who is a **Cuban/Haitian entrant**.
8. ☐ This document appears valid and relates to an alien who is a **conditional entrant**.
9. ☐ This document appears valid and relates to an alien who is a **nonimmigrant** _____
   (specify type or class below)
10. ☐ This document appears valid and relates to an alien **not authorized employment** in the United States.
11. ☐ Continue to process as legal alien. INS is searching indices for further information.
12. ☐ This document is **not valid** because it appears to be *(check all that apply)*
    a. ☐ Expired
    b. ☐ Altered
    c. ☐ Counterfeit

INS Stamp

Form G-845 (Rev. 06/02/90) Y

☐ **Please see reverse for additional comments.**

Comments

13. ☐ No determination can be made from the information submitted. Please obtain a copy of the **original** alien registration documentation and resubmit.

14. ☐ No determination can be made without seeing **both** sides of the document submitted *(please resubmit request).*

15. ☐ Copy of document is not readable *(please resubmit request).*

"PRUCOL"

For Purposes Of Determining If Alien Is Permanently Residing Under Color Of Law Only!

16. ☐ INS actively pursues the expulsion of an alien in this class/category.

17. ☐ INS **is not** actively pursuing the expulsion of an alien in this class/category, at this time.

18. ☐ Other

Instructions

- **Submit copies of both** *front and back* **of alien's original documentation.**
- **Make certain a** *complete return address* **has been entered in the "From" portion of the form.**
- The Alien Registration Number ("A" Number) is the letter "A" followed by a series of (7) or (8) digits. Also in this block may be recorded the number found on Form I-94. (Check the front and back of the I-94 document and if the "A" Number appears, record that number when requesting information instead of the longer admission number as the "A" Number refers to the most integral record available.)
- If Form G-845 is submitted without copies of applicant's original documentation, it will be returned to the submitting agency without any action taken.
- Address this verification request to the local office of the Immigration and Naturalization Service.

U.S. Department of Justice
Immigration and Naturalization Service

Document Verification Request Supplement

TO BE COMPLETED BY THE SUBMITTING AGENCY

To: Immigration and Naturalization Service Date _____

Applicant's Name *(Last, First, Middle)*

Social Security Number

Alien Registration Number or I-94 Number

From: Typed or Stamped Name and Address of Submitting Agency Telephone (____) _____

Complete the following items: ☐ #1 ☐ #2 ☐ #3 ☐ #4 ☐ #5 ☐ #6 ☐ #7

TO BE COMPLETED BY INS

1. **IMMIGRATION STATUS (check all that apply):**
From the document or information submitted and/or a review of our records we find that the person identified is a/an:

- ☐ a. Lawful Permanent Resident alien of the United States. **(Complete b,c,d,g,h,or i if alien adjusted to LPR status from one of those statuses in the past 7 years.)**
- ☐ b. Refugee admitted to the United States under Section 207 of the INA. **(Complete Item 2 below.)**
- ☐ c. Asylee under Section 208 of the INA. **(Complete Item 3 below.)**
- ☐ d. Alien whose deportation has been withheld under section 243(h) of the INA (as in effect prior to April 1, 1997) or whose removal has been withheld under section 241(b)(3).
  Date deportation or removal ordered withheld: _____
- ☐ e. Alien paroled into the United States under Section 212(d) (5) of the INA for a period of at least 1 year. **(Complete Items 3 and 4 below.)**
- ☐ f. Conditional Entrant pursuant to Section 203(a)(7) of the INA in effect prior to April 1, 1980.
- ☐ g. American Indian born in Canada to whom the provisions of Section 289 of the INA apply.
- ☐ h. Cuban/Haitian Entrant, as defined in Section 501(e) of the Refugee Education Assistance Act of 1980. **(Complete Item 3 below.)**
- ☐ i. Amerasian immigrant, pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988. **(Complete Item 2 below.)**
- ☐ j. Other (indicate status): _____

2. Date alien entered the United States: _____
3. Date status was granted: _____
4. Date status expires: _____

5. **CITIZEN STATUS:**
- ☐ This document appears valid and relates to a United States citizen.

6. **SPECIAL BENEFIT PROVISIONS FOR CERTAIN VICTIMS OF ABUSE:**
- ☐ a. This alien obtained Lawful Permanent (or Conditional) Resident Status as the spouse, child, or widow(er) of a U.S. citizen.
- ☐ b. This alien obtained Lawful Permanent (or Conditional) Resident Status as the spouse, child, or unmarried son or daughter of a lawful permanent resident alien.
- ☐ c. This alien did not obtain status as described in (a) or (b).

TO BE COMPLETED BY INS

7. **AFFIDAVIT OF SUPPORT:**

☐ a. This alien was sponsored on Form I-864, Affidavit of Support under Section 213A of the INA. Service receipt date _____. **(Complete Item 3 on page 1.)**

☐ b. This alien was not sponsored on Form I-864.

Name of Sponsor

_____

Sponsor's Social Security Number

___ ___ ___- ___ ___- ___ ___ ___ ___

Sponsor's Address

_____

_____

_____

_____

Name of Joint Sponsor(s) ***(if any)***

_____

Joint Sponsor's Social Security Number

___ ___ ___- ___ ___- ___ ___ ___ ___

Joint Sponsor's Address

_____

_____

_____

_____

☐ **See reverse for information on additional joint sponsor(s).**

INS Stamp

* *This supplement may be used in conjunction with Form G-845 to request verification; it cannot be used alone. It reflects information that may be relevant to eligibility for Federal, State, and local public benefits under the* ***Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.***

BILLING CODE 4410–10–C

Attachment 2—Nondiscrimination Advisory

Various federal civil rights laws, regulations and executive orders prohibit discrimination by governmental and private entities on the basis of race, national origin, gender, religion, age and disability. These laws, of course, apply to entities' implementation of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the ''Act''). Because of the particular potential for national origin and race discrimination under the Act and its verification requirements, and because persons with disabilities are more likely to need benefits under various public benefit programs, this Advisory focuses on the laws relating to discrimination based on national origin, race and/or disability. Emphasizing these particular laws, however, is in no way meant to minimize the importance of guarding against all forms of illegal discrimination, and you should comply with all nondiscrimination requirements applicable to your program.

A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (''Title VI'')

Because Title IV of the Act imposes new and significant restrictions on the ability of noncitizens to receive federal, state or local public benefits, there is particular potential for discrimination on the basis of national origin. It is important to remember that, although the Act limits the benefits available to some aliens, many aliens will continue to be entitled to receive public benefits. If improperly applied, the Act's restrictions may result in national origin discrimination against applicants who are eligible to receive benefits. It is therefore important to understand which aliens are eligible for which benefits.

Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity, whether operated by a state, local or private entity, that receives federal funds or other federal financial assistance. When operating or participating in a federally assisted program, a benefit provider cannot, on the basis of race, color or national origin, either directly or indirectly, including through contractual means, distinguish among individuals in the types, quantity, quality or timeliness of program services, aids or benefits that it provides or the manner in which it provides them. This prohibition applies to disparate treatment, as well as to the utilization of facility neutral procedures, criteria or methods of administration that have the effect of discriminating against individuals because of their race, color, or national origin. Policies and practices that are neutral in design and operation but have a disparate impact based on race, color or national origin must be eliminated unless they are necessary to the program's operation and there is no less discriminatory alternative.

Violations of Title VI may be obvious or subtle. A benefit provider that denies benefits or delays determinations of eligibility on the basis of an individual's race, color or national origin may violate Title VI. A benefit provider may violate Title VI if it concludes that applicants are ineligible for benefits because they have ethnic surnames or origins outside the United States, or because they look or sound foreign. It also may violate Title VI if it acts upon the assumption that applicants with these characteristics are illegal aliens, or if it imposes additional eligibility requirements on ethnic or racial minorities because of their ethnicity or race.

When confirming immigration status for purposes of determining eligibility for public benefits, benefit providers should be aware that there is no single immigration document that will establish all aliens' qualifications to receive benefits under the Act. The types of documents that an alien will be able to present to establish immigration status will vary depending upon the status in which the alien entered the U.S. and his or her individual circumstances. Demanding that an alien present one specific type of document to the exclusion of all other legally valid documents establishing immigration status, or demanding more or different documentation based on assumptions about the applicant's citizenship or national origin rather than knowledge of such status obtained in a non-discriminatory fashion, may constitute a violation of Title VI. For example, it may be discriminatory to demand that a specific applicant present three documents to establish her identity merely because she speaks Spanish or looks Asian, while allowing English-speaking persons and non-Asians to present only one identity document. It may also violate Title VI to assume, based on an applicant's national origin, that his or her documents are fraudulent.

B. Civil Rights Laws Applicable to Persons With Disabilities

Sections 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (''Section 504''), and the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*, prohibit discrimination on the basis of disability by public entities and recipients of federal funds. Public service providers are required to offer their services in locations that are accessible to applicants with disabilities, including people who use wheelchairs. In addition, service providers must ensure effective communication with applicants who have impaired hearing, vision, or speech, and service providers must make reasonable modifications to their policies and practices to ensure that eligible people with disabilities are not excluded from participation in a program as a result of their disability. Appropriate auxiliary aids may include sign language interpreters for applicants who have hearing impairments or readers or audiotaped materials for applicants who have vision impairments. Applicants who have impaired manual skills may require assistance in completing forms. Citizens, non-citizen nationals and qualified aliens with disabilities may find it difficult to provide the information needed to establish their citizenship, nationality or immigration status. Therefore, if an applicant has a disability that limits the applicant's ability to provide the required evidence of status (*e.g.*, mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence.

You should work with the applicant or his or her representative to obtain leads for possible sources of evidence. In many cases, a current or prior employer will have employment records for the individual that will identify his or her immigration status and provide other relevant information. You should also seek cooperation from local agencies, the INS and other organizations (*e.g.*, rehabilitation programs, advocacy groups and homeless shelters) to assist the individual in obtaining evidence from existing records. If the applicant has been granted another benefit that is contingent upon being a U.S. citizen, U.S. non-citizen national or qualified alien, contact that benefit-granting agency to determine what evidence it relied upon to establish eligibility. When conducting a search for documentation, use all possible spelling variations of the applicant's name.

C. Other Applicable Federal Civil Rights Laws

There are a number of other federal civil rights laws that prohibit

discrimination based on other characteristics. They include the following:

- The Age Discrimination Act of 1975, 42 U.S.C. 6101 *et seq.*

The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance. There are specific exceptions to the general prohibition against age discrimination, however, and you should consult the statute, 42 U.S.C. 6101 *et seq.*, as well as the regulations published by the Department of Health and Human Services, 45 CFR part 90, for further information

- The Fair Housing Act, 42 U.S.C. 3601 *et seq.*

The Fair Housing Act prohibits discrimination in the provision of housing based on race, color, religion, sex, familial status, national origin or handicap.

D. Contact Numbers

Benefit providers with questions may call the following numbers for information on the various federal civil rights laws:

Title VI—U.S. Department of Justice, Civil Rights Division, Coordination and Review Section, 1–888–TITLE–06 (1–888–848–5306).

ADA—U.S. Department of Justice, Civil Rights Division, Disability Rights Section, 1–800–514–0301 (voice) or 1–800–514–0383 (TDD).

Age Discrimination Act—U.S. Department of Health and Human Services, 1–800–368–1019.

Fair Housing Act—U.S. Department of Housing and Urban Development, 1–800–669–9777 (voice) or 1–800–927–9275 (TDD).

Questions regarding discrimination in immigration status verification procedures or other benefit-granting procedures can be referred to the civil rights office of the pertinent benefit-granting agency. Such questions can also be referred to the Office of Special Counsel for Immigration Related Unfair Employment Practices in the Civil Rights Division of the U.S. Department of Justice, 1–800–255–8155 (voice) or 1–800–237–2515 (TDD).

Attachment 3—Federal Public Benefits

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the ''Act'') applies only to non-exempted ''federal public benefits'' as defined by the Act, rather than to all federally funded programs. (It also applies to certain state and local public benefits, which are not the subject of this Attachment.) Under the Act, benefit providers are only required to verify the immigration status of applicants for benefits that fall within the Act's definition of ''federal public benefits'' and are not specifically exempted from the Act's requirements. (If the program independently requires benefit providers to verify the citizenship, nationality and/or immigration status of an applicant, however, you should continue to comply with such requirements even if the program does not provide a ''federal public benefit'' covered by the Act.) Set forth below is preliminary guidance on the meaning of ''federal public benefit,'' as well as a summary of the benefits specifically exempted from the Act's verification requirements. If you have any questions as to whether a particular program provides a federal public benefit covered by the Act or a benefit that is exempted from the Act's requirements, you should consult with the federal agency or department that oversees the program.

Federal Public Benefit: A ''federal public benefit'' is:

(a) Any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; or

(b) Any retirement, welfare, health, disability, public or assisted housing, post-secondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.

Subject to the list of exceptions set forth below, Title IV of the Act precludes all aliens who are not ''qualified aliens'' from receiving any ''federal public benefit.'' In determining whether a program provides a ''federal public benefit,'' you should first consider whether the program provides one of the benefits expressly enumerated in either (a) or (b) above. Under (a), if your program provides a ''grant,'' ''contract,'' ''loan,'' ''professional license,'' or ''commercial license'' to an individual, either through a U.S. agency or with U.S. appropriated funds, then you provide a ''federal public benefit.'' If you do not provide a benefit of the type enumerated in (a), you should then go on to consider whether your program provides a benefit covered by (b).

To fall within (b), the benefit provided by your program must be one of the types of benefits described (''retirement,'' ''welfare,'' ''health,'' ''disability,'' ''public or assisted housing,'' ''post-secondary education,'' ''food assistance,'' ''unemployment benefit,'' or ''any other similar benefit''), it must be ''provided by an agency of the United States or by appropriated funds of the United States,'' and it must be provided to one of the enumerated categories of recipients (an ''individual household, or family eligibility unit''). Thus, for example, if you provide an ''unemployment benefit'' to an ''individual, household, or family eligibility unit'' using ''appropriated funds of the United States,'' the definition is satisfied. In contrast, if you provide generally available services such as fire or ambulance services, or do not provide benefits to an ''individual, household, or family eligibility unit,'' or do not provide benefits through an ''agency of the United States'' or with ''appropriated funds of the United States,'' the definition does not apply.

If your program provides payments or assistance to an individual, household or family eligibility unit through a U.S. agency or by U.S. appropriated funds, but the benefits are not expressly enumerated above, you should consider whether the benefits are ''similiar'' to one of the benefits enumerated in (b). If you believe that the benefit is arguably similar to an enumerated benefit, you should consult with the federal agency or department that oversees your program to confirm that the benefit constitutes a federal public benefit covered by the Act.

Finally, you should consider who is actually receiving the benefits that you provide. Although the Act prohibits certain aliens from receiving non-exempted ''federal public benefits,'' it does not prohibit governmental or private entities from receiving federal public benefits that they might then use to provide assistance to aliens, *so long as the benefit ultimately provided to the non-qualified aliens does not itself constitute a ''federal public benefit.''* Thus, if a local agency were to receive a ''grant'' (which is expressly identified as a federal public benefit), but the agency uses it to provide police services, fire protection or crime victim counseling (which are not federal public benefits under the Act's definition because they are not similar to an enumerated benefit), the prohibition would not apply. Similarly, if you provide a ''grant'' to a community organization (which is not an ''individual, household or family eligibility unit'') that uses the funds to build a library or renovate a park (which are not federal public benefits under the Act's definition), the prohibition would not apply. In contrast, if the agency uses the ''grant'' to provide a ''federal public benefit''—*e.g.*, a ''loan'' or ''welfare''

payment to a poor ''individual, household or family eligibility unit''—then the prohibition would apply and non-qualified aliens would be ineligible for such benefits.

Exceptions: The Act's verification requirements do not apply to all ''federal public benefits,'' as the Act specifically exempts certain types of benefits. If a program provides ''federal public benefits'' that fall within one of the following exceptions, the program provider is not required by this Act to, and should not attempt to, verify an applicant's immigration status, unless otherwise required or authorized to do so by federal law, except to the extent necessary to determine whether the exemption applies:

- Benefits covered by Attorney General Order No. 2049, 61 FR 45985 (1996), or any subsequent order, re: government-funded community programs, services or assistance that are necessary for protection of life or safety;
- Any wages, pensions, annuities, or other earned payments to which an alien is entitled as a result of federal, state, or local government employment, provided that the alien is not residing or present in the United States and provided that the employment was not prohibited under the immigration laws;
- Any veterans benefits to which an alien is entitled, provided that the alien is not residing or present in the United States;
- Any contract, professional license, or commercial license for a nonimmigrant whose visa for entry is related to such employment in the U.S.;
- Any contract, professional license, or commercial license for a citizen of a freely associated state (Palau, the Federated States of Micronesia, and the Marshall Islands), if section 141 of the applicable compact of free association is in effect;
- Any benefits that the U.S. is required to pay under the reciprocal treaty agreements listed in the forthcoming Attorney General Order to a work authorized nonimmigrant or alien lawfully admitted for permanent residence qualified for such benefits;
- Medical assistance under Title XIX of the Social Security Act (or any successor program to such Title) for care and services that are necessary for the treatment of an emergency medical condition (as defined in section 1903(v)(3) of such Act) of the alien involved and that are not related to an organ transplant procedure, if the alien involved otherwise meets the eligibility requirements for medical assistance under the state plan approved under such Title (other than the requirement of the receipt of aid or assistance under Title IV of such Act, SSI benefits under Title XVI of such Act, or a state supplementary payment);
- Short-term, non-cash, in-kind emergency disaster relief;
- Public health assistance (not including any assistance under Title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease;
- Programs for housing or community development assistance or financial assistance administered by the Secretary of Housing and Urban Development (''HUD''), any program under Title V of the Housing Act of 1949, or any assistance under section 306C of the Consolidated Farm and Rural Development Act, to the extent that the alien is receiving such a benefit on August 22, 1996;
- Any benefit payable under Title II of the Social Security Act to which entitlement is based on an application filed on or before August 31, 1996, and any benefit covered by Attorney General Order No. 2054, 61 FR 47039 (1996), re: benefits payable under Title II of the Social Security Act to an alien who is lawfully present in the U.S.;
- Any benefit the nonpayment of which would contravene an international agreement described in section 233 of the Social Security Act (an agreement establishing totalization arrangements between the social security system of the U.S. and that of any foreign country which establishes entitlement to and the amount of old-age, survivors, disability, or derivative benefits based on an individual's coverage under both systems);
- Any benefit the nonpayment of which would be contrary to section 202(t) of the Social Security Act;
- Any benefit under the school lunch program under the National School Lunch Act, 42 U.S.C. 1751 *et seq.*, or the school breakfast program under section 4 of the Child Nutrition Act of 1966, 42 U.S.C. 1773, provided to an individual who is eligible to receive free public education benefits under state or local law;
- Any benefit payable under Title XVIII of the Social Security Act (relating to the Medicare program) to an alien who is lawfully present in the U.S., as determined by the Attorney General, provided that, with respect to the attribution of the alien's wages for purposes of eligibility for benefits payable under Part A of such program, the alien was authorized to be employed; *and*
- Any benefit payable under the Railroad Retirement Act of 1974 or the Railroad Unemployment Insurance Act to an alien who is lawfully present in the U.S., as determined by the Attorney General, or to an alien residing outside the U.S.

State Option: Each State may, but is not required to, provide benefits under programs established under the laws listed below to individuals who are not U.S. citizens, U.S. non-citizen nationals or qualified aliens. You should determine whether your State is providing such benefits to all persons, regardless of citizenship, alienage or immigration status, or whether it is providing them only to U.S. citizens, U.S. non-citizen nationals and qualified aliens. If your State is providing such benefits to all persons, you should *not* verify citizenship or immigration status; if it is limiting such benefits to citizens, non-citizen nationals and qualified aliens, you may want to use the Interim Guidance, in consultation with state and local authorities, to verify citizenship and immigration status.

- Programs (other than the school lunch program and the school breakfast program) under the National School Lunch Act, 42 U.S.C. 1751 *et seq.*, and the Child Nutrition Act of 1966, 42 U.S.C. 1771 *et seq.*;
- Section 4 of the Agriculture and Consumer Protection Act of 1973, 7 U.S.C. 612c note;
- The Emergency Food Assistance Act of 1983, 7 U.S.C. 7501 *et seq.; and*
- The food distribution program on Indian reservations established under section 4(b) of the Food Stamp Act of 1977, 7 U.S.C. 2013(b).

Attachment 4—Interim Guidance Documentary Evidence of Status as a U.S. Non-Citizen National

Copies of the following documents will, when combined with satisfactory proof of identity (which will come from the document itself if it bears a photograph of the person to whom it relates), demonstrate that a person is a U.S. citizen or non-citizen national for purposes of Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. (To the extent citizenship or nationality of a child is relevant to a benefit eligibility determination, the documents should demonstrate the child's status rather than that of the parent.) The lists set forth in Paragraphs A and B below are drawn from existing guidance published by the Social Security Administration (''SSA'') and regulations issued by the Immigration and

Naturalization Service (''INS'') regarding determination of U.S. citizenship and nationality; the lists in Paragraphs C through F are drawn solely from the SSA guidance. These lists are not exhaustive; you should refer to guidance issued by the agency or department overseeing your program to determine if it accepts documents or other evidence of citizenship not listed below.

A. Primary Evidence

• A birth certificate showing birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands, unless the person was born to foreign diplomats residing in the U.S.

Note: If the document shows that the individual was born in Puerto Rico, the U.S. Virgin Islands or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen—see Paragraph C below.

• United States passport (except limited passports, which are issued for periods of less than five years);

• Report of birth abroad of a U.S. citizen (FS–240) (issued by the Department of State to U.S. citizens);

• Certificate of birth (FS–545) (issued by a foreign service post) or Certification of Report of Birth (DS–1350) (issued by the Department of State), copies of which are available from the Department of State;

• Certificate of Naturalization (N–550 or N–570) (issued by the INS through a Federal or State court, or through administrative naturalization after December 1990 to individuals who are individually naturalized; the N–570 is a replacement certificate issued when the N–550 has been lost or mutilated or the individual's name has been changed);

• Certificate of Citizenship (N–560 or N–561) (issued by the INS to individuals who derive U.S. citizenship through a parent; the N–561 is a replacement certificate issued when the N–560 has been lost or mutilated or the individual's name has been changed);

• United States Citizen Identification Card (I–197) (issued by the INS until April 7, 1983 to U.S. citizens living near the Canadian or Mexican border who needed it for frequent border crossings) (formerly Form I–179, last issued in February 1974);

• Northern Mariana Identification Card (issued by the INS to a collectively naturalized citizen of the U.S. who was born in the Northern Mariana Islands before November 3, 1986);

• Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen (this is given to an individual born outside the U.S. who derives citizenship through a parent but does not have an FS–240, FS–545 or DS–1350); or

• American Indian Card with a classification code ''KIC'' and a statement on the back (identifying U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).

B. Secondary Evidence

If the applicant cannot present one of the documents listed in A above, the following may be relied upon to establish U.S. citizenship or nationality:

• Religious record recorded in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917)), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdication) within three months after birth showing that the birth occurred in such jurisdiction and the date of birth or the individual's age at the time the record was made;

• Evidence of civil service employment by the U.S. government before June 1, 1976;

• Early school records (preferably from the first school) showing the date of admission to the school, the child's date and place of birth, and the name(s) and place(s) of birth of the parent(s);

• Census record showing name, U.S. citizenship or a U.S. place of birth, and date of birth or age of applicant;

• Adoption Finalization Papers showing the child's name and place of birth in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction) *or*, where or adoption is not finalized and the State or other jurisdiction listed above in which the child was born will not release a birth certificate prior to final adoption, a statement from a state-approved adoption agency showing the child's name and place of birth in one of such jurisdictions (NOTE: the source of the information must be an original birth certificate and must be indicated in the statement); or

• Any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship (e.g., a contemporaneous hospital record of birth in that hospital in one of the 50 States, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, Swain's Island or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction).

C. Collective Naturalization

If the applicant cannot present one of the documents listed in A or B above, the following will establish U.S. citizenship for collectively naturalized individuals:

Puerto Rico:

• Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he or she was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941; or

• Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917 and that he or she did not take an oath of allegiance to Spain.

U.S. Virgin Islands:

• Evidence of birth in the U.S. Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927;

• The applicant's statement indicating resident in the U.S. Virgin Islands as a Danish citizen on January 17, 1917 and residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship; or

• Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., a U.S. possession or territory or the Canal Zone on June 28, 1932.

Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI)):

• Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. territory or possession on November 3, 1986 (NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time);

• Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration prior to January 1, 1975 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); or

• Evidence of continuous domicile in the NMI since before January 1, 1974 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time).

Note: If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

D. Derivative Citizenship

If the applicant cannot present one of the documents listed in A or B above, you should make a determination of derivative U.S. citizenship in the following situations:

Applicant born abroad to two U.S. citizen parents:

- Evidence of the U.S. citizenship of the parents and the relationship of the applicant to the parents, and evidence that at least one parent resided in the U.S. or an outlying possession prior to the applicant's birth.

Applicant born abroad to a U.S. citizen parent and a U.S. non-citizen national parent:

- Evidence that one parent is a U.S. citizen and that the other is a U.S. non-citizen national, evidence of the relationship of the applicant to the U.S. citizen parent, and evidence that the U.S. citizen parent resided in the U.S., a U.S. possession, American Samoa or Swain's Island for a period of at least one year prior to the applicant's birth.

Applicant born out of wedlock abroad to a U.S. citizen mother:

- Evidence of the U.S. citizenship of the mother, evidence of the relationship to the applicant and, for births on or before December 24, 1952, evidence that the mother resided in the U.S. prior to the applicant's birth or, for births after December 24, 1952, evidence that the mother had resided, prior to the child's birth, in the U.S. or a U.S. possession for a period of one year.

Applicant born in the Canal Zone or the Republic of Panama:

- A birth certificate showing birth in the Canal Zone on or after February 26, 1904 and before October 1, 1979 and evidence that one parent was a U.S. citizen at the time of the applicant's birth; or
- A birth certificate showing birth in the Republic of Panama on or after February 26, 1904 and before October 1, 1979 and evidence that at least one parent was a U.S. citizen and employed by the U.S. government or the Panama Railroad Company or its successor in title.

All other situations where an applicant claims to have a U.S. citizen parent and an alien parent, or claims to fall within one of the above categories but is unable to present the listed documentation:

- If the applicant is in the U.S., refer him or her to the local INS office for determination of U.S. citizenship;
- If the applicant is outside the U.S., refer him or her to the State Department for a U.S. citizenship determination.

E. Adoption of Foreign-Born Child by U.S. Citizen

- If the birth certificate shows a foreign place of birth and the applicant cannot be determined to be a naturalized citizen under any of the above criteria, obtain other evidence of U.S. citizenship;
- Since foreign-born adopted children do not automatically acquire U.S. citizenship by virtue of adoption by U.S. citizens, refer the applicant to the local INS district office for a determination of U.S. citizenship if the applicant provides no evidence of U.S. citizenship.

F. U.S. Citizenship By Marriage

A woman acquired U.S. citizenship through marriage to a U.S. citizen before September 22, 1922. Ask for: Evidence of U.S. citizenship of the husband, and evidence showing the marriage occurred before September 22, 1922.

Note: If the husband was an alien at the time of the marriage, and became naturalized before September 22, 1922, the wife also acquired naturalized citizenship. If the marriage terminated, the wife maintained her U.S. citizenship if she was residing in the U.S. at that time and continued to reside in the U.S.

G. Applicants With Disabilities and Nondiscrimination

If an applicant has a disability that limits the applicant's ability to provide the required evidence of citizenship or nationality (*e.g.*, mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, you should not discriminate against applicants on the basis of race, national origin, gender, religion, age or disability. See Nondiscrimination Advisory, Attachment 2 to Interim Guidance.

Attachment 5—Interim Guidance—Documentary Evidence of Status as A "Qualified Alien" Eligible for Federal Public Benefits

The documents listed below (descriptions of which are provided in Exhibit A) will, when combined with satisfactory proof of identity (which will come from the document itself if it bears a photograph of the person to whom it relates), establish that an applicant falls within one of the categories of ''qualified alien'' for purposes of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Under the Immigration and Nationality Act (the ''INA''), all aliens over the age of 14 who remain in the United States for longer than 30 days are required to register with the Immigration and Naturalization Service (the ''INS'') and obtain an alien registration document. All aliens over the age of 18 who receive a registration document are required to carry it with them at all times. With certain exceptions (*e.g.*, Canadian visitors), aliens entering the U.S. are normally issued a registration document (*e.g.*, an INS Form I–94) at the time of entry. The documents listed below that are registration documents are indicated with an asterisk (''*'').

Each of the documents listed below will demonstrate lawful status, and you should not require presentation of a registration document if the applicant presents one of the other legally acceptable documents that reasonably appears on its face to be genuine and to relate to the person presenting it. However, if the document presented is not a registration document and does not on its face reasonably appear to be genuine or to relate to the person presenting it, it is appropriate to ask the applicant to produce his or her registration document as additional evidence of immigration status, so long as the request is not made for a discriminatory reason (see Nondiscrimination Advisory, Attachment 2 to Interim Guidance). Presentation of a registration document listed below that reasonably appears on its face to be genuine and to relate to the person presenting it (or to satisfy a higher applicable standard) will often obviate the need to verify the applicant's immigration status with the INS; if the applicant presents a registration document that does not meet this standard, sending the INS a copy of the document will assist it in verifying the applicant's status quickly and accurately.

Alien Lawfully Admitted for Permanent Residence

- *INS Form I–551 (Alien Registration Receipt Card, commonly known as a ''green card''); or
- Unexpired Temporary I–551 stamp in foreign passport or on *INS Form I–94.

Asylee

- *INS Form I–94 annotated with stamp showing grant of asylum under section 208 of the INA;

- *INS Form I–688B (Employment Authorization Card) annotated ''274a.12(a)(5)'';
- *INS Form I–766 (Employment Authorization Document) annotated ''A5'';
- Grant letter from the Asylum Office of INS;or
- Order of an immigration judge granting asylum.

Refugee

- *INS Form I–94 annotated with stamp showing admission under § 207 of the INA;
- *INS Form I–688B (Employment Authorization Card) annotated ''274a.12(a)(3)'';
- *INS Form I–766 (Employment Authorization Document) annotated ''A3''; or
- INS Form I–571 (Refugee Travel Document).

Alien Paroled Into the U.S. for a Least One Year

- *INS Form I–94 with stamp showing admission for at least one year under section 212(d)(5) of the INA. (Applicant cannot aggregate periods of admission for less than one year to meet the one-year requirement.)

Alien Whose Deportation or Removal Was Withheld

- *INS Form I–688B (Employment Authorization Card) annotated ''274a.12(a)(10)'';
- *INS Form I–766 (Employment Authorization Document) annotated ''A10''; or
- Order from an immigration judge showing deportation withheld under § 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under § 241(b)(3) of the INA.

Alien Granted Conditional Entry

- *INS Form I–94 with stamp showing admission under § 203(a)(7) of the INA;
- *INS Form I–688B (Employment Authorization Card) annotated ''274a.12(a)(3)''; or
- *INS Form I–766 (Employment Authorization Document) annotated ''A3.''

Cuban/Haitian Entrant

- *INS Form I–551 (Alien Registration Receipt Card, commonly known as a ''green card'') with the code CU6, CU7, or CH6;
- Unexpired temporary I–551 stamp in foreign passport or on *INS Form I–94 with the code CU6 or CU7; or
- INS Form I–94 with stamp showing parole as ''Cuba/Haitian Entrant'' under Section 212(d)(5) of the INA.

Alien Who Has Been Battered or Subjected to Extreme Cruelty

Guidance as to the requirements that must be met for an alien to fall within this category of qualified alien is set forth in Exhibit B. Note that Title IV, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, contains provisions requiring that, upon the effective date of the new affidavit of support (required under section 213A of the Act), when determining eligibility for federal means-tested public benefits and the amount of such benefits to which an alien is entitled, the income and resources of the alien be deemed to include those of any person executing an affidavit of support on behalf of the alien and that person's spouse. Certain exceptions are made for indigent qualified aliens and for qualified aliens who (or whose children) have been battered or subjected to extreme cruelty in the U.S. by a spouse, parent or member of the spouse or parent's family and for qualified alien children whose parents have been subjected to such abuse. *See* Attachment 5, Exhibit B, Section II.

Expired or Absent Documentation

If an applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the applicant to the local INS office to obtain documentation of status. In unusual cases involving applicants who are hospitalized or medically disabled, or who can otherwise show good cause for their inability to present documentation, and for whom securing such documentation would constitute an undue hardship, if the applicant can provide an alien registration number, you may file INS Form G–845 and Supplement, along with the alien registration number and a copy of any expired INS document presented, with the local INS office to verify status. As with any documentation of immigration status, you should confirm that the status information you receive back from INS pertains to the applicant whose identity you have verified.

Receipt for Replacement Document

If an applicant presents a receipt indicating that he or she has applied to the INS for a replacement document for one of the documents identified above, file INS Form G–845 and Supplement along with a copy of the receipt with the local INS office to verify status. Upon return receipt of information from INS, confirm that it pertains to the applicant whose identity you have verified. You should ask to see the replacement document at a later date.

Applicants with Disabilities and Nondiscrimination

If an applicant has a disability that limits the applicant's ability to provide the required evidence of immigration status (*.e.g.*, mental retardation, amnesia, or other cognitive, mental or physical impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, you should not discriminate against applicants on the basis of race, national origin, gender, religion, age or disability. See Nondiscrimination Advisory, Attachment 2 to Interim Guidance.

Local INS Offices

A list of local INS offices and their addresses is set forth in Attachment 1 to the Interim Guidance. Attachment 1 also includes a copy of INS Form G–845 and the Supplement thereto to be used to verify immigration status pursuant to the Interim Guidance.

EXHIBIT A TO ATTACHMENT 5

''PINK'' I–551 ''RESIDENT ALIEN'' CARD

FRONT: Pink background (blue header bar); blue INS seal overlaps photo area. Repeating ''I–551'' becomes visible when card is tilted under normal light. Expiration date on front of card: Moth, day, and year.

BACK: Color gradually changes from pink to blue, with map of U.S. in white. Three lines of machine readable printing at bottom on white background. Immigrant classification and admission/adjustment date on back of card. First set of code is immigrant classification, beginning with letter(s) followed by numbers(s). Third set of code is admission/adjustment date, beginning with year, month, and day.

''WHITE'' I–551 ''RESIDENT ALIEN'' CARD

FRONT: White background (blue header bar); salmon lines cover the photo in an unbroken pattern. Printing ''detail'' in eagle is excellent. Immigrant classification is on front of card in lower right corner, beginning with letter(s) followed by number(s).

BACK: Pale greenish background, map of U.S. in white. Three lines of machine readable codes. Admission/adjustment date is at bottom, left corner on back of card, beginning with year, month, and day.

UNEXPIRED FOREIGN PASSPORT WITH I–551 STAMP

An I–551 stamp may be present in a foreign passport, with a handwritten ''Valid Until'' date. A proof of entry and inspection stamp will also present in the passport, similar to the stamp for an I–94. Date of entry is stamped. Immigrant visa classification (letter and number) is printed or stamped on ''Admitted'' line. Valid status expires on date enumerated at ''Until'' section of I–551 stamp. The alien number may be printed beginning with letter A.

I–94 ARRIVAL/DEPARTURE RECORD

Proof of entry is signified by U.S. immigration stamp. Date of entry is stamped. *Non-immigrant visa classification* (letter or letter and number) is printed or stamped on ''Admitted'' line. Valid status expires on date enumerated at ''Until'' section of stamp.

Refugees and asylees each receive a separate INS stamp. Asylum seekers have ''valid to'' date, while refugees have a date of admission.

''RED'' I–688B ''EMPLOYMENT AUTHORIZATION''

FRONT: White background, read header bar and yellow interlocking wavy lines, gold INS seal becomes visible when tilted under normal light. Expiration date is on front, month, day, and year.

BACK: Red outline of U.S., Alaska, and Hawaii. The word ''Void'' is capitalized and underlined.

''RED'' I–766 ''EMPLOYMENT AUTHORIZATION''

FRONT: White background, red header bar. Statue of Liberty, USA, and Immigration and Naturalization Service symbols become visible when tilted under normal light. Expiration date is at bottom, right corner. Non-immigrant category listed over justice seal by a letter and number abbreviation of the 274A.12 immigration law citation.

BACK: White background, black magnetic strip and bar code.

DECISION GRANTING ASYLUM

Documents issued to aliens, granted asylum vary.

REFUGEE TRAVEL DOCUMENT FORM I–571

Form I–571 is issued by the INS to aliens who have been granted refugee status.

ORDER GRANTING WITHHOLDING OF DEPORTATION

The documents used by immigration judges to grant withholding of deportation vary.

EXHIBIT B TO ATTACHMENT 5—ALIENS WHO HAVE BEEN BATTERED OR SUBJECTED TO EXTREME CRUELTY WITHIN THE MEANING OF SECTION 431 OF THE ACT

INTRODUCTION

Section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the ''Act''), as amended by section 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (the ''Immigration Act'') and sections 5571–72 and 5581 of the Balanced Budget Act of 1997 (''the Budget Act''), provides that certain categories of aliens who have been subjected to battery or extreme cruelty in the United States by a family member with whom they resided are ''qualified aliens'' eligible for public benefits under the Act. An alien whose child or an alien child whose parent has been abused is also a ''qualified alien.'' Additionally, section 421 of the Act, as amended by section 552 of the Immigration Act and section 5571 of the Budget Act, exempts this group of battered aliens from the Act's new deeming requirements for a period of one year, and for longer if the battery or cruelty has been recognized in an order of a judicial officer or an administrative law judge or in an Immigration and Naturalization Service (''INS'') determination.

CONSIDERATIONS AFFECTING ALL APPLICANTS

Benfit providers should observe the following protocol with regard to all applicants who seek qualified alien status under section 431(c) of the Act:

(1) This Exhibit should be interpreted consistently with the principles set forth in the Interim Guidance, including, but not limited to, its standards for acceptance of documents demonstrating status, its nondiscrimination advisory and its provisions regarding whether to grant or withhold benefits pending verification of qualified alien status. In addition, as specified in the Interim Guidance, a provider should determine whether an applicant otherwise meets specific program requirements for benefit eligibility before initiating the verification process described below, unless determining program eligibility would be considerably more complex and time-consuming than verifying immigration status. (In the case of providers who are considering referring individual applicants to the Social Security Administration for issuance of a Social Security number, the provider should first determine that the applicant is otherwise eligible for program benefits.)

(2) Many of the applicants seeking assistance pursuant to this provision will need assistance on various matters relating to both their immigration status and their domestic violence-related concerns. You should therefore direct applicants to the INS forms request line (1–800–870–3676) so that applicants who are eligible to self-petition under the Violence Against Women Act, 8 U.S.C. 1154(a)(1), but have yet to do so, may request an INS Form I–360 and filing instructions. You should also refer them to the National Domestic Violence Hotline (1–800–799–7233) so that applicants may obtain assistance from a local domestic violence service provider and referrals to immigration attorneys. (A copy of INS Form I–360 is attached to this Exhibit).

(3) Except where this attachment directs otherwise, when asking the INS or the Executive Office for Immigration Review (''EOIR'') to verify an applicant's immigration status, a benefit provider should submit a verification request form. Sample INS and EOIR verification forms (hereinafter ''the INS Request Form'' and ''the EOIR Request Form'' respectively) are attached hereto. These samples must be replicated and submitted on your agency's letterhead in order for INS or EOIR to provide verification information. The INS Request Form should be faxed to the INS Vermont Service Center (fax: (802) 527–3159; tel: (802) 527–3160); the EOIR Request Form should be faxed to the office of the appropriate immigration court (a list of the immigration courts and their addresses, fax numbers and telephone numbers is also attached to this Exhibit). In certain limited circumstances described below, the benefit provider should submit its verification request by filing INS Form G–845 and the G–845 Supplement with the local INS office. Attachment 1 to the Interim Guidance includes a copy of INS Form G–845 and the G–845 Supplement to be used as indicated below, as well as a list of local INS offices.

(4) You should not share any information that you receive from or regarding the applicant with any member of his or her family or any other third party, without the express written permission of the applicant.

I. PROCEDURES FOR DETERMINING QUALIFIED ALIEN STATUS

An alien is a ''qualified alien'' eligible for public benefits under section 431(c) of the Act if he or she meets the following four requirements:

(1) the INS or the EOIR has granted a petition or application filed by or on behalf of the alien, the alien's child, or the alien child's parent under one of several subsections of the Immigration and Nationality Act (''INA'') described below or has found that a pending petition sets forth a prima facie case;

(2) the alien, the alien's child, or the alien child's parent has been abused in the United States [1] as detailed below:

(a) in the case of the abused alien: the alien has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien, or by a member of the spouse or parent's family residing in the same household as the alien, if the spouse or parent consents to or acquiesces in such battery or cruelty;

(b) in the case of an alien whose child is abused: the alien's child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien, or by a member of the spouse or parent's family residing in the same household as the alien if the spouse or parent consents to or acquiesces in such battery or cruelty, and the alien did not actively participate in the batter or cruelty;

(c) in the case of an alien child whose parent is abused: the alien child's parent has been battered or subjected to extreme cruelty in the United States by the parent's spouse, or by a member of the spouse's family residing in the same household as the parent, if the spouse consents to or acquiesces in such battery or cruelty;

(3) there is a substantial connection between the battery or extreme cruelty and the need for the public benefit sought; and

(4) the battered alien, child, or parent no longer resides in the same household as the abuser.

Each of these four requirements, and processes for assuring that an applicant meets these requirements, are discussed in detail below. (In addition to these four requirements, the alien must of course meet the eligibility criteria of the particular

[1] Some applicants may possess documents demonstrating that they have been admitted to the United States because of battery or extreme cruelty that occurred *outside* of the United States, but this is insufficient by itself to make them eligible for benefits under section 431(c). Section 431(c) does not apply unless some battery or extreme cruelty occurred in the United States.

program from which benefits are sought.) A benefit provider must determine that an applicant satisfies all four requirements. If an applicant presents documentation indicating that an INS I–130 petition has been filed on the applicant's behalf under the INA provisions listed in subparagraph (a) of requirement one below, or that the applicant has filed an INS I–360 petition under the INA provisions listed in subparagraph (b) of requirement one below, the benefit provider should determine whether the applicant meets the other three requirements for qualified alien status (including battery or extreme cruelty) before verifying his or her immigration status with the INS. If an applicant presents documentation indicating that he or she has filed an INS I–360 petition based on one of the INA provisions listed in subparagraph (c) or (d) of requirement one below, or has sought suspension of deportation or cancellation of removal from the EOIR under one of the INA provisions listed in subparagraph (e) of requirement one below, INS or EOIR will make the determination as to battery or extreme cruelty. In such cases, the benefit provider may contact the INS or the EOIR as applicable to initiate the verification process prior to determining if the applicant meets the other two requirements for qualified alien status. After contacting the INS or the EOIR, the benefit provider should continue reviewing the applicant's eligibility for qualified alien status under requirements three and four below, and should not delay this evaluation while awaiting a response from the INS or the EOIR.

Requirement 1: *Appropriate INS Status.* You must determine that the INS or the EOIR, as applicable, has approved an applicant's petition or application or has found that the applicant's pending petition or application sets forth a prima facie case, under one of the following provisions of the INA:

(a) Section 204(a)(1)(A)(i) and 204(a)(1)(B)(i) of the INA (governing eligibility to receive law permanent resident (''LPR'') status as a spouse or child of a U.S. citizen, or as a spouse, child or unmarried son or daughter of an LPR, based on the petition of a spouse or parent);

(b) Section 204(a)(1)(A)(ii) of the INA (governing eligibility to apply for LPR status as an alien who is the widow or widower of a U.S. citizen to whom the alien had been married for at least two years at the time of such citizen's death);

(c) Sections 204(a)(1)(A)(iii) and 204(a)(1)(B)(ii) of the INA (governing eligibility to apply for LPR status as an alien who is the spouse of a U.S. citizen or LPR, who has resided with the spouse in the United States, and who (or whose child) has been subjected to battery or cruelty in the United States by his or her spouse);

(d) Sections 204(a)(1)(A)(iv) and 204(a)(1)(B)(iii) of the INA (governing eligibility to apply LPR status as an alien who is the child of a U.S. citizen or LPR, and who has resided with that parent in the United States and been subjected to battery or cruelty in the United States by his or her citizen or LPR parent); or

Section 244(a)(3) of the INA as in effect prior to April 1, 1997, or section 204A(b)(2) of the INA (governing the Attorney General's authority to suspend deportation or cancel the removal and adjust the status of an alien if the alien or the alien's child has been subjected to battery or extreme cruelty in the United States by a spouse or parent who is a U.S. citizen or LPR).[2] Note: Only this provision of the INA allows the alien parent of a battered child to obtain relief from deportation or removal even if he or she is not married to the U.S. citizen or LPR parent. This includes aliens who were never married to the U.S. citizen or LPR parent, aliens who are divorced from the U.S. citizen or LPR. Under the provisions described in (a)–(d) above, the alien must have been married to the U.S. citizen or LPR spouse at the time the petition was filed. Unmarried children of U.S. citizen or LPRs less than 21 years of age may petition for admission as a battered child under the provision described in (a) or (d) at any time, regardless of their parents' marital status.

Documentation

As set forth in Step 3 of the Interim Guidance regarding verification of qualified alien status, you should ask the alien to present documentation demonstrating his or her immigration status. As described in the Interim Guidance, if the documentation indicates that the applicant fall into one of the categories listed in (a)–(e) above and reasonably appears on its face to be genuine (or, if your program already has existing guidance or procedures mandating a higher standard of proof for acceptance of documentary evidence of immigration status, the document satisfies that higher standard) and to relate to the individual presenting it, you should accept the documentation as conclusive evidence that the applicant satisfies requirement one and should not verify immigration status with the INS or the EOIR. If, based on your review of the documents presented, you are considering determining that an applicant does not have the requisite immigration status and thus is not eligible for the benefits requested based on his or her immigration status—*e.g.*, because the documents does not on its face reasonably appear to be genuine (or to satisfy a higher applicable standard), to demonstrate that the applicant falls into any of the categories listed in (a)–(e) above, or to relate to the person presenting it—you should check with the INS or the EOIR as applicable to verify the information presented by the applicant. To verify status with the INS, in most cases, your should fax the INS Request Form, on your agency letterhead, as well as a copy of the document(s) provided by the applicant, to the INS Vermont Service Center. In some cases, as detailed in footnote three below, request for INS verification should be submitted to the local INS office using from G–845 and its supplement. To verify status with the EOIR, you should fax the EOIR Request Form on your agency letterhead, as well as a copy of the document(s) provided by the applicant, to the court administrator of the appropriate immigration court.

Applicants who have filed a petition or application or had a petition or application filed on their behalf, as applicable, under any of the above-described provisions of the INA will apply to a benefit provider in one of seven possible situations described below.

(1) With documentation evidencing an approved petition or application under one of the provisions listed in (a)–(e) above:

(a) INS Form I–551 (''Resident Alien Card'' or ''Alien Registration Receipt Card'', commonly known as a ''green card'') with one of the following INS class of admission (''COA'') codes printed on the front of a white card or the back of a pink card demonstrates approval of a petition under paragraphs (a)–(b) above:[3] AR1, AR6, C20 through C29, CF1, CF2, CR1, CR2, CR6, CR7, CX1 through CX3, CX6 through CX8, F20 through F29, FX1 through FX3, FX6 through FX8, IF1, IF2, IR1 through IR4, IR6 through IR9, IW1, IW2, IW6, IW7, MR6, MR7, P21 through P23, or P26 through P28;

(b) INS Form I–551 with one of the following COA codes stamped on the lower left side of the back of a pink card demonstrates approval of a petition under paragraphs (c)–(d) above: IB1 through IB3, IB6 through IB8, B11, B12, B16, B17, B20 through B29, B31 through B33, B36 through B38, BX1 through BX3, or BX6 through BX8;

(c) INS Form I–551 with COA code Z13 *may* demonstrate approval of a petition under paragraph (e) above; if an alien claiming approved status presents a card bearing the code Z13, determine where the card was issued by asking the alien where he or she received the grant of suspension of deportation, and then fax the EOIR Request Form on your agency letterhead, as well as a copy of the card and any other document(s) presented by the alien, to the EOIR court that granted the alien's suspension. If the alien does not recall where the grant of suspension of deportation was received, compare the city code on the card to the list of city codes attached to this Exhibit, and fax the EOIR Request Form on your agency letterhead, as well as a copy of the card and any other document(s) presented by the alien, to the Court Administrator of the EOIR court closest to the city where the green card was issued;

(d) Unexpired Temporary I–551 stamp in foreign passport or on INS Form I–94 with one of the COA codes specified in the preceding three paragraphs (if the temporary stamp or the INS Form I–94 bears the code

[2] While this provision includes unabused alien parents of battered children, it does not include unabused alien children of battered parents. This rule stands in contrast to the self-petitioning provisions described in (c) above, which battered spouses of U.S. citizen or LPRs can include their alien children in their petitions for status.

[3] The green card codes, green card types, and stamps in foreign passports or on INS Form I–94 that demonstrate an approved petition or application under one of the provisions listed in (a)–(b) above are too numerous to describe here. If an alien claiming approved status presents a code different than those enumerated, or if you cannot determine the class of admission from the I–551 stamp, you should file INS Form G–845, and the G–845 Supplement (mark item six on the Supplement) along with a copy of the document(s) presented, with the local INS office in order to determine whether the applicant gained his or her status because he or she was the spouse, widow, or child of a U.S. citizen or the spouse, child, or unmarried son or daughter of an LPR. (See Attachment 1 to Interim Guidance.)

Z13, follow the process described immediately above); if it bears another code or you cannot determine what the COA code is, follow the process outlined in footnote three; [4]

(e) INS Form I–797 indicating approval of an INS I–130 petition (only I–130 petitions describing the following relationships may be accepted: husbands or wives of U.S. citizens or LPRs, unmarried children under 21 years old of U.S. citizens or LPRs, or unmarried children 21 or older of LPRs), or approval of an I–360 petition (only I–360 approvals based on status as a widow/widower of a U.S. citizen or as a self-petitioning spouse or child of an abusive U.S. citizen or LPR may be accepted); [5] or

(f) A final order of an Immigration Judge or the Board of Immigration Appeals granting suspension of deportation under section 244(a)(3) of the INA as in effect prior to April 1, 1997, or cancellation of removal under section 240A(b)(2) of the INA. If the court or Board order does not indicate that suspension of deportation or cancellation of removal was granted under section 244(a)(3) or 240A(b)(2), you should fax the EOIR Request Form on your agency letterhead, as well as a copy of the order, to the court administrator of the EOIR court issuing the order, and ask the court to notify you of the INA provision under which the applicant was granted relief.

(2) With documentation demonstrating that the applicant has established a prima facie case [6] under one of the provisions described in (c), (d) or (e) above:

(a) INS Form I–797 indicating that the applicant has established a prima facie case; or

(b) An immigration court or Board of Immigration Appeals order indicating that the applicant has established a prima facie case for suspension of deportation under INA section 244(a)(3) as in effect prior to April 1, 1997, or cancellation of removal under section 240A(b)(2) of the INA.

(3) With documentation indicating that the applicant has filed a petition or that a petition has been filed on the applicant's behalf, as applicable, under one of the provisions listed in (c) or (d) above, but with no evidence of approval of the petition or establishment of a prima facie case, in which case the benefit provider should determine from the documentation when the petition was filed and take the actions set forth below:

(a) Applicants with petitions filed before June 7, 1997 should have an INS Form I–797 indicating filing of the I–360 petition by ''self-petitioning spouse [or child] of abusive U.S.C. or LPR,'' a file-stamped copy of the petition, or another document demonstrating filing (including a cash register or computer-generated receipt indicating filing of Form I–360), but the INS will not have determined whether the applicant's petition sets forth a prima facie case. (If the applicant has no proof of filing, you should follow the instructions in paragraph 6.) You should request that the INS expedite adjudication of the petition or that a prima facie determination be made by faxing the INS Request Form on your agency letterhead, to the INS Vermont Service Center. Inquires about these cases may also be submitted in the same manner to the INS Vermont Service Center.

(b) Applicants with petitions filed after June 7, 1997 should have an INS Form I–797 indicating filing of the I–360 petition, but may have only a copy of the petition and proof of mailing. Within three weeks of filing, INS will send to the applicant either an approval notice, a notice of prima facie case, or a request for additional documentation. In some cases, the applicant will receive both a notice of prima facie case and a request for additional documentation. Upon publication of an interim prima facie rule, INS will begin the process of determining whether an applicant's petition sets forth a prima facie case. If three weeks have elapsed since the filing of the petition, you may determine the status of the case by faxing the INS Request Form, on your letterhead, to the Vermont Service Center.

Please not that the prima facie determination is an interim determination. An INS notice of prima facie case will expire upon issuance of a final decision by the INS or 150 days after issuance, whichever is earlier. An EOIR prima facie determination will expire upon the date of the applicant's hearing on the merits of his or her case, or if made by the Board of Immigration Appeals, upon issuance of the Board's decision on the appeal. In order to remain eligible for benefits after the expiration of a notice of prima facie case an applicant must either request and obtain a renewal of the prima facie determination from the INS or the EOIR, as applicable, or must present the benefit provider with a copy of one of the documents listed in paragraph one above indicating that his or her petition or application has been approved.

(4) With documentation indicating that the applicant has filed a petition or that a petition was filed on his or her behalf, as applicable, under one of the provisions listed in (a) or (b) above (the documentation must indicate that the applicant is the widow/widower of a U.S. citizen, the husband or wife of a U.S. Citizen or LPR, the unmarried child under age 21 of a U.S. citizen or LPR, or the unmarried child age 21 or older of an LPR):

- For aliens on whose behalf a petition has been filed: INS Form I–797 indicating filing of an INS I–130 petition, a file-stamped copy of the petition, or another document demonstrating filing (including a cash register or computer-generated receipt indicating filing of Form I–130) (a sample copy of Form I–130 is attached to this Exhibit).
- For self-petitioning widows or widowers: a file-stamped copy of the INS I–360 petition, or another document demonstrating filing (including a cash register or computer-generated receipt indicating filing of Form I–360).

A prima facie determination will not have been made with regard to these petitions. You should request that the INS expedite adjudication of the petition or that a prima facie determination be made by faxing the INS Request Form on your agency letterhead, to the INS Vermont Service Center. Inquires about these cases may also be submitted in the same manner to the INS Vermont Service Center.

Applicants who are beneficiaries of I–130 petitions will have had a petition filed on their behalf. The petition process gives the spouse or parent of the applicant ultimate control over the disposition of the petition. If the spouse or parent is the abuser, he or she can nullify the petition either by withdrawing it or by divorcing the alien before the alien is able to obtain a green card. Because the most current information regarding the status of a pending I–130 petition will reside with the batterer until an applicant has received his or her green card, you should query INS regarding the applicant's continued eligibility each time you recertify the applicant for eleigiblity under general program guidelines. For these reasons, and because a self-petitioning applicant may be able to obtain employment authorization, an alien who is eligible to self-petition under the Violence Against Women Act should be strongly encouraged to do so. (Note: The alien must be the spouse or child of the abuser and, in the case of a spousal petition, still be married to the abuser when the petition is filed.) The applicant should also be directed to the INS forms request line and the National Domestic Violence Hotline as set forth on page one.

(5) Documentation indicating that the INS has initiated deportation or removal proceedings in which relief under the provision(s) listed in section (e) above may be available (copies of the documents listed below are attached to this Exhibit):

- an ''Order to Show Cause'';
- a ''Notice to Appear''; or
- a ''Notice of Hearing in Deportation Proceedings.''

You should inform the applicant that, if the applicant or the applicant's child has been battered or subjected to extreme cruelty

[4] If an applicant possesses the documents listed in items (a) through (d), the applicant has established that he or she is a lawful permanent resident and therefore is a qualified alien. You should nonetheless proceed with the analysis of requirements 2 through 4 to determine if the applicant qualifies for the battered exception to the deeming provisions (see Part IIA below).

[5] INS Form I–797 is used for numerous categories of petitions, and is used to indicate both receipt of a petition *and* approval or denial of a petition. It will also be used to indicate that an applicant has set forth a prima facie case. Thus, it is important to read the language on the Form I–797 presented by an applicant to ensure that it is more than a receipt, and specifically that it (a) denotes filing under one of the provisions specified above, and (b) denotes approval of the petition or a finding that a prima facie case has been demonstrated. Sample copies of Form I–797 are attached to this Exhibit.

[6] Because the INS has not previously been required to conduct prima facie assessments, it is implementing procedures (which will become effective upon publication of an interim rule) to expedite the review of I–360 petitions under the provisions described in (c) and (d) above and to notify the applicant within three weeks of INS' receipt of the petition if he or she has set forth a prima facie case. Similarly, the EOIR has not previously been required to conduct the prima facie assessment which is required under the provisions described in (e) above. The EOIR is currently working to implement a process for determining whether an applicant has set forth a prima facie case. Applicants in deportation or removal proceedings who are in need of a prima facie determination should contact the appropriate immigration court.

in the United States by a spouse or parent who is a U.S. citizen or LPR, and the applicant has been present in the United States for at least three years, he or she may file an application with the EOIR requesting suspension of deportation or cancellation of removal as applicable. You should also notify the applicant that, upon filing the application, he or she may ask the court to make a prima facie evaluation of the application and that, if the court indicates that the applicant has set forth a prima facie case for relief, he or she should return to your agency to complete the benefit eligibility evaluation process (see also footnote six). You should also refer the applicant to the National Domestic Violence Hotline as set forth on page one so that he or she may obtain assistance from a local domestic violence service provider and referrals to immigration attorneys. (Some of these applicants will also have sought the relief described in (a)–(d) above. Thus the applicant may have an I–797 indicating that his or her petition has been granted or that the petition sets forth a prima facie case, or an I–797 receipt indicating that a petition has recently been filed. You should only follow the procedures described in this paragraph if the applicant does not have such a petition pending with the INS.)

(6) With minimal or no documentation regarding the claimed filing: Because of the nature of abusive relationships, applicants may not have copies of the documents that have been filed by them or on their behalf. If the applicant has some documentation, but it is insufficient to demonstrate filing, establishment of prima facie case or approval of a petition, you should fax the INS Request Form on your agency letterhead, as well as a copy of any document(s) provided by the applicant, to the INS Vermont Service Center in order to determine the applicant's status. If the applicant has no documentation, but is certain that a petition has been filed by his or her spouse or parent, you should fax the INS Request Form to the INS Vermont Service Center. If the applicant has no documentation and is uncertain whether a petition has been filed on his or her behalf, you should refer the applicant to the National Domestic Violence Hotline as set forth on page one.

(7) Without having filed one of the above petitions, but with facts indicating a basis to file such a petition: You should refer such applicants to the INS forms request line and to the National Domestic Violence Hotline as set forth on page one.

Requirement 2: *Battered or Subjected to Extreme Cruelty.* You must also determine whether an applicant, his or her child, or, in the case of an alien child, his or her parent, has been battered or subjected to extreme cruelty (as defined below) as follows:

- in the case of an abused alien: the alien has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien, or by a member of the spouse or parent's family residing in the same household as the alien if the spouse or parent consents to or acquiesces in such battery or cruelty;
- in the case of an alien whose child is abused: the alien's child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien, or by a member of the spouse or parent's family residing in the same household as the alien if the spouse or parent consents to or acquiesces in such battery or cruelty, and the alien did not actively participate in the battery or cruelty;
- in the case of an alien child whose parent is abused: the alien child's parent has been battered or subjected to extreme cruelty in the United States by the parent's spouse, or by a member of the spouse's family residing in the same household as the parent if the spouse consents to or acquiesces in such battery or cruelty.

(a) *Definitions of Battery, Extreme Cruelty and Family Member*

For purposes of this Guidance, the phrase ''battered or subjected to extreme cruelty'' has the meaning set forth below. This definition is drawn, with slight modification, from the INS interim rule, ''Petition to Classify Alien as Immediate Relative of a United States Citizen or as Preference Immigrant; Self-Petitioning for Certain Battered or Abused Spouses and Children,'' 61 Fed. Reg. 13,061, 13074 (1996) (8 C.F.R. 204.2(c)(vi)).

The phrase ''battered or subjected to extreme cruelty'' includes, but is not limited to, being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence. Other abusive actions may also be acts of violence under this rule. Acts or threatneded acts that, in and of themselves, may not initially appear violent may be part of an overall pattern of violence.

This is a broad, flexible definition that encompasses all types of battery and extreme cruelty. The acts mentioned in the above definition should be regarded by benefit providers as acts of violence whenever they occur, so long as one or more of the acts takes place in the United States and while the family relationship between the abuser and the victim exists. It is not possible, however, to identify all behaviors that could be acts of violence under certain circumstances, and this definition does not contain an exhaustive list of the acts of violence that will constitute battery or extreme cruelty. Many other nonenumerated abusive actions will also constitute an act or threatened act of violence under this definition.

For purposes of this Guidance, the phrase ''member of the spouse or parent's family'' means any person related by blood, marriage, or adoption to the spouse or parent of the alien, or any person having a relationship to the spouse or parent that is covered by the civil or criminal domestic violence statutes of the state or Indian country where the alien resides, or the state or Indian country in which the alien, the alien's child, or the alien child's parent received a protection order.

(b) *Applicant With EOIR Order or Approved INS Petition or Other Court Order Based on Battery*

Applicants with approved petitions or orders granted under one of the provisions enumerated in paragraphs (c), (d) or (e) of requirement one above have already met the requirement of demonstrating battery or extreme cruelty pursuant to the INS rule. Thus, the benefit provider should not make a new determination of battery or cruelty, and should instead proceed directly to the determination of substantial connection under requirement three. Similarly, a protection order or record of criminal conviction satisfies the battery or extreme cruelty requirement for applicants in the following situations:

- any applicant who has or has had a protection order issued against his or her spouse, parent, or family member of the spouse or parent with whom the applicant was living;
- any applicant whose child has or has had a protection order issued against the applicant's spouse, parent, or family member of the spouse or parent with whom the applicant was living (including protection orders issued to the applicant on behalf of the applicant's abused minor child);
- any applicant who is an alien child and whose parent has or has had a protection order issued against the parent's spouse, or family member of the spouse with whom his or her parent was living;
- any applicant who has a record of criminal conviction of his or her spouse, parent, or family member of the spouse or parent with whom the applicant was living, for committing an act of violence against the applicant or his or her child; or
- any applicant who is an alien child and who has a record of criminal conviction of his or her parent's spouse, or family member of the spouse with whom the parent was living , for committing an act of violence against the applicant's parent.

In the above situations, the applicant has established battery or extreme cruelty for purposes of this Guidance, and you should immediately proceed to requirement three.[7]

(c) *All Other Applicants*

Except for applicants addressed in (b) immediately above, an applicant must provide evidence of abuse. The benefit provider should consider *any credible evidence proffered by the applicant.* Evidence of battery or extreme cruelty (and in the case of a petition on behalf of a child, evidence that the applicant did not actively participate in the abuse) includes, but is not limited to, reports or affidavits from police, judges and other court officials, medical personnel, school officials, clergy, social workers, counseling or mental health personnel, and other social service agency personnel; legal documentation, such as an order of protection against the abuser or an order convicting the abuser of committing an act of domestic violence that chronicles the existence of abuse; evidence that indicates

[7] In cases where INS is making the determination regarding battery and extreme cruelty, INS will follow its regulations as set forth in 8 C.F.R. 204.2(c)(2). Under these regulations, INS will consider protection orders and criminal convictions along with any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence rests within the sole discretion of INS. See 8 C.F.R. 204(c)(2)(I).

that the applicant sought safe-haven in a battered women's shelter or similar refuge because of the battery against the applicant or his or her child; or photographs of the visibly injured applicant, child, or (in the case of an alien child) parent supported by affidavits. An applicant may also submit sworn affidavits from family members, friends or other third parties who have personal knowledge of the battery or cruelty. Additionally, an applicant may submit his or her own affidavit, under penalty of perjury (it does not have to be notarized), describing the circumstances of the abuse, and the benefit provider has the discretion to conclude that the affidavit is credible, and, by itself or in conjunction with other evidence, provides relevant evidence of sufficient weight to demonstrate battery or extreme cruelty. The benefit provider should keep a copy of all evidence presented by the applicant.

The benefit provider should bear in mind that, due to the nature of the control and fear dynamics inherent in domestic violence, some applicants will lack the best evidence to support their allegations (*e.g.*, a civil protection order or a police report). Thus, the benefit provider will need to be flexible in working with the applicant as he or she attempts to assemble adequate documentation. In determining the existence of battery or cruelty, it is important that the benefit provider understand both the experience of intimate violence and the applicant's cultural context. The dynamics of domestic violence may have inhibited the applicant from seeking public or professional responses to the abuse prior to applying for benefits needed to enable the applicant to leave the abuser. For many cultural groups, going to outsiders for help is viewed as disloyalty to the community and an embarrassment to the family. In some cultures, for example, women have been conditioned to accept the authority and control of their husbands. Thus, there may be little independent documentary evidence of the abuse; the benefit provider should be sensitive to the needs and situation of the abused applicant when reviewing allegations and evidence of abuse.

Many applicants will have had an I–130 petition filed on their behalf by their spouse or parent, in which case the spouse or parent will have ultimate control over the disposition of the petition. If the spouse or parent is the abuser, he or she can nullify the petition either by withdrawing it or by divorcing the alien before the alien is able to obtain a green card. For these reasons, and because a self-petitioning applicant may be able to obtain employment authorization, an alien who is eligible to self-petition (the alien must be married to the abuser when the petition is filed) should be strongly encouraged to do so. The applicant should also be directed to the INS forms request line and the National Domestic Violence Hotline as set forth on page one.

Requirement 3: *Substantial Connection Between Battery and the Need for Benefits.* You must determine whether there is a substantial connection between the battery or extreme cruelty to which the applicant, his or her child, or (in the case of an alien child) his or her parent has been subjected and the need for the benefits sought. This requirement will not be satisfied simply by a determination that an applicant has been subjected to battery or extreme cruelty. To assist benefit providers in making substantial connection determinations, and as required by the Budget Act, the Attorney General has developed a list of circumstances, set forth below, that demonstrate a substantial connection between the battery or extreme cruelty suffered by an applicant, the applicant's child, or (in the case of an alien child) the applicant's parent, and the need for the benefit sought. You may refer to this list as a guide in making substantial connection determinations.

Note: The Attorney General's Order No. 2097–97, Determination of Situations that Demonstrate a Substantial Connection Between Battery or Extreme Cruelty and Need for Specific Public Benefits, 62 FR 39874 (July 24, 1997), has been superseded by amendments in the Budget Act. Revised substantial connection guidance will be issued shortly. In the meantime, benefit providers should look to the information contained in this document for guidance in making substantial connection determinations.

- Where the benefits are needed to enable the applicant, the applicant's child, and/or (in the case of an alien child), the applicant's parent to become self-sufficient following separation from the abuser;
- Where the benefits are needed to enable the applicant, the applicant's child, and/or (in the case of an alien child) the applicant's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the applicant, the applicant's child, or (in the case of an alien child) the applicant's parent from the abuser;
- Where the benefits are needed due to a loss of financial support resulting from the applicant's, his or her child's, and/or (in the case of an alien child) his or her parent's separation from the abuser;
- Where the benefits are needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the applicant, the applicant's child, and/or (in the case of an alien child) the applicant's parent to lose his or her job or to earn less or to require the applicant, the applicant's child, and/or (in the case of an alien child) the applicant's parent to leave his or her job for safety reasons;
- Where the benefits are needed because the applicant, the applicant's child, or (in the case of an alien child) the applicant's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty;
- Where the benefits are needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the applicant's or (in the case of an alien child) the parent's ability to care for his or her children (*e.g.*, inability to house, feed, or clothe children or to put children into a day care for fear of being found by the abuser);
- Where the benefits are needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser;
- Where the benefits are needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the applicant, the applicant's child, and/or (in the case of an alien child) the applicant's parent and/or to care for any resulting children; or
- Where medical coverage and/or health care services are needed to replace medical coverage or health care services the applicant, the applicant's child, or (in the case of an alien child) the applicant's parent had when living with the abuser.

Requirement 4: *Battered Applicant No Longer Resides in the Same Household with Batterer.* Before providing benefits, you must determine that the battered applicant, child or parent no longer resides in the same household or family eligibility unit as the batterer. Although an applicant is not a qualified alien eligible for benefits until the battered applicant or child, or parent ceases residing with the batterer, applicants will generally need the assurance of the availability of benefits in order to be able to leave their batterer and survive independently. Wherever possible in this situation, the benefit provider should complete the eligibility determination process and approve the applicant for receipt of benefits pending the applicant's demonstration that the applicant, his or her child, and/or (in the case of an alien child) his or her parent have separated from the batterer. The applicant can then make arrangements to leave the batterer's residence secure in the knowledge that benefits will be provided as soon as he or she leaves.

You should consider any relevant credible evidence supporting the claim of non-residency with the batterer, including, but not limited to, any of the following: A civil protection order requiring the batterer to stay away from the applicant or the applicant's children or parent, or evicting the batterer from the applicant's residence; employment records; utility receipts; school records; hospital or medical records; rental records or records from a building or property manager; an affidavit from a staff member at a shelter for battered women or homeless persons, family members, friends or other third parties with personal knowledge, or from the battered applicant himself or herself; or any other records establishing that the applicant or his or her child or parent no longer resides with the abusive spouse, parent, or family member.

Note: While qualified alien status will make the battered applicant, the battered applicant's children, or the parent of a battered child eligible for certain federal public benefits, it will not make them eligible for all federal public benefits. See Interim Guidance and Attachments 6 and 7 thereto for the factors that determine a qualified alien's eligibility for particular benefits.

II. EXEMPTION FROM DEEMING REQUIREMENTS

A. *Battered Aliens*

Section 421 of the Act (as amended by the Immigration Act and the Budget Act) requires

that, upon the effective date of the newly required affidavit of support and subject to the exceptions described below, when determining eligibility for federal means-tested public benefits and the amount of such benefits to which an alien applicant is entitled, agencies must include as income and resources of the alien, the income and resources of the spouse of the alien and any other person executing an affidavit of support on behalf of the alien. An alien is exempt from these ''deeming'' requirements for a period of one year, however, if

(1) in the case of an abused alien,

(a) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien, or by a member of the spouse or parent's family residing in the same household as the alien if the spouse or parent consents to or acquiesces in such battery or cruelty; (b) there is, in the opinion of the agency providing such benefits, a substantial connection between the battery or extreme cruelty and the need for the benefit sought; and (c) the battered alien no longer resides in the same household as the abuser;

(2) in the case of an alien whose child is abused:

(a) the alien's child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien, or by a member of the spouse or parent's family residing in the same household as the alien if the spouse or parent consents to or acquiesces in such battery or cruelty, and the alien did not actively participate in the battery or cruelty; (b) there is, in the opinion of the agency providing such benefits, a substantial connection between the battery or extreme cruelty and the need for the benefit sought; and (c) the battered child no longer resides in the same household as the abuser;

(3) in the case of an alien child whose parent is abused:

(a) the alien child's parent has been battered or subjected to extreme cruelty in the United States by the parent's spouse, or by a member of the spouse's family residing in the same household as the parent if the spouse consents to or acquiesces in such battery or cruelty; (b) there is, in the opinion of the agency providing such benefits, a substantial connection between the battery or extreme cruelty and the need for the benefit sought; and (c) the battered parent no longer resides in the same household as the abuser.

See Part I, requirements two and four, above, for the definition and proof of battery/extreme cruelty and non-residency with the abuser; the agency may also want to consult the Attorney General's guidance regarding substantial connection (see part I, requirement three above) when making its own substantial connection determination.

After expiration of the one year period, alien applicants continue to be exempt from the deeming requirements with regard to the resources and income of the *batterer only*, if (a) the applicant demonstrates that the battery or cruelty has been recognized in an order of a judge or administrative law judge or a prior determination of the INS, and (b) in the opinion of the agency, there is a substantial connection between the abuse or battery suffered by the applicant, the applicant's child, or (in the case of an alien child) the applicant's parent and the need for the benefit sought.

B. *Indigent Aliens*

In addition to the exemption for battered aliens, the Act's deeming provision contains a separate exemption for indigent aliens. If, after taking into account the alien's own income plus any cash, food, housing or other assistance provided by other individuals (including the sponsor), an agency determines that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, the amount of income and resources of the sponsor or the sponsor's spouse that shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period of one year after the date such agency determination is made.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

OMB #1115-0117
Petition for Amerasian, Widow or Special Immigrant

START HERE - Please Type or Print

Part 1. Information about person or organization filing this petition.

(Individuals should use the top name line; organizations should use the second line.) If you are a self-petitioning spouse or child and do not want INS to send notices about this petition to your home, you may show an alternate mailing address here. If you are filing for yourself and do not want to use an alternate mailing address, skip to part 2.

Family Name	Given Name	Middle Initial
Company or Organization Name		
Address - C/O		
Street Number and Name		Apt. #
City	State or Province	
Country		ZIP/Postal Code
U.S. Social Security #	A #	IRS Tax # *(if any)*

Part 2. Classification Requested (check one):

a. ☐ Amerasian
b. ☐ Widow(er) of a U.S. citizen who died within the past 2 years
c. ☐ Special Immigrant Juvenile
d. ☐ Special Immigrant Religious Worker
e. ☐ Special Immigrant based on employment with the Panama Canal Company, Canal Zone Government or U.S. Government in the Canal Zone
f. ☐ Special Immigrant Physician
g. ☐ Special Immigrant International Organization Employee or family member
h. ☐ Special Immigrant Armed Forces Member
i. ☐ Self-Petitioning Spouse of Abusive U.S. Citizen or Lawful Permanent Resident
j. ☐ Self-Petitioning Child of Abusive U.S. Citizen or Lawful Permanent Resident
k. ☐ Other, explain: _____

Part 3. Information about the person this petition is for.

Family Name	Given Name	Middle Initial
Address - C/O		
Street Number and Name		Apt. #
City	State or Province	
Country		ZIP/Postal Code
Date of Birth *(Month/Day/Year)*	Country of Birth	
U.S. Social Security # (if any)	A # *(if any)*	

Marital Status: ☐ Single ☐ Married ☐ Divorced ☐ Widowed

Complete the items below if this person is in the United States:

Date of Arrival *(Month/Day/Year)*	I-94#
Current Nonimmigrant Status	Expires on *(Month/Day/Year)*

Form I-360 (Rev. 03/07/96) N

Continued on back.

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
☐ Petitioner/ Applicant Interviewed ☐ Beneficiary Interviewed	
☐ I-485 Filed Concurrently ☐ Bene "A" File Reviewed	
Classification	
Consulate	
Priority Date	
Remarks:	
Action Block	

To Be Completed by *Attorney* or *Representative*, if any

☐ Fill in box if G-28 is attached to represent the applicant

VOLAG#

ATTY State License #

Part 4. Processing Information.

Below give the United States Consulate you want notified if this petition is approved and if any requested adjustment of status cannot be granted.

American Consulate: City	Country

If you gave a United States address in Part 3, print the person's foreign address below. If his/her native alphabet does not use Roman letters, print his/her name and foreign address in the native alphabet.

Name	Address

Sex of the person this petition is for.	☐ Male	☐ Female
Are you filing any other petitions or applications with this one?	☐ No	☐ Yes (How many? _____)
Is the person this petition is for in exclusion or deportation proceedings?	☐ No	☐ Yes (Explain on a separate sheet of paper)
Has the person this petition is for ever worked in the U.S. without permission?	☐ No	☐ Yes (Explain on a separate sheet of paper)
Is an application for adjustment of status attached to this petition?	☐ No	☐ Yes

Part 5. Complete only if filing for an Amerasian.

Section A. Information about the mother of the Amerasian

Family Name	Given Name	Middle Initial

Living? ☐ No (Give date of death _____) ☐ Yes (complete address line below) ☐ Unknown (attach a full explanation)

Address

Section B. Information about the father of the Amerasian: If possible, attach a notarized statement from the father regarding parentage. Explain on separate paper any question you cannot fully answer in the space provided on this form.

Family Name	Given Name	Middle Initial
Date of Birth (Month/Day/Year)	Country of Birth	

Living? ☐ No (give date of death _____) ☐ Yes (complete address line below) ☐ Unknown (attach a full explanation)

Home Address

Home Phone #	Work Phone #

At the time the Amerasian was conceived:

☐ The father was in the military (indicate branch of service below - and give service number here): _____

☐ Army ☐ Air Force ☐ Navy ☐ Marine Corps ☐ Coast Guard

☐ The father was a civilian employed abroad. Attach a list of names and addresses of organizations which employed him at that time.

☐ The father was not in the military, and was not a civilian employed abroad. *(Attach a full explanation of the circumstances.)*

Part 6. Complete only if filing for a Special Immigrant Juvenile Court Dependent.

Section A. Information about the Juvenile

List any other names used.

Answer the following questions regarding the person this petition is for. If you answer "no" explain on a separate sheet of paper.

Is he or she still dependent upon the juvenile court or still legally committed to or under the custody of an agency or department of a state?	☐ No	☐ Yes
Does he/she continue to be eligible for long term foster care?	☐ No	☐ Yes

Continued on next page.

Part 7. Complete only if filing as a Widow/Widower, a Self-petitioning Spouse of an Abuser, or as a Self-petitioning Child of an Abuser.

Section A. Information about the U.S. citizen husband or wife who died or about the U.S. citizen or lawful permanent resident abuser.

Family Name	Given Name	Middle Initial

Date of Birth *(Month/Day/Year)*	Country of Birth	Date of Death *(Month/Day/Year)*

He or she is now, or was at time of death a *(check one):*

- ☐ U.S. Citizen born in the United States.
- ☐ U.S. Citizen born abroad to U.S. citizen parents.
- ☐ U.S. Citizen through Naturalization *(Show A #)* _____
- ☐ U.S. lawful permanent resident *(Show A #)* _____
- ☐ Other, explain _____

Section B. Additional Information about you.

How many times have you been married?	How many times was the person in Section A married?	Give the date and place you and the person in Seciton A were married. *(If you are a self-petitioning child, write: "N/A")*

When did you live with the person named in Section A? From *(Month/Year)*_____until *(Month/Year)*_____.

If you are filing as a widow/widower, were you legally separated at the time of the U.S citizens's death? ☐ No ☐ Yes, *(attach explanation)*.

Give the last address at which you lived together with the person named in Section A, and show the last date that you lived together with that person at that address:

If you are filing as a self-petitioning spouse, have any of your children filed separate self-petitions? ☐ No ☐ Yes *(show child(ren)'s full names):*

Part 8. Information about the spouse and children of the person this petition is for.

A widow/widower or a self-petitioning spouse of an abusive citizen or lawful permanent resident should also list the children of the deceased spouse or of the abuser.

A. Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
Country of Birth	Relationship ☐ Spouse ☐ Child		A #
B. Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
Country of Birth	Relationship ☐ Child		A #
C. Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
Country of Birth	Relationship ☐ Child		A #
D. Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
Country of Birth	Relationship ☐ Child		A #
E. Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
Country of Birth	Relationship ☐ Child		A #
F. Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
Country of Birth	Relationship ☐ Child		A #

G. Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
Country of Birth	Relationship ☐ Child		A #
H. Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
Country of Birth	Relationship ☐ Child		A #

Part 9. Signature.

Read the information on penalties in the instructions before completing this part. If you are going to file this petition at an INS office in the United States, sign below. If you are going to file it at a U.S. consulate or INS office overseas, sign in front of a U.S. INS or consular official.

I certify, or, if outside the United States, I swear or affirm, under penalty of perjury under the laws of the United States of America, that this petition, and the evidence submitted with it, is all true and correct. If filing this on behalf of an organization, I certify that I am empowered to do so by that organization. I authorize the release of any information from my records, or from the petitioning organization's records, which the Immigration and Naturalization Service needs to determine eligibility for the benefit being sought.

Signature		Date
Signature of INS or Consular Official	Print Name	Date

Please Note: *If you do not completely fill out this form, or fail to submit required documents listed in the instructions, then the person(s) filed for may not be found eligible for a requested benefit, and it may have to be denied.*

Part 10. Signature of person preparing form if other than above. (sign below)

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature	Print Your Name	Date
Firm Name and Address		

U.S. Department of Justice
Immigration and Naturalization Service

OMB# 1115-0117
Petition for Amerasian, Widow(er), or Special Immigrant

INSTRUCTIONS

Purpose of This Form.
This petition is used to classify an alien as:
- an Amerasian;
- a Widow or Widower;
- a Battered or Abused Spouse or Child of a U.S. Citizen or Lawful Permanent Resident;
- a Special Immigrant (Religious Worker; Panama Canal Company Employee, Canal Zone Government Employee, U.S. Government in the Canal Zone Employee; Physician; International Organization Employee or Family Member; Juvenile Court Dependent; or Armed Forces Member).

Initial Evidence Requirements.
If these instructions state that a copy of a document may be filed with this petition, and you choose to send us the original, we may keep that original for our records. Any foreign language document must be accompanied by an English translation certified by the translator that he/she is competent to translate from the foreign language into English and that the translation is accurate.

Amerasian. Any person who is 18 or older, an emancipated minor, or a U.S. corporation may file this petition for an alien who was born in Korea, Vietnam, Laos, Kampuchea, or Thailand after December 31, 1950, and before October 22, 1982, and was fathered by a U.S. citizen.

The petition must be filed with:
- copies of evidence the person this petition is for was born in one of the above countries between those dates. If he/she was born in Vietnam, you must also submit a copy of his/her Vietnamese I.D. card, or an affidavit explaining why it is not available;
- copies of evidence establishing the parentage of the person, and of evidence establishing that the biological father was a U.S. citizen. Examples of documents that may be submitted are birth or baptismal records or other religious documents; local civil records; an affidavit, correspondence or evidence of financial support from the father; photographs of the father (especially with the child); or, absent other documents, affidavits from knowledgeable witnesses which detail the parentage of the child and how they know such facts;
- a photograph of the person;
- if the person is married, submit a copy of the marriage certificate, and proof of the termination of any prior marriages; and
- if the person is under 18 years old, submit a written statement from his/her mother or legal guardian which:
  - irrevocably releases him/her for emigration and authorizes the placing agencies to make necessary decisions for his/her immediate care until a sponsor receives custody;
  - shows an understanding of the effects of the release, and states whether any money was paid or coercion used prior to obtaining the release; and
  - includes the full name, date and place of birth, and present or permanent address of the mother or guardian, and with the signature of the mother or guardian on the release authenticated by a local registrar, court of minors, or a U.S. immigration or consular officer.

The following sponsorship documents are also required. You may file these documents with the petition, or wait until we review the petition and request them. However, not filing them with the petition will add to the overall processing time.
- An Affidavit of Financial Support, executed by the sponsor, with the evidence of financial ability required by that form. Please note that the original sponsor remains financially responsible for the Amerasian if any subsequent sponsor fails in this area;
- Copies of evidence showing that the sponsor is at least 21 years old and is a U.S. citizen or permanent resident;
- Fingerprints of the sponsor on Form FD-258; and
- If this petition is for a person under 18 years old, the following documents issued by a placement agency must be submitted:
  - a copy of the private, public or state agency's license to place children in the U.S., proof of the agency's recent experience in the intercountry placement of children and of the agency's financial ability to arrange the placement;
  - a favorable home study of the sponsor conducted by a legally authorized agency;
  - a pre-placement report from the agency, including information regarding any family separation or dislocation abroad that would result from the placement;
  - a written description of the orientation given to the sponsor and to the parent or guardian on the legal and cultural aspects of the placement;
  - a statement from the agency showing that the sponsor has been given a report on the pre-placement screening and evaluation of the child; and
  - a written plan from the agency to provide follow-up services, including mediation and counseling, and describing the contingency plans to place the person this petition is for in another suitable home if the initial placement fails.

Widow/Widower of a United States Citizen. You may file this petition for yourself if:
- you were married for at least two years to a U.S. citizen who is now deceased and who was a U.S. citizen at the time of death;
- your citizen spouse's death was less than two years ago;
- you were not legally separated from your citizen spouse at the time of death; and
- you have not remarried.

The petition must be filed with:
- a copy of your marriage certificate to the U.S. citizen and proof of termination of any prior marriages of either of you;
- copies of evidence that your spouse was a U.S. citizen, such as a birth certificate if born in the U.S.; Naturalization Certificate or Certificate of Citizenship issued by this Service; Form FS-240, Report of Birth Abroad of a Citizen of the United States; or a U.S. passport which was valid at the time of the citizen's death; and
- a copy of the death certificate of your U.S. citizen spouse.

Self-Petitioning Battered or Abused Spouse or Child of a U.S. Citizen or Lawful Permanent Resident. You may self-petition for immediate relative or family-sponsored immigrant classification if you:
- are now the spouse or child of an abusive U.S. citizen or lawful permanent resident;
- are eligible for immigrant classification based on that relationship;
- are now residing in the United States;
- have resided in the United States with the U.S. citizen or lawful permanent resident abuser in the past;
- have been battered by, or have been the subject of extreme cruelty perpetrated by:
  - your U.S. citizen or lawful permanent resident spouse during the marriage; or are the parent of a child who has been battered by or has been the subject of extreme cruelty perpetrated by, your abusive citizen or lawful permanent resident spouse during your marriage; or
  - your citizen or lawful permanent resident parent while residing with that parent;
- are a person of good moral character;
- are a person whose deportation would result in extreme hardship to yourself, or to your child if you are a spouse; and
- if you are a spouse, entered into the marriage to the citizen or lawful permanent resident abuser in good faith.

NOTE: Divorce or other legal termination of the marriage to the abuser AFTER the self-petition is properly filed with INS will not be the sole basis for denial or revocation of an approved self-petition. If you remarry before you become a lawful permanent resident, however, your self-petition will be denied or the approval revoked.

Your self-petition may be filed with any credible relevant evidence of eligibility. The determination of what evidence is credible and the weight to be given that evidence is within the sole discretion of the INS; therefore, you are encouraged to provide the following evidence:
- evidence of the abuser's U.S. citizenship or lawful permanent resident status;
- marriage and divorce decrees, birth certificates, or other evidence of your legal relationship to the abuser;

- one or more documents showing that you and the abuser have resided together in the United States in the past, such as employment records, utility receipts, school records, hospital or medical records, birth certificates of children, deeds, mortgages, rental records, insurance policies, or affidavits;
- one or more documents showing that you are now residing in the United States, such as the documents listed above;
- evidence of the abuse, such as reports and affidavits from police, judges and other court officials, medical personnel, school officials, clergy, social workers, and other social service agency personnel. If you have an order of protection or have taken other legal steps to end the abuse, you should submit copies of those court documents;
- if you are more than 14 years of age, your affidavit of good moral character accompanied by a local police clearance, state-issued criminal background check, or similar report from each locality or state in the United States or abroad in which you have resided for six or more months during the 3-year period immediately preceding the filing of your self-petition;
- affidavits, birth certificates of children, medical reports and other relevant credible evidence of the extreme hardship that would result if you were to be deported; and
- if you are a spouse, proof that one spouse has been listed as the other's spouse on insurance policies, property leases, income tax forms, or bank accounts; and testimony or other evidence regarding your courtship, wedding ceremony, shared residence and experiences showing that your marriage was entered into in good faith.

Special Immigrant Juvenile. Any person, including the alien, may file this petition for an alien who:
- is unmarried and less than 21 years old;
- has been declared dependent upon a juvenile court in the United States or who such a court has legally committed to, or placed under the custody of, an agency or department of a state and who has been found eligible for long-term foster care; and
- has been the subject of administrative or judicial proceedings in which it was determined that it would not be in the juvenile's best interests to be returned to the juvenile's or his/her parent's country of nationality or last habitual residence.

NOTE: After a special immigrant juvenile becomes a permanent resident, his or her parent(s) may not receive any immigration benefit based on the relationship to the juvenile.

The petition must be filed with:
- a copy of the juvenile's birth certificate or other evidence of his or her age;
- copies of the court or administrative document(s) upon which the claim to eligibility is based.

Special Immigrant Religious Worker. Any person, including the alien, may file this petition for an alien who for the past 2 years has been a member of a religious denomination which has a bona fide nonprofit, religious organization in the U.S.; and who has been carrying on the vocation, professional work, or other work described below, continuously for the past 2 years; and seeks to enter the U.S. to work solely:
- as a minister of that denomination; or
- in a professional capacity in a religious vocation or occupation for that organization; or
- in a religious vocation or occupation for the organization or its nonprofit affiliate.

NOTE: A petition for a special immigrant for a person who is not a minister may only be filed until October 1, 1997.

The petition must be filed with:
- a letter from the authorized official of the religious organization establishing that the proposed services and alien qualify as above;
- a letter from the authorized official of the religious organization attesting to the alien's membership in the religious denomination and explaining, in detail, the person's religious work and all employment during the past 2 years and the proposed employment; and
- evidence establishing that the religious organization, and any affiliate which will employ the person, is a bona fide nonprofit religious organization in the U.S. and is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

Special Immigrant based on employment with the Panama Canal Company, Canal Zone Government or U.S. government in the Canal Zone. Any person may file this petition for an alien who, at the time the Panama Canal Treaty of 1977 entered into force, either:
- was resident in the Canal Zone and had been employed by the Panama Canal Company or Canal Zone Government for at least 1 year; or
- was a Panamanian national and either honorably retired from U.S. Government employment in the Canal Zone with a total of 15 or more years of faithful service or so employed for 15 years and since honorably retired; or
- was an employee of the Panama Canal Company or Canal Zone government, had performed faithful service for 5 years or more as an employee, and whose personal safety, or the personal safety of his/her spouse or child, is in danger as a direct result of the special nature of his/her employment and as a direct result of the Treaty.

The petition must be filed with:
- a letter from the Panama Canal Company, Canal Zone government or U.S. government agency employing the person in the Canal Zone, indicating the length and circumstances of employment and any retirement or termination; and
- copies of evidence to establish any claim of danger to personal safety.

Special Immigrant Physician. Any person may file this petition for an alien who:
- graduated from a medical school or qualified to practice medicine in a foreign state;
- was fully and permanently licensed to practice medicine in a State of the U.S. on January 9, 1978, and was practicing medicine in a State on that date;
- entered the U.S. as an "H" or "J" nonimmigrant before January 9, 1978; and
- has been continuously present in the U.S. and continuously engaged in the practice or study of medicine since the date of such entry.

The petition must be filed with:
- letters from the person's employers, detailing his/her employment since January 8, 1978, including the current employment; and
- copies of relevant documents that demonstrate that the person filed for meets all the above criteria.

Special Immigrant International Organization Employee or family member. Certain long-term "G" and "N" nonimmigrant employees of a qualifying international organization entitled to enjoy privileges, exemptions and immunities under the International Organizations Immunities Act, and certain relatives of such an employee, may be eligible to apply for classification as a Special Immigrant. To determine eligibility, contact the qualifying international organization or your local INS office. The petition must be filed with:
- a letter from the international organization demonstrating that it is a qualifying organization and explaining the circumstances of qualifying employment and the immigration status held by the person the petition is for; and
- copies of evidence documenting the relationship between the person this petition is for and the employee.

Armed Forces Member. You may file this petition for yourself, if:
- you have served honorably on active duty in the Armed Forces of the United States after October 15, 1978;
- you originally lawfully enlisted outside the United States under a treaty or agreement in effect on October 1, 1991, for a period or periods aggregating:
  - twelve years, and were never separated from such service except under honorable conditions; or
  - six years, are now on active duty, and have reenlisted to incur a total active duty service obligation of at least 12 years;
- you are a national of an independent state which maintains a treaty or agreement allowing nationals of that state to enlist in the United States Armed Forces each year; and
- the executive department under which you have served or are serving has recommended you for this special immigrant status.

The petition must be filed with:
- certified proof issued by the authorizing official of the executive department in which you are serving or have served which certifies that you have the required honorable active duty service and/or commitment; and
- your birth certificate.

General Filing Instructions.
Please answer all questions by typing or clearly printing in black ink only. Indicate that an item is not applicable with "N/A". If an answer is "none," please so state. If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), if any, and indicate the number of the item the answer refers to. Every petition must be properly signed, and accompanied by the proper fee. If you are under 14 years of age, your parent or guardian may sign the petition.

Where to File.
If you are filing for a Special Immigrant Juvenile, file the petition at the local INS office having jurisdiction over the place he/she lives.

If you are filing for Amerasian classification and the person you are filing for is outside the United States, you may file this petition at the INS office that has jurisdiction over the place he/she lives or the office that has jurisdiction over the place he/she will live.

If you are in the United States and filing as a Widow/Widower or as the Self-petitioning Spouse or Child of an Abusive U.S. Citizen, you may file this petition together with your application for adjustment of status. If you are in the United States, filing as the self-petitioning spouse or child of abusive lawful permanent resident, and have an immediately available immigrant visa number, you may also file this petition together with your application for adjustment of status. See the adjustment of status instructions for information about where to file.

If this petition is for an Amerasian, a Widow/Widower, or a Special Immigrant Armed Forces Member, and that person lives outside the United States, you may file this petition at the INS office overseas or the U.S. consulate or Embassy abroad having jurisdiction over the area in which he or she lives.

In all other instances file this petition at an INS Service Center, as follows:

If you live in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, Virginia, or West Virginia, mail this petition to USINS, Vermont Service Center, 75 Lower Weldon Street, St. Albans, VT 05479-0001.

If you live in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, or Texas, mail this petition to USINS, Texas Service Center, P.O. Box 152122, Dept. A, Irving, TX 75015-2122.

If you live in Arizona, California, Guam, Hawaii, or Nevada, mail this petition to USINS, California Service Center, P.O. Box 10360, Laguna Niguel, CA 92607-0360

If you live elsewhere in the U.S., mail this petition to USINS, Nebraska Service Center, 850 S Street, Lincoln, NE 68501-2521

Fee.
The fee for this petition is $80.00, except that there is no fee if you are filing for an Amerasian. The fee must be submitted in the exact amount. It cannot be refunded. DO NOT MAIL CASH. All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

- If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."
- If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing Information.
Rejection. Any petition that is not signed or is not accompanied by the correct fee will be rejected with a notice that the petition is deficient. You may correct the deficiency and resubmit the petition. However, a petition is not considered properly filed until accepted by the Service.

Initial processing. Once the petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility and we may deny your petition.

NOTE: A Self-Petitioning Battered or Abused Spouse or Child of a U.S. Citizen or Lawful Permanent Resident may submit any relevant credible evidence in place of the suggested evidence.

Requests for additional information or interview. We may request additional information or evidence or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision. If you establish that the person this petition is for is eligible for the requested classification, we will approve the petition. We will send it to the U.S. Embassy/Consulate for visa issuance unless he or she is in the U.S. and appears eligible and intends to apply for adjustment to permanent resident status while here. If you do not establish eligibility, we will deny the petition. We will notify you in writing of our decision.

Penalties.
If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice.
We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1154. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice.
A person is not required to respond to a collection of information unless it displays a currently valid OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: (1) learning about the law and form, 15 minutes; (2) completing the form, 20 minutes; and (3) assembling and filing the application, 85 minutes for an estimated average of 2 hours per response. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to the Immigration and Naturalization Service, (1115-0117) 425 I Street, N.W., Room 5307, Washington, D.C. 20536.

BILLING CODE 4410–10–C

Paperwork Reduction Act Notice

The information collection requirements contained in the following two forms have been approved for use by the Office of Management and Budget under the Paperwork Reduction Act. The OMB control number for these collections is 1115–0219, with the expiration date 5/31/98. Persons are not required to provide this information unless the form contains a currently valid OMB control number. We estimate that it will take an average of 20 minutes per response to collect this information, including time for reviewing, instruction, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspects of this collection, send them to the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536.

BILLING CODE 4410–10–M

[sample only -- request to be submitted on letterhead of requesting agency]
Fax Request Form -- from Benefit Agency to EOIR

To: Executive Office for Immigration Review This fax consists of ___ pages.
Immigration Court, _____ (insert name of city/state)
Attn: Court Administrator Fax number: _____

This request is being submitted by:

Name (printed): _____ Title: _____

Agency name and address: _____

_____

Fax number: _____ Phone number: _____

Agency case tracking number (optional): _____

Item 1: That above-referenced agency requests that EOIR: (please check only one)

____ Verify that the individual referred to on the attached green card (a copy is attached) was granted relief under section 244(a)(3) (as in effect prior to April 1, 1997) or 240A(b)(2) of the Immigration and Nationality Act.

____ Verify that the attached order grants relief under section 244(a)(3) or 240A(b)(2) of the Immigration and Nationality Act.

____ Verify that EOIR has determined that the alien has demonstrated a prima facie case for suspension of deportation or cancellation of removal under section 244(a)(3) or 240A(b)(2) of the Immigration and Nationality Act.

Item 2: **If you checked the last item above, please fill out the following information**. If the applicant has a copy of a receipt notice or other documentation indicating that he or she filed an application for suspension of deportation or cancellation of removal, please attach a copy.

Benefit Applicant's full name: _____

Benefit Applicant's date of birth: _____

Benefit Applicant's best guess as to when application was filed: _____ (mo/yr)

Benefit Applicant's best guess as to with
which immigration court petition was filed: _____

Benefit Applicant's address at time of filing petition: _____

(street address, city, state, zip code) _____

Date: _____ Agency Signature: _____

Sample

[sample only -- request to be submitted on letterhead of requesting agency]

Fax Request Form -- from Benefit Agency to INS

To: INS Vermont Service Center, fax 802/527-3159
Attn: Battered Alien Review Unit This fax consists of ____ pages.

This request is being submitted by:

Name (printed): _____ Title: _____

Agency name and address: _____

_____

Fax number: _____ Phone number: _____

Agency case tracking number: _____ (optional)

Item 1: An alien applicant is seeking public benefits from the agency identified above, pursuant to recent welfare reform legislation. This applicant falls into one of two categories:

___ a) believes an INS Form I-130, Petition for Immigrant Status, was filed on the applicant's behalf by his/her spouse or parent; or has self-petitioned as a widow(er) using INS Form I-360, Petition for Amerasian, Widow or Special Immigrant (complete Part A, below);

OR

___b) has self-petitioned as a battered spouse or child using INS Form I-360, Petition for Amerasian, Widow, or Special Immigrant (complete Part B, below).

Item 2: The above-referenced agency requests that INS: (please check only one)

- ☐ Verify that the attached document is valid. A copy of the I-797 approval notice, prima facie determination or receipt notice is attached.
- ☐ Make a prima facie determination or expedite adjudication of the petition and notify the requesting agency of the outcome.
- ☐ Update the status of the requesting agency's _____ (insert date) request for a prima facie determination or expedited adjudication. (Requesting agency should allow three weeks from the request for a prima facie determination or filing of a petition before making this request.)
- ☐ Determine whether the applicant has filed a petition or whether a petition has been filed on his or her behalf under (a) or (b), as indicated above. If so, please make a prima facie determination or expedited adjudication of the applicant's petition and notify the requesting agency of the outcome.

Date: _____ Agency Signature: _____

Sample

PART A: For an Applicant Who Is the Beneficiary of a Petition Filed by Spouse or Parent, or Who Has Self-Petitioned as a Widow(er)

Step 1: Does the alien applicant have a copy of an INS Form I-797 indicating that an I-130 was filed on his/her behalf? [If applicant has self-petitioned as a widow(er), check "No" and proceed to Step 2.]

Yes _____ ➜ Attach a copy of the I-797 to this fax (you need not complete Step 2)

No _____ ➜ If the applicant has no documentation, or has documentation other than a Form I-797, proceed to Step 2.

Step 2: If the applicant does not have a Form I-797, please fill out the following information. All blanks, except that noted "if available", must be completed.

Benefit Applicant's full name: _____

Benefit Applicant's date of birth: _____

Benefit Applicant's best guess as to when petition was filed: _____ (mo/yr)

Benefit Applicant's best guess as to with which INS office petition was filed: _____

Petitioner's full name: _____

Petitioner is Applicant's ___ spouse, or ___ parent, or ___ self [widow(er)] (check one)

Petitioner is a ___ U.S. citizen, or ___ lawful permanent resident ("green card holder")

Petitioner's date of birth: _____

Petitioner's Alien Registration Number, if available: A_____

Petitioner's address at time of filing petition: _____

(street address, city, state, zip code) _____

Sample

PART B: For an Applicant Who Has Self-Petitioned as a Battered Spouse or Child

Step 1: Attach a copy of the receipt notice or other documentation evidencing that a Form I-360 has been filed with the INS. If that documentation does not include the following information, please complete the blanks:

Applicant/self-petitioner's full name: _____

Applicant/self-petitioner's date of birth: _____

Date I-360 was filed: _____

Location (city) of INS office where filed: _____

Sample

BILLING CODE 4410–10–C

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW—IMMIGRATION COURTS

State/City/App. Code	Judges	Court administrator	Phone Nos.
ARIZONA			
Eloy—85231, 1705 E. Hanna Rd., Suite 366, App. Code—7D05030234.	William Lee Abbott, Isabel A. Bronzina, Dean A. Levay, Sean Keenan.	John A. Meehan	(520) 466–3671, (520) 466–7795 (fax).
Florence—85232, 3260 N. Pinal Parkway Ave., App. Code—7D05030229.	Lamonte S. Freerks, Scott Jefferies	Jack B. Odom	(520) 868–3341, (520) 868–4962 (fax).
Phoenix—85025, Federal Building, Room 3114, 230 N. First Avenue, App. Code—7D05030226.	John W. Richardson, John T. Zastrow	Jack B. Odom	(602) 514–7356, (602) 514–7387 (fax).
CALIFORNIA			
Imperial—92251, 2409 La Brucherie Road, App. Code—7D05030222.	Michael H. Bennett, Dennis R. James, Richard N. Knuck, Jack W. Staton, Jack H. Weil.	M. Graciela Sosa	(619) 355–0070, (619) 355–8692 (fax).
Los Angeles—90012, 300 N. Los Angeles St., Room 2001, App. Code—7A05030223, Mailing Address: P.O. Box 53711, Los Angeles, CA 90053–0711.	Roy J. Daniel, Bruce J. Einhorn, Thomas Y.K. Fong, Harry L. Gastley, Gilbert T. Gembacz, Nathan W. Gordon, Ingrid K. Hrycenko, Henry P. Ipema, Jr., Jan D. Latimore, William J. Martin, Jr., Ronald N. Ohata, Margaret Reichenberg, Jay Segal, Darlene R. Seligman, Stephen L. Sholomson, Eleazar Tovar, Richard D. Walton.	Evelyn Diaz Brown	(213) 894–2811, (213) 894–5196 (fax).
Los Angeles—90012, Roybal Federal Office Building and Courthouse, 255 E. Temple Street, Rm. 577, App. Code—7D05030223.			(213) 894–5159, (213) 894–2632 (fax).
San Diego—92101–7904, 401 West A Street, Suite 800, App. Code—7D05030225.	Anthony Atenaide, Kenneth A. Bagley, Robert J. Barrett, Richard J. Bartolomei, Jr., Gaylyn Boone, C. Zsa Zsa De Paolo, Ignacio Fernandez Valdes, Joseph Ragusa, John C. Williams.	Brent L. Perkins	(619) 557–6052, (619) 557–6405 (fax).
San Diego—92188, 880 Front Street, Room 800, App. Code—7D05030225.			(619) 557–7647, (619) 557–7655 (fax).
San Francisco—94108, 550 Kearny Street, Suite 800, App. Code—7D05030224, Mailing Address: P.O. Box 2326, San Francisco, CA 94126–2326.	Lawrence N. DiCostanzo, Alberto E. Gonzalez, Bernard J. Hornbach, Dana Marks Keener, Carol A. King, Tue Phan Quang, Beverly M. Phillips, Mimi Y. Schooley, Brian H. Simpson, Bette K. Stockton, Polly A. Webber.	Stephen P. Perkins	(415) 705–4415, (415) 705–4418 (fax).
San Pedro-90731, INS San Pedro Service Proc. Center, 2001 Seaside Avenue, Room 136, App. Code—7D05030233.	Rose Collantes Peters, D.D. Sitgraves	Evelyn Diaz Brown	(310) 732–0753, (310) 732–0757 (fax).
COLORADO			
Denver—80294, Byron G. Rogers Fed. Building, 1961 Stout Street, Room 1403, App. Code—7D05030220.	David J. Cordova, James P. Vandello	Alec Revelle	(303) 844–5815, (303) 844–4578 (fax).
Aurora—80010, Wackenhut Security, Inc., 11901 E. 30th Avenue, App. Code—7D05030220.	David J. Cordova, James P. Vandello	Alec Revelle	(303) 361–0488, (303) 361–0688 (fax).
CONNECTICUT			
Hartford–06103, AA Ribicoff Building and Courthouse, 459 Main Street, Room 509, App. Code—7D05030277.	Harriet B. Marple	Sandra V. Majia (acting)	(860) 240–3919, (860) 240–3921 (fax).
FLORIDA			
Bradenton—4205, 515 11th Street, West, Building A, Room 300, App. Code—7D05030244.	R. Kevin McHugh	George A. Spreyne	(941) 749–1044, (941) 749–0992 (fax).
Miami—33130, 155 S. Miami Ave., Room 800, App. Code—7D05030217.	Teofilo Chapa, J. Daniel Dowell, Rex J. Ford, Mahlon F. Hanson, Michael C. Horn, Denise Marks Lane, Stephen E. Mander, Nancy R. McCormack, Pedro A. Miranda, Philip J. Montante, Jr., Anthony J. Randall, Charles J. Sanders, Ira Sandron, Denise N. Slavin, Bruce W. Solow, Ronald G. Sonom, Elisa M. Sukkar, Lilliana Torreh-Bayouth, Ketih C. Williams.	Michael T. Ringstad	(305) 530–6455, (305) 530–7001 (fax).
Miami Federal Building, 51 S.W. First Ave., Room 224, Miami, FL 33130.	Suzan C. Brauwerman Seymour R. Kleinfeld, Roberto Moreno, William K. Zimmer,.		(305), 530–6451, No fax.

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW—IMMIGRATION COURTS—Continued

State/City/App. Code	Judges	Court administrator	Phone Nos.
Miami—33194, Krome North Processing Center, 18201 S.W. 12th Street, App. Code—7D05030231.	Neal S. Foster, Kenneth S. Hurewitz	George A. Spreyne	(305) 530–7196, (305) 530–7040 (fax).
GEORGIA			
Atlanta—30303, 101 Marietta Street, Suite 2702, App. Code—7D05030228.	William A. Cassidy, G. Mackenzie Rast	John J. Topp	(404) 331–7647, (404) 331–4555 (fax).
ILLINOIS			
Chicago—60605–1521, Federal Building, Room 646, 536 S. Clark Street, App. Code—7D05030218.	O. John Brahos, Carlos Cuevas, James R. Fujimoto, Anthony D. Petrone, Jr., Renetta Smith, Robert D. Vinikoor, Craig M. Zerbe.	Peter P. Pauli, IV	(312) 353–7313, (312) 353–9894 (fax).
LOUISIANA			
New Orleans—70130, One Canal Place, 365 Canal Street, Suite 2450.	Jeffrey Zlatow	Lizbeth L. Wilson	(504) 589–3992, (504) 589–3990 (fax).
Oakdale—71463, 1900 E. Whatley Road, App. Code—7D05030230. Mailing Address: P.O. Box 750, Oakdale, LA 71463.	John A. Duck, Jr., Charles A. Wiegand, III.	Lizbeth L. Wilson	(318) 335–0365, (318) 335–3187 (fax).
MARYLAND			
Baltimore—21202, U.S. Appraisers Building, 103 S. Gay Street, Room 702, App. Code—7D05030201.	Bruce M. Barrett, Lisa Dornell, John F. Gossart, Jr., William P. Greene, Jr..	Brenda L. Cook	(410) 962–3092, (410) 962–9021 (fax).
MASSACHUSETTS			
Boston—02203, JFK Federal Building, 15 New Sudbury St., Room 320, App. Code—7D05030202.	Billino W. D'Ambrosio, Eliza C. Klein, Thomas M. Ragno, Leonard I. Shapiro, Patricia M.B. Sheppard.	Sandra V. Mejia (acting)	(617) 565–3080, (617) 565–4495 (fax).
MICHIGAN			
Detroit—48207, Brewery Park II, 1155 Brewery Park Blvd., Suite 450, App. Code—7D05030219.	Elizabeth Hacker	Sandra Roberts	(313) 226–2603, (313) 226–3053 (fax).
NEVADA			
Las Vegas—79101, Alan Bible Federal Building, 600 Las Vegas Blvd. South, Room 410, App. Code—7A05030240.	Irene Weiss	Jack B. Odom	(702) 388–5837, (702) 388–5844 (fax).
NEW JERSEY			
Elizabeth—625 Evans St., Rm. 148A, App. Code—7D05030236.	Esmeralda Cabrera	Fletcher Graves	(201) 693–4113, (201) 645–4121 (fax).
Newark—07102, 970 Broad Street, Room 1135, App. Code—7D05030204.	Henry S. Dogin, Annie Sue Garcy, Nicole Yae Kyoung Kim, Daniel A. Meisner, Eugene Pugliese, Alberto Riefkohl, William Strasser.	Star B. Pacitto	(201) 645–3524, (201) 645–3432 (fax).
NEW YORK			
Buffalo—14202, 130 Delaware Ave., Suite 410 App. Code—7D05030203.	Walter A. Durling, Jr., Mchaelangelo Rocco.	Gary M. Somerville	(716) 551–3442, (716) 551–3452 (fax).
Fishkill—12524, c/o Downstate Correctional Facility, Red Schoolhouse Road, App. Code—7D05030206.	Mitchell Levinksky	Thomas J. Bonita, III	(914) 831–3657, (914) 831–5452 (fax).
Napanoch—12458, Ulster Correctional Facility, Berne Road, App. Code—7D05030235.	Joe D. Miller	Thomas J. Bonita, III	(914) 647—5506, (914) 647–5641 (fax).
New York—10278, 26 Federal Plaza, Room 10–1000, App. Code—7D5030205.	Matthew T. Adrian, Terry A. Bain, Joanna M. Bukszpan, Sarah M. Burr, Jeffrey Chase, George T. Chew, Annette S. Elstein, Noel Anne Ferris, Victoria Ghartey, Sandy K. Hom, Charles M. Honeyman, William F. Jankun, Elizabeth A. Lamb, Margaret McManus, Philip L. Morace, Barabara A. Nelson, Patricia A. Rohan, John K. Speer, Jr., Mirlande Tadal, Gabriel C. Videla, Robert D. Weisel, Phillip T. Williams, Jeffrey Chase.	John D. Hannah, Jr.	(212) 264,5958, (202) 264–1070 (fax).
New York—10014, 201 Varick Street, Room 1140, App. Code—7D05030232..	Donn L. Livingston, Alan L. Page, Alan A. Vomacka.	Thomas J. Bonita, III	(212) 620–6279, (212) 620–6357 (fax).
PENNSYLVANIA			
Philadelphia—19103, 1600 Callowhill Street, Suite 400, App. Code—7D05030207.	Donald V. Ferlise, Craig DeBernardis	R. Elliott Edwards	(215) 656–7000, (215) 656–7013 (fax).
York—17402, 3434 Concord Road, App. Code—7D05030209.	William Van Wyke	Brenda L. Cook	(717) 755–7555, (717) 757–0132 (fax).

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW—IMMIGRATION COURTS—Continued

State/City/App. Code	Judges	Court administrator	Phone Nos.
PUERTO RICO			
Guaynabo (San Juan)—00965, GSA Center, 651 Federal Drive, Suite 111–14, App. Code—7D05030208.	Rafael B. Ortiz-Segura	George A. Spreyne	(787) 749–4386, (787) 749–4393 (fax).
TEXAS			
Dallas—75202, 1200 Main Street, Suite 700, App. Code—7D05030211.	Edwin R. Hughes, D. Anthony Rogers, Cary Copeland.	Barbara T. Baker	(214) 767–1814, (214) 767–6410 (fax).
El Paso—79925, 1545 Hawkins Boulevard, Suite 205, App. Code—7D05030212.	Gary D. Burkholder, Penny M. Smith, Bertha A. Zuniga.	Theresa N. Baeza	(915) 540–1910, (915) 540–1922 (fax).
El Paso—79925, El Paso Service Processing Center, 8915 Montana Avenue, App. Code—7D05030212.	Visiting IJ	Theresa N. Baeza	(915) 540–7854, No fax.
Harlingen—78550, 201 E. Jackson Street, App. Code—7D05030213.	Howard E. Achtsam, David Ayala, Margaret D. Burkhart, M. Edwin Prudhomme.	Celeste Garza	(210)427–8580, (210) 427–8905 (fax).
Los Fresnos—78566, Port Isabel Processing Center, Route 3, Box 341, Building 37, App. Code—7D05030213. Mailing Address: 201 E. Jackson St., Harlingen, TX 78550.	Visiting IJ	Celeste Garza	(210) 233–4467, (210) 233–5318 (fax).
Houston—77004, 2320 La Branch Street, Room 2235, App. Code—7D05030214.	Robert Brown, Clarease M. Rankin, Michael K. Suarez, Joseph Vail.	Dina P. Sherman	(713) 718–3870, (713) 718–3879 (fax).
Houston—77032, Houston Service Processing Center, 15850 Export Plaza Drive, App. Code—7D05030214.	Susan L. Yarbrough	Dina P. Sherman	(713) 987–0290, (713) 987–3142 (fax).
Huntsville—77340, Goree INS Facility, 30000A Highway 75 South, App. Code—7D05030232. Mailing Address: P.O. Box 1538, Huntsville, TX 77342–1538.	Jimmie L. Benton	Dina P. Sherman	(409) 295–1353, (409) 295–6510 (fax).
Laredo—78041, 4702 E. Saunders, App. Code—7D05030215. Mailing Address: Laredo Service Processing Center, P.O. Box 440110, Laredo, TX 78044–0110.	Visiting IJ	J. Thomas Davis	(210) 727–4772, (210) 726–2320 (fax).
San Antonio-78205-2040, 615 E. Houston Street, Room 598, App. Code-7D05030215.	Richard F. Brodsky, Susan E. Conley-Castro, Glenn P. McPhaul.	J. Thomas Davis	(210) 472–6637, (210) 472–4282 (fax).
VIRGINIA			
Arlington-22203, 901 N. Stuart St., Suite 1300, App. Code-7D05030210.	John M. Bryant, Joan V. Churchill, Christopher M. Grant, Wayne R. Iskra, Paul A. Nejelski.	Beverly Swihart Holmes	(703) 235–2307, (703) 235–2372 (fax).
WASHINGTON			
Seattle-98104, Key Tower Building, 1000 Second Avenue, Suite 2500, App. Code-7D05030221.	Anna Ho, Kenneth Josephson, Kendall B. Warrem.	Joseph Neifert	(206) 553–5953, (206) 553–0622 (fax).
Seattle-98134, Seattle Det. Center, c/o U.S. INS, 815 Airport Way, App. Code-7D05030221.	Anna Ho, Kenneth Josephson, Kendall B. Warren.	Joseph Neifert	call Seattle office: (206) 553–5953, (206) 553–0622 (fax).

BILLING CODE 4310–GG–M

U.S. Department of Justice
Immigration and Naturalization Service

Notice of Action

THE UNITED STATES OF AMERICA

RECEIPT NUMBER		CASE TYPE
EAC-97-000-00000		I-360 PETITION FOR AMERASIAN, WIDOW(ER) OR SPECIAL IMMIGRANT
RECEIPT DATE	PRIORITY DATE	PETITIONER
June 1, 1997	June 1, 1997	DOE, Jane
NOTICE DATE	PAGE	BENEFICIARY
July 9, 1997	1	DOE, Jane

Susan SMITH, Esq.
100 Main St.
Anywhere VT 05400

Notice Type: Approval Notice
Section: Self-Petitioning Spouse of Abusive U.S.C. or LPR
Class: B21

Note: Includes Notice of Deferred Action

The above petition has been approved.

The petition indicates you, the self-petitioner, are in the United States and will apply for adjustment of status. The information submitted with the petition shows you are not eligible to file an adjustment of status application at this time.

Additional information about eligibility for adjustment of status may be obtained from the local INS office serving the area where you live.

Until you file an adjustment application, or apply for an immigrant visa, this approved petition will be stored in this office. If you become eligible to adjust status based on this petition, you should submit a copy of this notice with Form I-485, Application for Permanent Residence to the local office.

If you decide to apply for an immigrant visa outside the United States based on this petition, you should file Form I-824, Application for Action on an Approved Application or Petition, with this office to request that we send the petition to the Department of State National visa Center (NVC).

The NVC processes all approved immigrant visa petitions that required consular action. The NVC also determines which consular post is the appropriate consulate to complete visa processing. It will then forward the approved petition to that consulate.

Please read the back of this form carefully for more information.

THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.

DEFERRED ACTION

Deferred Action has been approved for this case. Deferred Action is an administrative choice used to give some cases lower priority for removal. The Service does not anticipate instituting action for removal, in this case, at this time. Pursuant to 8 CFR § 274a.12(c)(14), an alien, who has been granted deferred action, is eligible to submit an application for employment authorization, if the alien establishes an economic necessity for employment. This application, on Form I-765, should be filed with this office. The alien must provide information regarding his or her assets, income, and expenses in accordance with the instructions on the Form I-765.

The approval of Deferred Action will expire one (1) year from the date of this notice. Request for the continuation of deferred action should be submitted, in writing, to this office, sixty (60) days before the expiration of the current approval. The request for continuation may be accompanied by an application, on Form I-765, for continuation of employment authorization.

THIS FORM IS NOT AN EMPLOYMENT AUTHORIZATION NOR MAY IT BE USED IN PLACE OF AN EMPLOYMENT AUTHORIZATION

Please see the additional information on the back. You will be notified separately about any other cases you filed.
IMMIGRATION & NATURALIZATION SERVICE
VERMONT SERVICE CENTER
75 LOWER WELDEN STREET
SAINT ALBANS VT 05479-0001
Customer Service Telephone: (802) 527-3160

Form I-797C (Rev. 09/07/93)N

BILLING CODE 4410–10–M

- Please save this notice for your records. Please enclose a copy if you have to write us or a U.S. Consulate about this case, or if you file another application based on this decision.
- You will be notified separately about any other applications or petitions you have filed.

Additional Information

General

The filing of an application or petition does not in itself allow a person to enter the United States and does not confer any other right or benefit.

Inquiries

You should contact the office listed on the reverse of this notice if you have questions about the notice, or questions about the status of your application or petition. We recommend you call. However, if you write us, please enclose a copy of this notice with your letter.

Approval of Nonimmigrant Petition

Approval of a nonimmigrant petition means that the person for whom it was filed has been found eligible for the requested classification. If this notice indicated we are notifying a U.S. Consulate about the approval for the purpose of visa issuance, and you or the person you filed for have questions about visa issuance, please contact the appropriate U.S. Consulate directly.

Approval of an Immigrant Petition

Approval of an immigrant petition does not convey any right or status. The approved petition simply establishes a basis upon which the person you filed for can apply for an immigrant or fiance(e) visa or for adjustment of status.

A person is not guaranteed issuance of a visa or a grant of adjustment simply because this petition is approved. Those processes look at additional criteria.

If this notice indicates we have approved the immigrant petition you filed, and have forwarded it to the Department of State Immigrant Visa Processing Center, that office will contact the person you filed the petition for directly with information about visa issuance.

In addition to the information on the reverse of this notice, the instructions for the petition you filed provide additional information about processing after approval of the petition.

For more information about whether a person who is already in the U.S. can apply for adjustment of status, please see Form I–485, Application to Register Permanent Residence or Adjust Status.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

Notice of Action

THE UNITED STATES OF AMERICA

RECEIPT NUMBER		CASE TYPE I-360 PETITION FOR AMERASIAN, WIDOW(ER) OR SPECIAL IMMIGRANT
EAC-97-000-00000		
RECEIPT DATE June 1, 1997	PRIORITY DATE June 1, 1997	PETITIONER DOE, Jane
NOTICE DATE July 9, 1997	PAGE 1	BENEFICIARY DOE, Jane

Susan SMITH, Esq.
100 Main St.
Anywhere VT 05400

Notice Type: Approval Notice
Section: Self-Petitioning Spouse of Abusive U.S.C. or LPR
Class: B21

The above petition has been approved.

The petition indicates you, the self-petitioner, are in the United States and will apply for adjustment of status. The information submitted with the petition shows you are not eligible to file an adjustment of status application at this time.

Additional information about eligibility for adjustment of status may be obtained from the local INS office serving the area where you live.

Until you file an adjustment application, or apply for an immigrant visa, this approved petition will be stored in this office. If you become eligible to adjust status based on this petition, you should submit a copy of this notice with Form I-485, Application for Permanent Residence to the local office.

If you decide to apply for an immigrant visa outside the United States based on this petition, you should file Form I-824, Application for Action on an Approved Application or Petition, with this office to request that we send the petition to the Department of State National visa Center (NVC).

The NVC processes all approved immigrant visa petitions that required consular action. The NVC also determines which consular post is the appropriate consulate to complete visa processing. It will then forward the approved petition to that consulate.

Please read the back of this form carefully for more information.

THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.

Please see the additional information on the back. You will be notified separately about any other cases you filed.
IMMIGRATION & NATURALIZATION SERVICE
VERMONT SERVICE CENTER
75 LOWER WELDEN STREET
SAINT ALBANS VT 05479-0001
Customer Service Telephone: (802) 527-3160

Form I-797C (Rev. 09/07/93)N

BILLING CODE 4410–10–M

- Please save this notice for your records. Please enclose a copy if you have to write us or a U.S. Consulate about this case, or if you file another application based on this decision.
- You will be notified separately about any other applications or petitions you have filed.

Additional Information

General

The filing of an application or petition does not in itself allow a person to enter the United States and does not confer any other right or benefit.

Inquiries

You should contact the office listed on the reverse of this notice if you have questions about the notice, or questions about the status of your application or petition. We recommend you call. However, if you write us, please enclose a copy of this notice with your letter.

Approval of Nonimmigrant Petition

Approval of a nonimmigrant petition means that the person for whom it was filed has been found eligible for the requested classification. If this notice indicated we are notifying a U.S. Consulate about the approval for the purpose of visa issuance, and you or the person you filed for have questions about visa issuance, please contact the appropriate U.S. Consulate directly.

Approval of an Immigrant Petition

Approval of an immigrant petition does not convey any right or status. The approved petition simply establishes a basis upon which the person you filed for can apply for an immigrant or fiance(e) visa or for adjustment of status.

A person is not guaranteed issuance of a visa or a grant of adjustment simply because this petition is approved. Those processes look at additional criteria.

If this notice indicates we have approved the immigrant petition you filed, and have forwarded it to the Department of State Immigrant Visa Processing Center, that office will contact the person you filed the petition for directly with information about visa issuance.

In addition to the information on the reverse of this notice, the instructions for the petition you filed provide additional information about processing after approval of the petition.

For more information about whether a person who is already in the U.S. can apply for adjustment of status, please see Form I–485, Application to Register Permanent Residence or Adjust Status.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

Notice of Action

THE UNITED STATES OF AMERICA

RECEIPT NUMBER		CASE TYPE
EAC-97-000-00000		I-360 PETITION FOR AMERASIAN, WIDOW(ER) OR SPECIAL IMMIGRANT
RECEIPT DATE	PRIORITY DATE	PETITIONER
June 1, 1997	June 1, 1997	DOE, Jane
NOTICE DATE	PAGE	BENEFICIARY
June 27, 1997	1	DOE, Jane

Jane DOE
Susan SMITH, Esq.
100 Main St.
Anywhere VT 05400

Section: Self-Petitioning Spouse of Abusive U.S.C. or LPR

NOTICE OF PRIMA FACIE CASE

The above petition has been reviewed and found to establish a prima facie case for classification under the self-petitioning provisions of the Violence Against Women Act.

THIS PRIMA FACIE DETERMINATION IS VALID FOR A PERIOD OF 150 DAYS FROM THE NOTICE DATE SHOWN ABOVE, AND EXPIRES ON THE DATE INDICATED AT THE BOTTOM OF THE PAGE.

We will send you a written notice as soon as we make a decision on this case. It is expected that a final decision will be made in this case before the end of 150 days. In a few cases, the adjudication may not be completed in this time frame. If this period is coming to a close and you need an extension of this prima facie determination in order to continue receiving public benefits, please submit a written request for extension at least 15 days prior to expiration.

PLEASE NOTE: ESTABLISHING A PRIMA FACIE CASE FOR CLASSIFICATION UNDER THE SELF-PETITIONING PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT DOES NOT NECESSARILY MEAN THAT YOUR PETITION WILL BE APPROVED.

****
EXPIRATION DATE: November 27, 1997
****

Please see the additional information on the back. You will be notified separately about any other cases you filed.
IMMIGRATION & NATURALIZATION SERVICE
VERMONT SERVICE CENTER
75 LOWER WELDEN STREET
SAINT ALBANS VT 05479-0001
Customer Service Telephone: (802) 527-3160

Form I-797C (Rev. 09/07/93)N

BILLING CODE 4410–10–M

- Please save this notice for your records. Please enclose a copy if you have to write us or a U.S. Consulate about this case, or if you file another application based on this decision.
- You will be notified separately about any other applications or petitions you have filed.

Additional Information

General

The filing of an application or petition does not in itself allow a person to enter the United States and does not confer any other right or benefit.

Inquiries

You should contact the office listed on the reverse of this notice if you have questions about the notice, or questions about the status of your application or petition. We recommend you call. However, if you write us, please enclose a copy of this notice with your letter.

Approval of Nonimmigrant Petition

Approval of a nonimmigrant petition means that the person for whom it was filed has been found eligible for the requested classification. If this notice indicated we are notifying a U.S. Consulate about the approval for the purpose of visa issuance, and you or the person you filed for have questions about visa issuance, please contact the appropriate U.S. Consulate directly.

Approval of an Immigrant Petition

Approval of an immigrant petition does not convey any right or status. The approved petition simply establishes a basis upon which the person you filed for can apply for an immigrant or fiance(e) visa or for adjustment of status.

A person is not guaranteed issuance of a visa or a grant of adjustment simply because this petition is approved. Those processes look at additional criteria.

If this notice indicates we have approved the immigrant petition you filed, and have forwarded it to the Department of State Immigrant Visa Processing Center, that office will contact the person you filed the petition for directly with information about visa issuance.

In addition to the information on the reverse of this notice, the instructions for the petition you filed provide additional information about processing after approval of the petition.

For more information about whether a person who is already in the U.S. can apply for adjustment of status, please see Form I–485, Application to Register Permanent Residence or Adjust Status.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

Notice of Action

THE UNITED STATES OF AMERICA

RECEIPT NUMBER EAC-97-094-50417		CASE TYPE I360 PETITION FOR AMERASIAN, WIDOWER, OR SPECIAL IMMIGRANT
RECEIVED DATE February 24, 1997	PRIORITY DATE February 24, 1997	PETITIONER CARSWELL, GRACE E.
NOTICE DATE February 24, 1997	PAGE 1 of 1	BENEFICIARY CARSWELL, GRACE E.

GRACE E. CARSWELL
75 LOWER WELDEN ST
SAINT ALBANS VT 05479

Notice Type: Receipt Notice

Fee Waived

Section: Self-Petitioning Spouse of Abusive U.S.C. or LPR

The above application or petition has been received. It usually takes 60 to 120 days from the date of this receipt for us to process this type of case. Please notify us immediately if any of the above information is incorrect. Our customer service phone number is listed below.

We will send you a written notice as soon as we make a decision on this case. You can also use the phone number below to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).

Please see the additional information on the back. You will be notified separately about any other cases you filed.

IMMIGRATION & NATURALIZATION SERVICE
VERMONT SERVICE CENTER
75 LOWER WELDEN STREET
SAINT ALBANS VT 05479-0001
Customer Service Telephone: (802) 527-3160

Form I-797C (Rev. 09/07/93)N

BILLING CODE 4410–10–M

- Please save this notice for your records. Please enclose a copy if you have to write us or a U.S. Consulate about this case, or if you file another application based on this decision.
- You will be notified separately about any other applications or petitions you have filed.

Additional Information

General

The filing of an application or petition does not in itself allow a person to enter the United States and does not confer any other right or benefit.

Inquiries

You should contact the office listed on the reverse of this notice if you have questions about the notice, or questions about the status of your application or petition. We recommend you call. However, if you write us, please enclose a copy of this notice with your letter.

Approval of Nonimmigrant Petition

Approval of a nonimmigrant petition means that the person for whom it was filed has been found eligible for the requested classification. If this notice indicated we are notifying a U.S. Consulate about the approval for the purpose of visa issuance, and you or the person you filed for have questions about visa issuance, please contact the appropriate U.S. Consulate directly.

Approval of an Immigrant Petition

Approval of an immigrant petition does not convey any right or status. The approved petition simply establishes a basis upon which the person you filed for can apply for an immigrant or fiance(e) visa or for adjustment of status.

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In addition to the information on the reverse of this notice, the instructions for the petition you filed provide additional information about processing after approval of the petition.

For more information about whether a person who is already in the U.S. can apply for adjustment of status, please see Form I–485, Application to Register Permanent Residence or Adjust Status.

BILLING CODE 441–10–M

RECEIPT NUMBER		CASE TYPE I130 IMMIGRANT PETITION FOR RELATIVE, FIANCE(E), OR ORPHAN
LIN-96-170-50006		
RECEIVED DATE March 25, 19	PRIORITY DATE	PETITIONER A12 123 431 AAA, VV
NOTICE DATE March 25, 1997	PAGE 1 of 1	BENEFICIARY SFDF, DD

VV AAA
343 I ST NW
WASHINGTON DC 20536

Notice Type: Receipt Notice

Amount received: $ 80.00

Section: Sister or brother of U.S. Citizen, 203(a)(4) INA

The above application or petition has been received. It usually takes 30 to 90 days from the date of this receipt for us to process this type of case. Please notify us immediately if any of the above information is incorrect. Our customer service phone number is listed below.

We will send you a written notice as soon as we make a decision on this case. You can also use the phone number below to obtain case status information direct from our automated system 24 hours a day with a touch-tone phone and the receipt number for this case (at the top of this notice).

Please see the additional information on the back. You will be notified separately about any other cases you filed.

IMMIGRATION & NATURALIZATION SERVICE
LIN TEST PLATFORM
4313 INS HQ
LINCOLN NA 55479
Customer Service Telephone: (802)527-3112

BILLING CODE 4410–10–M

DISTRICT CODES

Districts–36	Org type
2—Boston, MA	DAF BOS
3—New York, NY	DAF NYC
4—Philadelphia, PA	DAF PHI
5—Baltimore, MD	DAF BAL
6—Miami, FL	DAF MIA
7—Buffalo, NY	DAF BUF
8—Detroit, MI	DAF DET
9—Chicago, IL	DAF CHI
10—St. Paul, MN	DAF SPM
11—Kansas City, MO	DF KAN
12—Seattle, WA	DAF SEA
13—San Francisco, CA	DAF SFR
14—San Antonio, TX	DAF SNA
15—El Paso, TX	DAF ELP
16—Los Angeles, CA	DAF LOS
17—Honolulu, HI	DAF HHW
18—Phoenix, AZ	DAF PHO
19—Denver, CO	DAF DEN
20—Dallas, TX	DAF DAL
21—Newark, NJ	DAF NEW
22—Portland, ME	DAF POM
24—Cleveland, OH	DAF CLE
25—Washington, DC	DAF WAS
26—Atlanta, GA	DAF ATL
27—San Juan, PR	DAF SAJ
28—New Orleans, LA	DAF NOL
29—Omaha, NE	DF OMA
30—Helena, MT	DF HEL
31—Portland, OR	DAF POO
32—Anchorage, AK	DAF ANC
33—Bangkok, Thailand	OD BKK
35—Mexico City, MX	OD MEX
37—Rome, Italy	OD RIT
38—Houston, TX	DAF HOU
39—San Diego, CA	DAF SND
40—Harlingen, TX	DAF HLG
EASTERN REGION:	
DISTRICT 2—BOSTON, MA	
Providence, RI	SAF PRO
*Hartford, CT	SAF HAR
*Lebanon, MA	A LEB
Boston Proc. Ctr	P BPC
DISTRICT 3—New York, NY	
*NY Seaport combined w/ quarantine unit, NY.	U NYS
JFK Airport, NY	A ZJK
Hamilton, Bermuda	I HAM
Varick Proc. Ctr	P VRK
*Brookland Proc. Ctr	P BKN
DISTRICT 4—Philadelphia, PA	
*Altoona, PA	U ALT
Pittsburgh, PA	SF PIT
*Dover AFB, DL	A DVD
DISTRICT 5—Baltimore, MD	
DISTRICT 6—Miami, FL	
Jacksonville, FL	SA JAC
Key West, FL	SA KEY
Port Everglades, FL	SA PEV
*Port Canaveral, FL	A PCF
Tampa, FL	SA TAM
West Palm Beach, FL	SA WPB
Orlando Airport, FL	A ORL
Krome Proc. Ctr	P KRO
Fort Pierce, FL	A FTP
Jacksonville Seaport, FL	U JAS
Miami Seaport, FL	U MSE
*Panama City, FL	A PAN
*Sanford, FL	A SFB
DISTRICT 7—Buffalo, NY	
Thousand Island Bridge, NY	SA THO
Trout River, NY	SA TRO

DISTRICT CODES—Continued

Districts–36	Org type
*Rooseveltown, NY	A RSV
Albany, NY	SAF ALB
Champlain, NY	SA CHM
Chateauguay, NY	SA CHT
Fort Covington, NY	SA FTC
*Lewiston, NY	A LEW
Massena, NY	SA MAS
Mooers, NY	SA MOO
Niagara Falls, NY	SA NIA
Ogdensburg, NY	SA OGD
Peace Bridge, NY	SA PBB
Rouses Point, NY	SA ROU
DISTRICT 8—Detroit, MI	
Algonac, MI	SA AGN
Marine City, MI	SA MRC
Port Huron, MI	SA PHU
Roberts Landing, MI	SA RBT
Sault Ste. Marie, MI	SA SSM
*Detroit Michigan Bridge, MI	A DCB
*Detroit Michigan Tunnel, MI	A DCT
DISTRICT 21—Newark, NJ	
*Camden, NJ	A CNJ
McGuire AFB, NJ	A MAG
Alburg, VT	SA ABG
Alburg Springs, VT	SA ABS
Bangor, ME	SA BGM
Beebe Plains, VT	SA BEB
Beecher Falls, VT	SA BEE
Bridgewater, ME	SA BWM
*Burlington, VT	A BRG
Calais, ME	SA CLS
*Eastport, ME	A EPM
Canann, VT	SA CNA
Coburn Gore, ME	SA COB
Derby Line, VT	SA DER
*Derby Line RT5 POE	P DVL
East Richford, VT	SA ERC
Fort Fairfield, ME	SA FTF
Fort Kent, ME	SA FTK
*Eastcourt, ME	A EST
*St. Pampile, ME	A SPA
Hamlin, ME	SA HML
Highgate Springs, VT	SA HIG
Houlton, ME	A HTM
*Easton, ME	A EAS
*Forest City, ME	A FOR
*Monticello, ME	A MTC
*Orient, ME	A ORI
Jackman, ME	SA JKM
*St. Aurelie	SA SRL
Limestone, ME	SA LIM
Lubec, ME	SA LUB
Madawaska, ME	SA MAD
*Morses Line, VT	A MOR
North Troy, VT	SA NRT
Norton, VT	SA NRN
Pinnacle Rd., VT	A PIV
*Pittsburgh, NH	A PNH
Richford, VT	SA RIF
*St. Albans, VT	SA STA
Van Buren, ME	SA VNB
Vancboro, ME	SA VCB
West Berkshire, VT	SA WBE
DISTRICT 24—Cleveland, OH	
Cincinnati, OH	SAF CIN
Sandusky, OH	SA SDY
Toledo, OH	SA TOL
Columbus, OH	A CLM
DISTRICT 25—Washington, D.C.	
Norfolk, VA	
Norfolk Seaport, VA	U NOS

DISTRICT CODES—Continued

Districts–36	Org type
DISTRICT 26—Atlanta, GA	
Charleston, SC	SA CHL
Charlotte, NC	SF CLT
*Greer, SC	SA GRR
Mobile, AL	SA MOB
*Raleigh-Durham, NC	SA RDU
Savannah, GA	SA SAV
Wilmington, NC	SA WIL
DISTRICT 27—San Juan, PR	
Aguadilla Proc. Ctr.	P AGC
Charlotte Amalie, St. Thomas, VI.	SA CHA
Christiansted, St. Croix, VI	SA CHR
Cruz, Bay, St. John, VI	SA CRU
Mayaguez, PR	A MAY
Ponce, PR	SA PON
DISTRICT 28—New Orleans, LA	
*Baton Rouge, LA	A BTN
*Gulfport, MS	A GUL
*Lake Charles, LA	A LKC
Louisville, KY	S LOU
Memphis, TN	SF MEM
*Nashville, TN	A NSV
*Oakdale, LA	P OAK
CENTRAL REGION:	
DISTRICT 9—Chicago, IL	
Milwaukee, WI	SAF MIL
*Indianapolis, IN	S INP
DISTRICT 10—St. Paul, MN	
Baudette, MN	SA BAU
Duluth, MN	SA DUL
Grand Portage, MN	SA GPM
International Falls, MN	SA INT
Lancaster, MN	SA LAN
Noyes, MN	SA NOY
*Pembina, ND	A PEM
Pine Creek, MN	SA PIN
Roseau, MN	SA ROS
Warroad, MN	SA WAR
Ambrose, ND	SA AMB
Antler, ND	SA ANT
Carbury, ND	SA CRY
Dunseith, ND	SA DNS
Fargo, ND	SA FAR
Fortuna, ND	SA FRT
Minot, ND	A MND
Hannah, ND	SA HNN
Hansboro, ND	SA HNS
Maida, ND	SA MAI
Neche, ND	SA NEC
Noonan, ND	SA NOO
Northgate, ND	SA NRG
Portal, ND	SA POR
St. John, ND	SA SJO
Sarles, ND	SA SAR
Sherwood, ND	SA SHR
Walhalla, ND	SA WAL
Westhope, ND	SA WHO
Wilton, ND	A WND
DISTRICT 11—Kansas CITY, MO	
St. Louis, MO	SF STL
DISTRICT 14—San Antonio, TX	
Austin, TX	SA AUS
Amistad Dam, TX	A ADT
*Corpus Christi, TX	SA CRP
Del Rio, TX	SA DLR
Eagle Pass, TX	SA EGP
Laredo, TX	SA LAR
Juarez-Lincoln Bridge, TX	A LLB

DISTRICT CODES—Continued

Districts–36	Org type
Laredo Proc. Ctr.	P LRD
Laredo Columbia Bridge, TX	A LCB
DISTRICT 15—El Paso, TX	
Columbus, NM	SA COL
Fabens, TX	SA FAB
Presidio, TX	SA PRE
*Port of El Paso	A POE
*Paso del Norte Bridge, TX	A PDN
*Bridge of the Americas, TX	A BOA
*Ysleta, TX	SA YSL
Santa Teresa, NM	A STR
Albuquerque, NM	S ABQ
El Paso Processing Center, TX.	P EPC
*Fort Hanock, TX	P FTH
DISTRICT 19—Denver, CO	
Salt Lake City, UT	SAF SLC
DISTRICT 20—Dallas, TX	
Oklahoma City, OK	SF OKC
DISTRICT 29—Omaha, NE	OMA
DISTRICT 30—Helena, MT	HEL
Boise, ID	S BOI
Chief Mountain, MT	A CHF
Del Bonita, MT	A DLB
Great Falls, MT	A GRE
Morgan, MT	SA MGM
Opheim, MT	SA OPH
Piegan, MT	SA PIE
Raymond, MT	SA RAY
Roosville, MT	SA ROO

DISTRICT CODES—Continued

Districts–36	Org type
Scobey, MT	SA SCO
Sweetgrass, MT	SA SWE
Turner, MT	SA TUR
Whitetail, MT	SA WHI
Wild Horse, MT	SA WHM
Willow Creek, MT	SA WCM
Missoula, MT	SA MIS
DISTRICT 38—Houston, TX	
Galveston, TX	SA GAL
Port Arthur, TX	SA PAR
DISTRICT 40—Harlington, TX	
*Brownsville, TX	A BRO
*Brownsville/Gateway, Bridge, TX.	A BRO
*Brownsville Matamoros Bridge, TX.	A BBM
Falcon Heights, TX	SA FAL
Hidalgo, TX	SA HID
Los Ebanos, TX	SA LSE
*Los Indios, TX	A LOI
Port Isabel Proc. Ctr.	P PIC
Progresso, TX	SA PGR
Rio Grande, TX	SA RIO
Roma, TX	SA ROM
Pharr, TX	SA PHR
Nogales, AZ	SA NOG
Sasabe, AZ	SA SAS
San Luis, AZ	SA SLU
Tucson, AZ	S TUC
*Las Vegas, NV	SF LVG

DISTRICT CODES—Continued

Districts–36	Org type
*Reno, NV	SF REN
*Mariposa, AZ	A MAP
*Eloy Proc. Cr., AZ	P EAZ
DISTRICT 31—Portland, OR	
Astoria, AK	SA AST
Coos Bay, OR	A COO
New Port, OR	P NPT
DISTRICT 32—Anchorage, AK	
Alcan, AK	SA ALC
Dalton Cache, AK	SA DAC
Ketchikan, AK	SA KET
Skagway, AK	A SKA
*Dutch Harbor, AK	A DTH
Poker Creek, AK	A PKC
Nome, AK	A NOM
Fairbanks, AK	A FRB
DISTRICT 39—San Diego	
Andrade, CA	SA AND
Calexico, CA	SA CAL
Calexico East Port	P IVP
El Centro Proc. Ctr., CA	P ECC
*San Diego Port-of-Entry, CA	A SDP
*Otay Mesa, CA	A OTM
*San Ysidro, CA	SA SYS
*Tecata, CA	SA TEC

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service (INS)

OMB #1115-0054

Petition for Alien Relative

DO NOT WRITE IN THIS BLOCK - FOR EXAMINING OFFICE ONLY

Case ID#	Action Stamp	Fee Stamp
A#		
G-28 or Volag #		
Section of Law: ☐ 201 (b) spouse ☐ 201 (b) child ☐ 201 (b) parent ☐ 203 (a)(1) ☐ 203 (a)(2) ☐ 203 (a)(4) ☐ 203 (a)(5) AM CON: _____		Petition was filed on: _____ (priority date) ☐ Personal Interview ☐ Pet. ☐ Ben. "A" File Reviewed ☐ Field Investigations ☐ 204 (a)(2)(A) Resolved ☐ Previously Forwarded ☐ Stateside Criteria ☐ I-485 Simultaneously ☐ 204 (h) Resolved

Remarks:

A. Relationship

1. **The alien relative is my** ☐ Husband/Wife ☐ Parent ☐ Brother/Sister ☐ Child
2. Are you related by adoption? ☐ Yes ☐ No
3. Did you gain permanent residence through adoption? ☐ Yes ☐ No

B. Information about you

1. **Name** (Family name in CAPS) (First) (Middle)
2. **Address** (Number and Street) (Apartment Number)
   (Town or City) (State/Country) (ZIP/Postal Code)
3. **Place of Birth** (Town or City) (State/Country)
4. **Date of Birth** (Mo/Day/Yr)
5. **Sex** ☐ Male ☐ Female
6. **Marital Status** ☐ Married ☐ Single ☐ Widowed ☐ Divorced
7. **Other Names Used** (including maiden name)
8. **Date and Place of Present Marriage** (if married)
9. **Social Security Number**
10. **Alien Registration Number** (if any)
11. **Names of Prior Husbands/Wives**
12. **Date(s) Marriages(s) Ended**
13. **If you are a U.S. citizen, complete the following:**
    My citizenship was acquired through (check one)
    ☐ Birth in the U.S.
    ☐ Naturalization (Give number of certificate, date and place it was issued)
    ☐ Parents
    Have you obtained a certificate of citizenship in your own name?
    ☐ Yes ☐ No
    If "Yes", give number of certificate, date and place it was issued

14a. **If you are a lawful permanent resident alien, complete the following:**
Date and place of admission for, or adjustment to, lawful permanent residence, and class of admission:

14b. **Did you gain permanent resident status through marriage to a United States citizen or lawful permanent resident?** ☐ Yes ☐ No

C. Information about your alien relative

1. **Name** (Family name in CAPS) (First) (Middle)
2. **Address** (Number and Street) (Apartment Number)
   (Town or City) (State/Country) (ZIP/Postal Code)
3. **Place of Birth** (Town or City) (State/Country)
4. **Date of Birth** (Mo/Day/Yr)
5. **Sex** ☐ Male ☐ Female
6. **Marital Status** ☐ Married ☐ Single ☐ Widowed ☐ Divorced
7. **Other Names Used** (including maiden name)
8. **Date and Place of Present Marriage** (if married)
9. **Social Security Number**
10. **Alien Registration Number** (if any)
11. **Names of Prior Husbands/Wives**
12. **Date(s) Marriages(s) Ended**
13. **Has your relative ever been in the U.S.?** ☐ Yes ☐ No
14. **If your relative is currently in the U.S., complete the following: He or she last arrived as a** (visitor, student, stowaway, without inspection, etc.)
    Arrival/Departure Record (I-94) Number **Date arrived** (Month/Day/Year)
    Date authorized stay expired, or will expire, as shown on Form I-94 or I-95
15. **Name and address of present employer** (if any)
    Date this employment began (Month/Day/Year)
16. **Has you relative ever been under immigration proceedings?**
    ☐ Yes ☐ No Where _____ When _____
    ☐ Exclusion ☐ Deportation ☐ Recission ☐ Judicial Proceedings

INITIAL RECEIPT	RESUBMITTED	RELOCATED		COMPLETED		
		Rec'd	Sent	Approved	Denied	Returned

Form I-130 (Rev. 4/11/91) N

C. (continued) Information about your alien relative

16. List husband/wife and all children of your relative (if your relative is your husband/wife, list only his or her children).

(Name)	(Relationship)	(Date of Birth)	(Country of Birth)

17. Address in the United States where your relative intends to live

(Number and Street) (Town or City) (State)

18. Your relative's address abroad

(Number and Street) (Town or City) (Province) (Country) (Phone Number)

19. If your relative's native alphabet is other than Roman letters, write his or her name and address abroad in the native alphabet:

(Name) (Number and Street) (Town or City) (Province) (Country)

20. If filing for your husband/wife, give last address at which you both lived together:

(Name)	(Number and Street)	(Town or City)	(Province)	(Country)	From (Month)	From (Year)	To (Month)	To (Year)

21. Check the appropriate box below and give the information required for the box you checked:

☐ Your relative will apply for a visa abroad at the American Consulate in _____
(City) (Country)

☐ Your relative is in the United States and will apply for adjustment of status to that of a lawful permanent resident in the office of the Immigration and Naturalization Service at _____. If your relative is not eligible for adjustment of status, he or she will
(City) (State)
apply for a visa abroad at the American Consulate in _____,
(City) (Country)

(Designation of a consulate outside the country of your relative's last residence does not guarantee acceptance for processing by that consulate. Acceptance is at the discretion of the designated consulate.)

D. Other Information

1. If separate petitions are also being submitted for other relatives, give names of each and relationship.

2. Have you ever filed a petition for this or any other alien before? ☐ Yes ☐ No

If "Yes," give name, place and date of filing, and result.

Warning: The INS investigates claimed relationships and verifies the validity of documents. The INS seeks criminal prosecutions when family relationships are falsified to obtain visas.

Penalties: You may, by law be imprisoned for not more than five years, or fined $250,000, or both, for entering into a marriage contract for the purpose of evading any provision of the immigration laws and you may be fined up to $10,000 or imprisoned up to five years or both, for knowingly and willfully falsifying or concealing a material fact or using any false document in submitting this petition.

Your Certification: I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit that I am seeking.

Signature _____ Date _____ Phone Number _____

Signature of Person Preparing Form if Other than Above

I declare that I prepared this document at the request of the person above and that it is based on all information of which I have any knowledge.

Print Name _____ (Address) _____ (Signature) _____ (Date) _____

G-28 ID Number _____

Volag Number _____

NOTICE TO PERSONS FILING FOR SPOUSES IF MARRIED LESS THAN TWO YEARS

Pursuant to section 216 of the Immigration and Nationality Act, your alien spouse may be granted conditional permanent resident status in the United States as of the date he or she is admitted or adjusted to conditional status by an officer of the Immigration and Naturalization Service. Both you and your conditional permanent resident spouse are required to file a petition, Form I-751, Joint Petition to Remove Conditional Basis of Alien's Permanent Resident Status, during the ninety day period immediately before the second anniversary of the date your alien spouse was granted conditional permanent residence.

Otherwise, the rights, privileges, responsibilities and duties which apply to all other permanent residents apply equally to a conditional permanent resident. A conditional permanent resident is not limited to the right to apply for naturalization, to file petitions in behalf of qualifying relatives, or to reside permanently in the United States as an immigrant in accordance with the immigration laws.

Failure to file Form I-751, Joint Petition to Remove the Conditional Basis of Alien's Permanent Resident Status, will result in termination of permanent residence status and initiation of deportation proceedings.

NOTE: You must complete Items 1 through 6 to assure that petition approval is recorded. Do not write in the section below item 6.

1. **Name of relative** (Family name in CAPS) (First) (Middle)

2. **Other names used by relative** (Including maiden name)

3. **Country of relative's birth** 4. **Date of relative's birth** (Month/Day/Year)

5. **Your name** (Last name in CAPS) (First) (Middle) 6. **Your phone number**

Action Stamp

SECTION

- ☐ 201 (b)(spouse)
- ☐ 201 (b)(child)
- ☐ 201 (b)(parent)
- ☐ 203 (a)(1)
- ☐ 203 (a)(2)
- ☐ 203 (a)(4)
- ☐ 203 (a)(5)

DATE PETITION FILED

☐ **STATESIDE CRITERIA GRANTED**

SENT TO CONSUL AT;

Relative Petition Card
Form I-130A (Rev. 4/11/91) N

CHECKLIST

Have you answered each question?
Have you signed the petition?
Have you enclosed:

- ☐ The filing fee for each petition?
- ☐ Proof of your citizenship or lawful permanent residence?
- ☐ All required supporting documents for each petition?

If you are filing for your husband or wife have you included:

- ☐ Your picture?
- ☐ His or her picture?
- ☐ Your G-325A?
- ☐ His or her G-325A?

U.S. Department of Justice
Immigration and Naturalization Service (INS)

Petition for Alien Relative

Instructions

Read the instructions carefully. If you do not follow the instructions, we may have to return your petition, which may delay final action. If more space is needed to complete an answer continue on separate sheet of paper.

1. **Who can file?**
A citizen or lawful permanent resident of the United States can file this form to establish the relationship of certain alien relatives who may wish to immigrate to the United States. You must file a separate form for each eligible relative.

2. **For whom can you file?**
   A. If you are a citizen, you may file this form for:
      1) your husband, wife, or unmarried child under 21 years old
      2) your unmarried child over 21, or married child of any age
      3) your brother or sister if you are at least 21 years old
      4) your parent if you are at least 21 years old.
   B. If you are a lawful permanent resident you may file this form for:
      1) your husband or wife
      2) your unmarried child

   Note: If your relative qualifies under instruction A(2) or A(3) above, separate petitions are not required for his or her husband or wife or unmarried children under 21 years old. If your relative qualifies under instruction B(2) above, separate petitions are not required for his or her unmarried children under 21 years old. These persons will be able to apply for the same type of immigrant visa as your relative.

3. **For whom can you not file?**
Your cannot file for people in the following categories:
   A. An adoptive parent or adopted child, if the adoption took place after the child became 16 years old, or if the child has not been in the legal custody and living with the parent(s) for at least two years.
   B. A natural parent if the United States citizen son or daughter gained permanent residence through adoption.
   C. A stepparent or stepchild, if the marriage that created this relationship took place after the child became 18 years old.
   D. A husband or wife, if your were not both physically present at the marriage ceremony, and the marriage was not consummated.
   E. A husband or wife if you gained lawful permanent resident status by virtue of a prior marriage to a United States citizen or lawful permanent resident unless:
      1) a period of five years has elapsed since you became a lawful permanent resident; OR
      2) you can establish by clear and convincing evidence that the prior marriage (through which you gained your immigrant status) was not entered into for the purpose of evading any provision of the immigration laws; OR
      3) your prior marriage (through which you gained your immigrant status) was terminated by the death of your former spouse.
   F. A husband or wife if he or she was in exclusion, deportation, rescission, or judicial proceedings regarding his or her right to remain in the United States when the marriage took place, unless such spouse has resided outside the United States for a two-year period after the date of the marriage.
   G. A husband or wife if the Attorney General has determined that such alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.
   H. A grandparent, grandchild, nephew, niece, uncle, aunt, cousin, or in-law.

4. **What documents do your need?**
You must give INS certain documents with this form to prove you are eligible to file. You must also give the INS certain documents to prove the family relationship between you and your relative.
   A. For each document needed, give INS the original and one copy. However, because it is against the law to copy a Certificate of Naturalization, a Certificate of Citizenship or an Alien Registration Receipt Card (Form I-151 or I-551) give INS the original only. **Originals will be returned to you.**
   B. If you do not wish to give INS the original document, you may give INS a copy. The copy must be certified by:
      1) an INS or U.S. consular officer, or
      2) an attorney admitted to practice law in the United States, or
      3) an INS accredited representative (INS may still require originals).
   C. Documents in a foreign language must be accompanied by a complete English translation. The translator must certify that the translation is accurate and that he or she is competent to translate.

5. **What documents do you need to show you are a United States citizen?**
   A. If you were born in the United States, give INS your birth certificate.
   B. If you were naturalized, give INS your original Certificate of Naturalization.
   C. If you were born outside the United States, and you are a U.S. citizen through your parents, give INS:
      1) your original Certificate of Citizenship, or
      2) your Form FS-240 (Report of Birth Abroad of a United States Citizen).
   D. In place of any of the above, you may give INS your valid unexpired U.S. passport that was initially issued for at least 5 years.
   E. If you do not have any of the above and were born in the United States, see instruction under 8 below. *"What if a document is not available?"*

6. **What documents do you need to show you are a permanent resident?**
You must give INS your alien registration receipt card (Form I-151 or Form I-551). Do not give INS a photocopy of the card.

7. **What documents do you need to prove family relationship?**
You have to prove that there is a family relationship between your relative and yourself.

   In any case where a marriage certificate is required, if either the husband or wife was married before, you must give INS documents to show that all previous marriages were legally ended. In cases where the names shown on the supporting documents have changed, give INS legal documents to show how the name change occurred (for example a marriage certificate, adoption decree, court order, etc.)

   Find the paragraph in the following list that applies to the relative for whom you are filing.

If you are filing for your:

A. **husband or wife,** give INS
   1) your marriage certificate
   2) a color photo of you and one of your husband or wife, taken within 30 days of the date of this petition. These photos must have a white background. They must be glossy, unretouched, and not mounted. The dimension of the facial image should be about 1 inch from chin to top of hair in 3/4 frontal view, showing the right side of the face with the right ear visible. Using pencil or felt pen, lightly print name (and Alien Registration Number, if known) on the back of each photograph.
   3) a completed and signed G-325A (Biographic Information) for you and one for your husband or wife. Except for name and signature, you do not have to repeat on the G-325A the information given on your I-130 petition.

B. **child** and you are the **mother,** give the child's birth certificate showing your name and the name of your child.

C. **child** and you are the **father or stepparent,** give the child's birth certificate showing both parents' names and your marriage certificate. **Child** born out of wedlock and you are the **father,** give proof that a parent/child relationship exists or existed. For example, the child's birth certificate showing your name and evidence that you have financially supported the child. (A blood test may be necessary).

D. **brother or sister,** your birth certificate and the birth certificate of your brother or sister showing both parents' names. If you do not have the same mother, you must also give the marriage certificates of your father to both mothers.

E. **mother,** give your birth certificate showing your name and the name of your mother.

F. **father,** give your birth certificate showing the names of both parents and your parents' marriage certificate.

G. **stepparent,** give your birth certificate showing the names of both natural parents and the marriage certificate of your parent to your stepparent.

H. **adoptive parent or adopted child,** give a certified copy of the adoption decree, the legal custody decree if you obtained custody of the child before adoption, and a statement showing the dates and places you have lived together with the child.

8. What if a document is not available?

If the documents needed above are not available, you can give INS the following instead. (INS may require a statement from the appropriate civil authority certifying that the needed document is not available.)

A. Church record: A certificate under the seal of the church where the baptism, dedication, or comparable rite occurred within two months after birth, showing the date and place of child's birth, date of the religious ceremony, and the names of the child's parents.

B. School record: A letter from the authorities of the school attended (preferably the first school), showing the date of admission to the school, child's date and place of birth, and the names and places of birth parents, if shown in the school records.

C. Census record: State or federal census record showing the names, place of birth, and date of birth or the age of the person listed.

D. Affidavits: Written statements sworn to or affirmed by two persons who were living at the time and who have personal knowledge of the event you are trying to prove; for example, the date and place of birth, marriage, or death. The persons making the affidavits need not be citizens of the United States. Each affidavit should contain the following information regarding the person making the affidavit: his or her full name, address, date and place of birth, and his or her relationship to you, if any; full information concerning the event; and complete details concerning how the person acquired knowledge of the event.

9. How should you prepare this form?

A. Type or print legibly in ink.

B. If you need extra space to complete any item, attach a continuation sheet, indicate the item number, and date and sign each sheet.

C. Answer all questions fully and accurately. If any item does not apply, please write "N/A".

10. Where should you file this form?

A. If you live in the United States, send or take the form to the INS office that has jurisdiction over where you live.

B. If you live outside the United States, contact the nearest American Consulate to find out where to send or take the completed form.

11. What is the fee?

You must pay seventy five dollars ($75.00) to file this form. **The fee will not be refunded, whether the petition is approved or not.** DO NOT MAIL CASH. All checks or money orders, whether U.S. or foreign, must be payable in U.S. currency at a financial institution in the United States. When a check is drawn on the account of a person other than yourself, write your name on the face of the check. If the check is not honored, INS will charge you $5.00.

Pay by check or money order in the exact amount. Make the check or money order payable to "Immigration and Naturalization Service". However,

A. if you live in Guam: Make the check or money order payable to "Treasurer, Guam", or

B. if you live in the U.S. Virgin Islands: Make the check or money order payable to "Commissioner of Finance of the Virgin Islands".

12. When will a visa become available?

When a petition is approved for the husband, wife, parent, or unmarried minor child of a United States citizen, these relatives do not have to wait for a visa number, as they are not subject to the immigrant visa limit. However, for a child to qualify for this category, all processing must be completed and the child must enter the United States before his or her 21st birthday.

For all other alien relatives there are only a limited number of immigrant visas each year. The visas are given out in the order in which INS receives properly filed petitions. To be considered properly filed, a petition must be completed accurately and signed, the required documents must be attached, and the fee must be paid.

For a monthly update on the dates for which immigrant visas are available, you may call (202) 647-0508.

13. What are the penalties for committing marriage fraud or submitting false information or both?

Title 8, United States Code, Section 1325 states that any individual who knowingly enters into a marriage contract for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than five years, or fined not more than $250,000.00 or both.

Title 18, United States Code, Section 1001 states that whoever willfully and knowingly falsifies a material fact, makes a false statement, or makes use of a false document will be fined up to $10,000 or imprisoned up to five years, or both.

14. What is our authority for collecting this information?

We request the information on the form to carry out the immigration laws contained in Title 8, United States Code, Section 1154(a). We need this information to determine whether a person is eligible for immigration benefits. The information you provide may also be disclosed to other federal, state, local, and foreign law enforcement and regulatory agencies during the course of the investigation required by this Service. You do not have to give this information. However, if you refuse to give some or all of it, your petition may be denied.

15. Reporting Burden.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Department of Justice, Immigration and Naturalization Service (Room 5304), Washington, D.C. 20536; and to the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115-0054, Washington, D.C. 20503.

It is not possible to cover all the conditions for eligibility or to give instructions for every situation. If you have carefully read all the instructions and still have questions, please contact your nearest INS office.

U.S. Department of Justice
Immigration and Naturalization Service

Order to Show Cause and Notice of Hearing

ORDER TO SHOW CAUSE AND NOTICE OF HEARING
(ORDEN DE PRESENTAR MOTIVOS JUSTIFICANTES Y AVISO DE AUDIENCIA)

In Deportation Proceedings under section 242 of the Immigration and Nationality Act.
(En los trámites de deportación a tenor de la sección 242 de la Ley de Inmigración y Nacionalidad.)

United States of America:
(Estados Unidos de América:)

File No. _____
(No. de registro)

Dated _____
(Fechada)

In the matter of _____ (Respondent)
(En el asunto de) *(Demandado)*
Address _____
(Dirección)
_____

Telephone No. (Area Code) _____
(No. de teléfono y código de área)

Upon inquiry conducted by the Immigration and Naturalization Service, it is alleged that:
(Según las indagaciones realizadas por el Servicio de Inmigración y Naturalización, se alega que:)

1) You are not a citizen or national of the United States;
(Ud. no es ciudadano o nacional de los Estados Unidos)

2) You are a native of _____ and a citizen of _____ ;
(Ud. es nativo de) *(y ciudadano de)*

3) You entered the United States at or near _____ on or about _____ ;
(Ud. entró a los Estados Unidos en o cerca de) *(el día o hacia esa fecha)*

U.S. Department of Justice
Immigration and Naturalization Service

Order to Show Cause and Notice of Hearing

NOTICE OF RIGHTS AND CONSEQUENCES

The Immigration and Naturalization Service believes that you are an alien not lawfully entitled to be in or to remain in the United States. Read this notice carefully and ask questions about anything in this notice you do not understand. This notice identifies your rights as an alien in deportation proceedings, and your obligations and the conditions with which you must comply in order to protect your eligibility to be considered for certain benefits.

Any statement you make before an Immigration Officer may be used against you in any immigration or administrative proceeding.

You may be represented, at no expense to the United States government, by an attorney or other individual who is authorized and qualified to represent persons in these proceedings. You will be given a list of organizations, attorneys and other persons who have indicated their availability to represent aliens in these proceedings. Some of these persons may represent you free of charge or for a nominal fee. You may also be represented by a friend, relative, or other person having a pre-existing relationship with you, provided his or her appearance is permitted by the immigration judge.

You will have a hearing before an immigration judge, scheduled **no sooner than 14 days from the date you are served with this Order to Show Cause (unless you request in writing an earlier hearing date).** The fourteen-day period is to allow you to seek an attorney or representative, if you desire to be represented. At your hearing, you will be given the opportunity to admit or deny any or all of the allegations in this Order to Show Cause, and whether you are deportable on the charges set forth herein. You will have an opportunity to present evidence and/or witnesses on your own behalf, to examine evidence presented by the government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the government. Any document that you present that is in a foreign language must be accompanied by a certified English translation. It is your responsibility to ensure that any witnesses you wish to present on your own behalf be present at the hearing.

The immigration judge will advise you regarding relief from deportation for which you may be eligible. You will be given a reasonable opportunity to make an application for any such relief. If you are not satisfied with the decision of the immigration judge, you have the right to appeal. The immigration judge will provide you with your appeal rights.

AVISO DE DERECHOS Y CONSECUENCIAS

El Servicio de Inmigración y Naturalización opina que Ud. es un extranjero sin derecho legal a estar o permanecer en los Estados Unidos. Lea este aviso cuidadosamente y pregunte acerca de cualquier parte del mismo que no entienda. Este aviso le explica los derechos que tiene como extranjero en los trámites de deportación, y las obligaciones y condiciones que debe cumplir con el fin de proteger su derecho a que se le considere para recibir ciertos beneficios.

Las declaraciones que haga ante un funcionario del Servicio de Inmigración podrán usarse en su contra en cualquier trámite administrativo o de inmigración.

Ud. puede ser representado, sin costo alguno para el gobierno de los Estados Unidos, por un abogado o otra persona autorizada y calificada para representar personas en estos trámites. Ud. recibirá una lista de las entidades, abogados y demás personas dispuestas a representar a extranjeros en estos trámites. Algunas de esas personas pueden representarle gratuitamente o por honorarios nominales. También puede representarle un amigo, familiar o otra persona con la que tenga una relación establecida, siempre que el juez de inmigración permita su comparecencia.

Ud. tendrá una audiencia ante un juez de inmigración, fijada **con un mínimo de 14 días a partir de la fecha que se le expidio esta Orden (a menos que Ud. solicite por escrito una audiencia en plazo aún menor).** El plazo de catorce días le permitirá conseguir los servicios de un abogado o representante, si lo desea. En la audiencia se le dará la oportunidad de admitir o negar cualquiera de los alegatos de esta Orden o todos ellos, y se le informará si está sujeto a deportación por los cargos expresados en la misma. Ud. tendrá la oportunidad de presentar pruebas y testigos a favor suyo, de examinar las pruebas presentadas por el gobierno, de oponerse, con base en los razonamientos legales pertinentes, a la admisión de pruebas y de interrogar a cualquier testigo del gobierno. Todo documento que presente en un idioma extranjero debe ir acompañado de una traducción certificada al inglés. Será responsabilidad suya asegurarse de que cualquier testigo suyo comparesca a la audiencia.

El juez de inmigración le informará sobre los recursos de deportación a los que tenga derecho y se le dará una oportunidad adecuada para solicitarlos. Si no está de acuerdo con la decisión del juez, puede apelarla. El juez de inmigración le informará acerca de sus derechos de apelación.

U.S. Department of Justice
Immigration and Naturalization Service

Order to Show Cause and Notice of Hearing

Dated _____
(Fechada)

Respondent _____
(Demandado)

File No. _____
(No. de registro)

AND on the basis of the foregoing allegations, it is charged that you are subject to deportation pursuant to the following provision(s) of law:

(Y según los alegatos anteriores, se le acusa de estar sujeto a deportación de acuerdo con la(s) siguiente(s) disposicion(es) de la ley:)

WHEREFORE, YOU ARE ORDERED to appear for a hearing before an Immigration Judge of the Executive Office for Immigration Review of the United States Department of Justice at:

***(POR LO CUAL, SE LE ORDENA** comparecer ante un juez de inmigración de la Oficina Ejecutiva de Revisión de Inmigración del Departamento de Justicia de los Estados Unidos en:)*

Address _____
(Dirección)

On _____ At _____ .m.
(Fecha) *(Hora)*

and show cause why you should not be deported from the United States on the charge(s) set forth above.
(y mostrar motivos justificantes por cual no deberia ser deportado de los Estados Unidos por los cargos expresados anteriormente.)

Dated _____
(Fechada)

Signature of Issuing Officer _____
(Firma del funcionario que la expide)

City and State of Issuance _____
(Ciudad y Estado donde se expide)

Title of Issuing Officer _____
(Título del funcionario que la expide)

You are required to be present at your deportation hearing prepared to proceed. If you fail to appear at any hearing after having been given written notice of the date, time and location of your hearing, you will be ordered deported ***in your absence***, if it is established that you are deportable and you have been provided the appropriate notice of the hearing.

You are required by law to provide immediately in writing an address (and telephone number, if any) where you can be contacted. You are required to provide written notice, within five (5) days, of any change in your address or telephone number to the office of the Immigration Judge listed in this notice. Any notices will be mailed only to the last address provided by you. If you are represented, notice will be sent to your representative. If you fail to appear at the scheduled deportation hearing, you will be ordered deported ***in your absence*** if it is established that you are deportable and you have been provided the appropriate notice of the hearing.

If you are ordered deported ***in your absence***, you cannot seek to have that order rescinded except that: (a) you may file a motion to reopen the hearing within 180 days after the date of the order if you are able to show that your failure to appear was because of exceptional circumstances, or (b) you may file a motion to reopen at any time after the date of the order if you can show that you did not receive written notice of your hearing and you had provided your address and telephone number (or any changes of your address or telephone number) as required, or that you were incarcerated and did not appear at your hearing through no fault of your own. If you choose to seek judicial review of a deportation order entered ***in your absence***, you must file the petition for review within 60 days (30 days if you are convicted of an aggravated felony) after the date of the final order, and the review shall be confined to the issues of validity of the notice provided to you, the reasons for your failure to appear at your hearing, and whether the government established that you are deportable.

In addition to the above, if you are ordered deported ***in your absence***, you are ineligible for five (5) years from the date of the final order for the following relief from deportation: voluntary departure under section 242 (b) of the Immigration and Nationality Act (INA); suspension of deportation or voluntary departure under section 244 of the INA; and adjustment of status under sections 245, 248, and 249 of the INA.

The copy of this Order to Show Cause served upon you is evidence of your alien registration while you are under deportation proceedings. The law requires that you carry it with you at all times.

Está obligado a asistir a la audiencia de deportación y de estar preparado para ella. Si no asiste a cualquiera de las audiencias después de haber sido notificado por escrito de la fecha, hora y lugar de la audiencia, se ordenará su deportación **en su ausencia,** si se establece que puede ser deportado y que recibió los avisos correspondientes.

La ley le obliga a informar inmediatamente por escrito de su domicilio (y número de teléfono, de haberlo) donde pueda ser localizado. Tiene la obligación de notificar por escrito, en el plazo de cinco (5) diás, cualquier cambio de domicilio o de teléfono a la oficina del juez de inmigración que aparece en este aviso. Los avisos se enviarán solamente a la última dirección facilitada por Ud. Si ha decidido tener un representante, se enviarán los avisos a dicha persona. Si no asiste a cualquiera de las audiencias después de haber sido notificado por escrito de la fecha, hora y lugar de las mismas, se ordenará su deportación **en su ausencia,** si se establece que puede ser deportado y que recibió el aviso de la audiencia.

Si se ordena su deportación **en su ausencia,** no podrá solicitar la anulación de esa orden salvo que: a) pueda presentar un pedimento para tener otra audiencia en el plazo de 180 días después de la fecha de la orden si puede demostrar que no compareció debido a circunstancias excepcionales, o b) puede presentar un pedimento para tener otra audiencia en cualquier momento después de la fecha de la orden si puede demostrar que no recibió el aviso de la audiencia por escrito y que había facilitado su dirección y número de teléfono (o notificado los cambios de dirección o número de teléfono) según lo previsto, o que estaba encarcelado y no compareció a la audiencia por motivos ajenos a su voluntad. Si decide solicitar una revisión judicial de la orden de deportación **en su ausencia,** debe presentar la solicitud de revisión en el plazo de 60 días (30 días si ha sido condenado por un delito grave con agravantes) a partir de la fecha de la orden definitiva, y la revisión se limitará a decidir si el aviso que recibió es válido, las razones por las cuales no compareció a la audiencia y si el gobierno demostró que puede ser deportado.

Además de lo anterior, si se ordena su deportación **en su ausencia,** no podrá, en el plazo de cinco años después de la fecha de la orden definitiva, tener derecho a los siguientes recursos: salida voluntaria según la sección 242 (b) de la ley de Inmigración y Nacionalidad (INA); suspensión de la deportación o de la salida voluntaria según la sección 244 de la INA, y ajuste de condición según las secciones 245, 248, y 249 de la INA.

Esta copia de la Orden de Presentar Motivos Justificantes que le ha sido notificada constituye la prueba de su registro de extranjero mientras se llevan a cabo los trámites para su deportación. La ley le exige que la lleve consigo en todo momento.

This Order to Show Cause shall be filed with the Immigration Judge of the Executive Office for Immigration Review at the address provided below. You must report any changes of your address or telephone number in writing to this office:

Esta Orden de Presentar Motivos Justificantes será registrada con la Oficina Ejecutiva de Revisión de Inmigración en la siguiente dirección. Debe notificar cualquier cambio de su domicilio o número de teléfono por escrito a:

The Office of the Immigration Judge

_____

_____

_____

Certificate of Translation and Oral Notice

This Order to Show Cause ☐ **was** ☐ **was not** read to the named alien in the _____ language, which is his/her native language or a language which he/she understands.

Date Signature Printed Name and Title of Translator

Address of Translator (If other than INS employee) or office location and division (if INS employee)

(If oral notice was not provided please explain)

Manner of Service	Alien's Right Thumb Print
☐ Personal Service to Alien	
☐ Certified Mail - Return Receipt Requested	
☐ Alien	
☐ Counsel of Record	

Certificate of Service

This Order to Show Cause was served by me at _____ on _____ 19 ___ at _____ m.

Officer's Signature Printed Name Title Office

Alien's Signature (acknowledgment/receipt of this form)
(Firma de extranjero/acuse de recibo)

Request for Prompt Hearing and Waiver of 14-Day Minimum Period
(Solicitud de audiencia inmediata y renuncia al plazo mínimo de 14 días)

To expedite determination of my case, I request an immediate hearing, and waive my right to the 14 day notice.
(Para agilizar la decisión sobre mi caso, solicito una audiencia inmediata y renuncio a mi derecho a un plazo mínimo de 14 días.)

Signature of Respondent
(Firma de demandado)

Date
(Fecha)

U.S. Department of Justice
Immigration and Naturalization Service

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act

File No: _____

In the Matter of:

Respondent: _____ currently residing at:

_____ _____
(Number, street, city, state and ZIP code) (Area code and phone number)

☐ 1. You are an arriving alien.

☐ 2. You are an alien present in the United States who has not been admitted or paroled.

☐ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: _____

_____
(Complete Address of Immigration Court, Including Room Number, if any)

on _____ at _____ to show why you should not be removed from the United States based on the
(Date) (Time)
charge(s) set forth above.

_____
(Signature and Title of Issuing Officer)

Date: _____

_____
(City and State)

See reverse for important information

Form I-862 (Rev. 4-1-97)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or deportable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to have a 10-day period prior to appearing before an immigration judge.

_____
(Signature of Respondent)

Before:

_____
(Signature and Title of INS Officer)

Date: _____

Certificate of Service

This Notice to Appear was served on the respondent by me on _____ (Date), in the following manner and in compliance with section 239(a)(1)(F) of the Act:

☐ in person ☐ by certified mail, return receipt requested ☐ by regular mail

☐ Attached is a list of organizations and attorneys which provide free legal services.

☐ The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

_____
(Signature of Respondent if Personally Served)

_____
(Signature and Title of Officer)

Form I-862 (Rev. 4-1-97)

BILLING CODE 4410–10–M

Attachment 6—Interim Guidance—Documentary Evidence for Excepted Categories of Aliens Eligible for SSI, Food Stamps, TANF, Medicaid, and Programs Funded by a Social Services Block Grant

Under Section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the ''Act''), only certain excepted categories of aliens remain eligible for SSI and Food Stamps. States may also limit eligibility for TANF, Medicaid and programs funded by a Social Services Block Grant to certain excepted categories of aliens. Some of the excepted categories enjoy unqualified exemptions from the restrictions in section 402, while others are exempted for limited time periods. The exceptions for each program, and the documents that may be used to determine eligibility under these exceptions, are set forth below.

Exceptions

A. *SSI*

Certain categories of aliens are excepted from the restrictions on SSI eligibility imposed by Section 402. If an alien falls within one of the categories listed below, he or she remains eligible for SSI:

- Lawfully admitted permanent resident aliens who have worked or can be credited with 40 qualifying quarters (any quarter after December 31, 1996 cannot be counted if the alien received any federal means-tested public benefit during that quarter);
- Qualified aliens lawfully residing in any State who are honorably discharged veterans and who fulfill minimum active-duty service requirements, or who are on non-training active duty in the U.S. Armed Forces, or who are the spouse, unmarried dependent child, or unremarried surviving spouse of such a veteran or active-duty personnel, provided that, in the latter case, the marriage satisfies the requirements of 38 U.S.C. 1304 (see DOD/VA Guidance attached as Exhibit B hereto);
- Qualified aliens lawfully residing in the United States who were receiving SSI on August 22, 1996;
- Qualified aliens who were lawfully residing in the United States on August 22, 1996, and who are blind or disabled;
- American Indians born in Canada and to whom the provisions of section 289 of the INA apply;
- Members of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act); or
- Qualified aliens receiving SSI benefits after July 1996 on the basis of an application filed before January 1, 1979, if the Commissioner of Social Security lacks clear and convincing evidence that such individuals are otherwise ineligible under section 402.

Other categories of aliens remain eligible for SSI for only a limited time period:

- Asylees, for a period of seven years after obtaining such status;
- Aliens whose deportation or removal has been withheld, for a period of seven years after obtaining such status;
- Refugees, for a period of seven years after the date they entered the U.S. as refugees;
- Cuban/Haitian entrants, as defined in section 501(c) of the Refugee Education Assistance Act of 1980, for a period of seven years after they obtain such status; and
- Amerasian immigrants admitted to the U.S. pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, for a period of seven years after their admission.

B. *Medicaid*

Regardless of whether a State chooses to impose additional restrictions on the eligibility of aliens to receive Medicaid, the following categories of aliens are eligible:

- Lawfully admitted permanent resident aliens who have worked or can be credited with 40 qualifying quarters (any quarter after December 31, 1996 cannot be counted if the alien received any federal means-tested public benefit during that quarter);
- Qualified aliens lawfully residing in any State who are honorably discharged veterans and who fulfill minimum active-duty service requirements, or who are on non-training active duty in the U.S. Armed Forces, or who are the spouse, unmarried dependent child, or unremarried surviving spouse of such a veteran or active-duty personnel, provided that, in the latter case, the marriage satisfies the requirements of 38 U.S.C. 1304 (see DOD/VA Guidance attached as Exhibit B hereto);
- American Indians born in Canada and to whom the provisions of section 289 of the INA apply; and
- Members of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Act).

Time-limited exceptions apply to the following categories:

- Asylees, for a period of seven years after obtaining such status;
- Aliens whose deportation or removal has been withheld, for a period of seven years after obtaining such status;
- Refugees, for a period of seven years after the date they entered the U.S. as refugees;
- Cuban/Haitian entrants, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, for a period of seven years after they obtain such status; and
- Amerasian immigrants admitted to the U.S. pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, for a period of seven years after their admission.

Also, any alien receiving SSI benefits retains derivative eligibility for Medicaid, regardless of whether he or she is otherwise ineligible for Medicaid under the Act.

C. Food Stamps, TANF, and Social Services Block Grant Programs

With respect to TANF and programs funded by a Social Services Block Grant, states have the option of limiting aliens' eligibility for such programs. As an initial matter, then, you should determine whether your State has imposed additional eligibility requirements. Even if your State has chosen to impose such restrictions, the following categories of aliens would remain eligible for Food Stamps, TANF, and programs funded by a Social Services Block Grant, without any time limitation:

- Lawfully admitted permanent resident aliens who have worked or can be credited with 40 qualifying quarters (any quarter after December 31, 1996 cannot be counted if the alien received any federal means-tested public benefit during that quarter); and
- Qualified aliens lawfully residing in any State who are honorably discharged veterans and who fulfill minimum active-duty service requirements, or who are on non-training active duty in the U.S. Armed Forces, or who are the spouse, unmarried dependent child, or unremarried surviving spouse of such a veteran or active-duty personnel, provided that, in the latter case, the marriage satisfies the requirements of 38 U.S.C. § 1304 (see DOD/VA Guidance attached as Exhibit B hereto).

Time-limited exceptions apply to the following categories:

- Asylees, for a period of five years after obtaining such status;
- Aliens whose deportation of removal has been withheld, for a period of five years after obtaining such status;
- Refugees, for a period of five years after the date they entered the U.S. as refugees;
- Cuban/Haitian entrants, as defined in section 501(e) of the Refugee Education Assistant Act of 1980, for a

period of five years after they obtain such status; and

• Amerasian immigrants admitted to the U.S. pursuant to section 84 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, for a period of five years after their admission.

Unlike the derivative eligibility provision for Medicaid, aliens receiving SSI benefits for *not* entitled to derivative eligibility for Food Stamps if they are otherwise ineligible for Food Stamp benefits under the Act.

Documentation of Exceptions

The documents listed below (examples of which are attached to Attachment 5 of the Interim Guidance) establish that an applicant falls within one of the excepted categories of aliens.

Under the INA, all aliens over the age of 14 who remain in the United States for longer than 30 days are required to register with the Immigration and Naturalization Service (the ''INS'') and obtain an alien registration document; all aliens over the age of 18 who receive a registration document are required to carry it with them at all times. With certain exceptions (*e.g.*, Canadian visitors), aliens entering the U.S. are normally issued a registration document (*e.g.*, an INS Form I–94) at the time of entry. The documents listed below that are registration documents are indicated with an asterisk (''*'').

Each of the documents listed below will demonstrate lawful status, and you should not require presentation of a registration document if the applicant presents one for the other legally acceptable documents that reasonably appears on its face to be genuine and to relate to the person presenting it. However, if the document presented is not a registration document and does not on its face reasonably appear to be genuine or to relate to the person presenting it, it is appropriate to ask the applicant to produce his or her registration document as additional evidence of immigration status, so long as the request is not made for a discriminatory reason (see Nondiscrimination Advisory, Attachment 2 to Interim Guidance). Presentation of a registration document listed below that reasonably appears on its face to be genuine and to relate to the person presenting it (or to satisfy a higher applicable standard) will often obviate the need to verify the applicant's immigration status with the INS; if the applicant presents a registration document that does not meet this standard, sending the INS a copy of the document will assist it in verifying the applicant's status quickly and accurately.

Alien Lawfully Admitted for Permanent Resident (''LPR'') under the INA Who Has Worked or Can Be Credited With 40 Qualifying Quarters or Who is Otherwise Eligible

LPR:

• *INS Form I–551 (Alien Registration Receipt Card, commonly known as a ''green card''); or

• Unexpired temporary I–551 stamp in foreign passport or on *INS Form I–94.

40 Qualifying Quarters: Until you have access to SSA's automated system for verifying qualifying quarters, refer to the SSA Guidance attached as Exhibit A for guidance on how to verify 40 qualifying quarters. NOTE: Any quarter after December 31, 1996, cannot be counted if the alien received any federal means-tested public benefit during that quarter.

LPR Who is Otherwise Eligible: An LPR who does not have 40 qualifying quarters will still be eligible if he or she:

• entered the U.S. as a refugee within the previous five years, was granted asylum during the previous five years, or had his or her deportation or removal withheld within the previous five years:

If an applicant attests to having been admitted as a refugee within the previous five years, review the applicant's INS Form I–551 (green card) for code RE–6, RE–7, RE–8 or RE–9, and derive the date of admission from the date on the card.

If an applicant attests to having been granted asylum or having had deportation or removal withheld within the previous five years, file INS Form G–845 and Supplement along with a copy of the I–551 with the local INS office to verify status.

or

• is an honorably discharged veteran who fulfilled minimum active-duty service requirements, or is a person on none-training active duty or is the spouse, dependent child, or unremarried surviving spouse of such a person:

Referer to DOD Guidance attached as Exhibit B for guidance on how to verify such status.

Qualified Alien Lawfully Residing in State Who Is an Honorably Discharged Veteran, On Non-Training Active Duty in the U.S. Armed Forces, or the Spouse, Unmarried Dependent Child, or Unremarried Surviving Spouse of Such a Veteran or Active-Duty Personnel

• Refer to Attachment 5 to the Interim Guidance for documentation of qualified alien status; and

• Refer to DOD/VA Guidance attached as Exhibit B for guidance on how to verify veteran and active duty status.

Qualified Alien Lawfully Residing in the U.S. Who Was Receiving SSI on August 22, 1996.

• Contact SSA for guidance on appropriate documentation.

Qualified Alien Lawfully Residing the U.S. on August 22, 1996 Who Is Blind or Disabled

• Contact SSA for guidance on appropriate documentation.

Qualified Alien Receiving SSI Benefits After July 1996 on the Basis of An Application Filed Before January 1, 1979:

• Contact SSA for guidance on appropriate documentation.

American Indians Born in Canada and Covered By Section 289 of the INA

• *INS Form I–551 (Alien Registration Receipt Card, commonly known as a ''green card'') with the code S13;

Unexpired temporary I–551 stamp in Canadian passport or on *INS Form I–94 with the code S13; or

• A letter or other tribal document certifying at least 50 per centum American Indian blood, as required by INA Section 289, combined with a birth certificate or other satisfactory evidence of birth in Canada.

Members of an Indian Tribe

• Membership card or other tribal document demonstrating membership in a federally-recognized Indian tribe under section 4(e) of the Indian Self-Determination and Education Assistance Act. Contact Soo Song, Deputy Director, Office of Tribal Justice, United States Department of Justice, (202) 415–8812, for a list of federally-recognized tribes under section 4(e).

• If the individual has no document evidencing tribal membership, contact the tribal government for confirmation of the individual's membership. Tribal government contact lists are available from Soo Song, Deputy Director, Office of Tribal Justice, Department of Justice, (202) 514–8812.

Asylee

• *INS Form I–94 annotated with stamp showing grant of asylum under § 208 of the INA;

• *INS Form I–688B (Employment Authorization Card) annotated ''274a12(a)(5)'';

• INS Form I–766 (Employment Authorization Document) annotated ''A5'';

• Grant letter from the Asylum Office of INS; or

• Order of an immigration judge granting asylum.

Seven or Five-Year Limit: Where eligibility is limited to asylees who obtained asylee status within the previous seven or five years, INS Form I–94, the INS grant letter and the court order will each include the date asylee status was granted; if the applicant cannot provide any of these documents, file INS Form G–845 and Supplement along with a copy of the documents indicating asylee status with the local INS office to verify the date the status was granted.

Refugee

• *INS Form I–94 annotated with stamp showing admission under section 207 of the INA;

• INS Form I–688B (Employment Authorization Card) annotated ''274a12(a)(3)'';

• *INS Form I–766 (Employment Authorization Document) annotated ''A3''; or

• INS Form I–571 (Refugee Travel Document).

Seven or Five-Year Limit: Where eligibility is limited to aliens who were admitted as refugees within the previous seven or five years, the date of inspection on the refugee stamp on INS Form I–94 will indicate the date of admission as a refugee; if the date is missing or if the applicant cannot present an I–94, file INS Form G–845 and Supplement along with a copy of the pertinent documents with the local INS office to verify the date of admission as a refugee.

Alien Whose Deportation or Removal Was Withheld

• *INS Form I–688B (Employment Authorization Card) annotated ''274a12(a)(10)'';

• INS Form I–766 (Employment Authorization Document) annotated ''A10''; or

• Order from an immigration judge showing deportation withheld under § 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under § 241(b)(3) of the INA.

Seven or Five-Year Limited: Where eligibility is limited to aliens whose deportation was withheld within the previous seven or five years, the court order will include the date deportation was withheld; if the applicant does not present a court order, file INS Form G–845 and Supplement along with a copy of the pertinent documents with the local INS office to verify the date deportation was withheld.

Cuban/Haitian Entrants

• *INS Form I–551 (Alien Registration Receipt Card, commonly known as a ''green card'') with the code CU6, CU7, and CH6;

• Unexpired temporary I–551 stamp in foreign passport or on *INS Form I–94 with the code CU6 or CU7; or

• INS Form *I–94 with stamp showing parole as ''Cuban/Haitian Entrant'' under Section 212(d)(5) of the INA.

Seven or Five–Year Limit: Where eligibility is limited to aliens who were granted status as a Cuban/Haitian entrant within the previous seven or five years, the date on the INS Form I–551 or the date of inspection on the stamp on INS Form I–94 will indicate the date status was granted; if the date is missing on Form I–94, file INS Form G–845 and Supplement along with a copy of the pertinent documents with the local INS office to verify the date status was granted.

Amerasian Immigrants

• *INS Form I–551 (Alien Registration Receipt Card, commonly known as a ''green card'') with the code AM6, AM7, or AM8; or

• Unexpired temporary I–551 stamp in foreign passport or on *INS Form I–94 with the code AM1, AM2, or AM3.

Seven or Five-Year Limit: Where eligibility is limited to aliens who were admitted as Amerasian immigrants within the previous seven or five years, the date on the INS Form I–551 or the date of inspection on the stamp on INS Form I–94 will indicate the date of admission; if the date is missing on Form I–94, file INS Form G–845 and Supplement along with a copy of the pertinent documents with the local INS office to verify the date of admission.

Expired or Absent Documentation: If an applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the applicant to the local INS office to obtain documentation of status. In unusual cases involving applicants who are hospitalized or medically disabled, or who can otherwise show good cause for their inability to present documentation, and for whom securing such documentation would constitute an undue hardship, if the applicant can provide an alien registration number, you may file INS Form G–845 and Supplement, along with the alien registration number and a copy of any expired INS document presented, with the local INS office to verify status. As with any documentation of immigration status, you should confirm that the status information you receive back from INS pertains to the applicant whose identity you have verified.

Receipt for Replacement Document: If an applicant presents a receipt indicating that he or she has applied to the INS for a replacement document for one of the documents identified above, file INS Form G–845 and Supplement, along with a copy of the receipt and a copy of any expired INS document presented, with the local INS office to verify status. Upon return receipt of information from INS, confirm that it pertains to the applicant whose identify you have verified. You should ask to see the replacement document at a later date.

Applicants with Disabilities and Nondiscrimination: If an applicant has a disability that limits the applicant's ability to provide the required evidence of immigration status (*e.g.*, mental retardation, amnesia, or other cognitive or mental impairment), you should make every effort to assist the individual to obtain the required evidence. In addition, you should not discriminate against applicants on the basis of race, national origin, gender, religion, age or disability. See Nondiscrimination Advisory, Attachment 2 to Interim Guidance.

Local INS Offices: A list of local INS offices and their addresses is set forth in Attachment 1 to the Interim Guidance. Attachment 1 also includes a copy of INS Form G–845 and the Supplement thereto to be used to verify immigration status pursuant to the Guidance.

EXHIBIT A TO ATTACHMENT 6—SSA GUIDANCE ON CERTIFICATION OF 40 QUALIFYING QUARTERS

Section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (''the Act'') generally limits the eligibility of legal immigrants for certain federal public benefits, but sections 402(a)(2)(B) and (b)(2)(B) provide an exception for aliens lawfully admitted for permanent residence who have worked or can be credited with 40 quarters of qualified work. The law provides that the worker's own quarters and quarters worked by a parent while the alien was under age 18 or by a spouse during the marriage if the alien remains married to the spouse or the marriage ended by the death of the spouse may also be credited to the individual in determining the number of qualifying quarters.

Implementing this requirement will be challenging for the individual immigrants, program administrators, and the Social Security Administration (''SSA''), which is the primary source of qualifying quarters information. SSA has developed an automated system to provide, on an overnight basis, information on qualifying quarters for work covered under the Social Security Act and certain, but not all, work

not covered under the Social Security Act. Verification of quarters of coverage for most applicants and current recipients will be accomplished primarily through this automated system.

SSA's automated system is being revised to include additional available information on qualifying quarters from noncovered work. The following interim procedures for determining whether the 40 quarters of qualified work exception is met should be followed until you have access to the SSA automated system. This interim process authorizes certification of eligibility pending verification through the automated system. (This guidance does not supersede program requirements; programs should refer to statutes, regulations, and agency guidance governing certification of eligibility.)

Under these interim procedures, the individual's attestation to 40 quarters is sufficient provided the immigrant, alone or in combination with his parents and/or spouse, has spent sufficient time in this country to have acquired 40 quarters of qualified work. The individual need only state that he or she, alone or in combination with his or her parents and/or spouse, has met the work requirement. No further documentation of earnings is required at application. These interim procedures should be used when the legal immigrant does not qualify under other exemptions of the Act (*e.g.,* refugees, asylees, or deportees with five years of limited eligibility, or applicants with a claim to eligibility based on military service).

Although the automated system is now available, each state must approve an addendum to the current Computer Matching and Privacy Protection Act agreement they maintain with SSA before access to the system can be approved. When you sign the agreement, SSA will provide further guidance defining covered/noncovered qualifying quarters, how to use the system when making determinations, and how to resolve problems arising from discrepancies.

After the agreement addendum is signed and access to the system approved, you should contact SSA to schedule a quarters of coverage verification for each individual you conclude has met the 40 quarters exemption using these interim instructions. SSA will report back a qualifying quarters of coverage history for each individual and applicable family member requested. SSA will provide additional guidance and the name of the contact for scheduling verification.

Interim Procedures

To determine eligibility based on 40 qualifying quarters, the State agency/benefit provider should ascertain the applicant's understanding as to the following:

1. How many years has the applicant, the applicant's spouse (during their marriage if they are still married or the marriage ended by the death of the spouse), or the applicant's parents (before the applicant turned 18) lived and/or worked in this country.

(If the answer to 1 is a total of less than 10 years, the applicant cannot meet the 40 qualifying quarter requirement. Stop at this point.)

(If the total equals 10 years or the applicant alleges they commuted to work in the U.S., then proceed to question 2.)

2. In how many of the years reported in answer to question 1, did the applicant, the applicant's spouse, or the applicant's parent earn money through work.

(If the state agency/benefit provider or the applicant needs further information about what constitutes a ''quarter of coverage'' in those years, they may wish to refer to the attached chart.)

Verify, from INS documents, the date of entry into the country of the applicant, spouse and/or parent. If the dates are consistent with having 10 or more years of work, no further documentation is required at this time; the state agency/benefit provider should conclude that the immigrant meets the 40 qualifying quarters of work exception pending verification from SSA. Inform the applicant (subject to each program's requirements and due process considerations) that he/she may have to repay any benefits to which he/she is not found to be entitled after verification. Keep a record of each individual certified pending verification from SSA.

If the dates of entry are inconsistent with having 10 or more years of work, deny benefits and notify the applicant of his/her right to appeal the denial of benefits.

The applicant shall also provide, for purposes of future verification, the full name, social security number, date of birth, and sex of each individual (self, parent or spouse) whose work history is relevant to the determination of eligibility. In addition, obtain a release form signed by each such individual (copy attached) giving SSA permission to release information concerning that individual's entire quarters of coverage history to the state agency/benefit provider and/or the applicant. This form shall be retained in the case file to document the individual's consent.

As noted earlier, these are temporary instructions and you should schedule verification of all cases processed under these guidelines with SSA. In its response, SSA will provide available information about qualifying quarters of work. Consult the SSA guidelines for using the system if the immigrant believes the information from SSA is inaccurate or incomplete. If SSA action is required, SSA will give the individual a document indicating that the number of quarters is under review. Refer to the requirements of your program to determine whether an immigrant may receive benefits during the period of SSA's review.

Establishing Qualifying Quarters

The term ''quarter'' means the three calendar month period ending on March 31, June 30, September 30, or December 31 of any year.

Social Security credits called ''quarters of coverage'' (''QCs'') are earned by working at a job or as a self-employed individual. Each earner can be credited with a maximum of four quarters each year.

For 1978 and later, credits are based solely on the total yearly amount of earnings. All types of earnings follow this rule. The number of creditable QCs are obtained by dividing the individual's total yearly earned income by the increment amount for the year up to a yearly maximum of four. The amount of earnings needed to earn a credit increases and is different for each year. For 1978 through 1997, the amount of earnings needed for each credit is:

1978	$250
1979	$260
1980	$290
1981	$310
1982	$340
1983	$370
1984	$390
1985	$410
1986	$440
1987	$460
1988	$470
1989	$500
1990	$520
1991	$540
1992	$570
1993	$590
1994	$620
1995	$630
1996	$640
1997	$670

A current year quarter may be included in the 40 quarter computation. Use the yearly amount shown in the chart as the divisor to determine the number of quarters available up to a yearly maximum of four. FOLLOW YOUR AGENCY GUIDELINES REGARDING COUNTING A QUARTER THAT HAS NOT ENDED.

If you need to use quarters before 1978:

- A credit was earned for each calendar quarter in which an individual was paid $50 or more in wages (including agricultural wages for 1951–1954);
- Four credits were earned for each taxable year in which an individual's net earnings from self-employment were $400 or more; and/or
- A credit was earned for each $100 (limit to a total of four) of agricultural wages paid during the year for years 1955 through 1977.

QUALIFYING QUARTER FROM NONCOVERED EARNINGS WILL ALSO BE DETERMINED USING THE ABOVE GUIDELINES.

EXHIBIT B TO ATTACHMENT 6—DOD GUIDANCE ON IMPLEMENTATION OF VETERAN AND ACTIVE DUTY EXCEPTION

This fact sheet provides guidance for implementing certain sections of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (''the Act'') concerning exemptions for active duty service members and veterans and their family members. The Act limits the eligibility of certain aliens to receive public benefits. Under various provisions of the Act, a qualified alien who is lawfully residing in a state and is (1) a veteran (per 38 U.S.C. 101(2), 107, 1101, or 1301) with an Honorable Discharge (not on account of alienage) and who fulfills the minimum active-duty service requirements of 38 U.S.C. 5303A(d); (2) on active duty (other than active duty for training) in the United States Armed Forces; or (3) a spouse, unmarried dependent child, or unremarried surviving spouse of such an individual, is eligible for particular programs.

Honorably Discharged Veterans

• A discharge certificate, DD Form 214 or equivalent, that shows active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard and character of discharge ''Honorable'' is acceptable to qualify for the veteran exemption without further inquiry, unless the certificate appears to have been altered or is otherwise irregular. A discharge certificate that shows character of discharge as anything but ''Honorable'' is not acceptable for purposes of this exemption and need not be referred to the VA. (**Note:** A character of discharge ''Under Honorable Conditions'' is NOT an ''Honorable'' discharge for these purposes.) A discharge certificate that shows ''Honorable'' and any other branch of service or any other type of duty (*e.g.,* ''Active Duty for Training,'' ''Inactive Duty for Training,'' etc.) should be referred to the local VA regional office for determination as to veteran status.

• If veteran status is claimed but the individual has no papers showing service or discharge, refer the inquiry to the local VA regional office to determine veteran status.

• If a discharge certificate, DD Form 214 or equivalent, shows an original enlistment in the Army, Navy, Air Force, Coast Guard, or Maine Corps before September 7, 1980, there is no minimum active-duty service requirement. If a discharge certificate, DD Form 214 or equivalent, shows two or more years of continuous active duty in the Army, Navy, Air Force, Coast Guard, or Marine Corps, the individual meets the minimum active-duty service requirement. If such a discharge certificate is not available, or if it shows active-duty service of less than two years with an original enlistment after September 7, 1980, refer the inquiry to the local VA regional office to determine satisfaction of the minimum active-duty service requirement.

• Applications for exemption based on status as a spouse, unmarried dependent child, or unremarried surviving spouse of an honorably discharged veteran require a determination of the veteran's status and a determination that the applicant is a spouse or child. Status of the veteran may be established by possession of a discharge certificate showing an ''Honorable'' discharge. If the applicant is not in possession of a discharge certificate, refer the question of veteran status to the VA for a determination. The determination as to whether the individual is a spouse or an unmarried dependent child should be made based on your agency guidance for marital and dependency status. VA will not make spousal or dependency findings in these cases.

• Applications for exception based on status as an unremarried surviving spouse of a veteran or active-duty personnel further require the following findings (set forth in 38 U.S.C. 1304), in addition to a determination that the surviving spouse has not remarried:

—that the surviving spouse was married to the veteran or active-duty personnel within fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated;

—that the surviving spouse was married to the veteran or active-duty personnel for one year or more; or

—that a child was born of the relationship between the surviving spouse and the veteran or active-duty personnel, either during or before the marriage.

Members on Active Duty

• Active duty as a member of the Armed Forces means the individual is on full time duty in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard. It does not include full-time National Guard duty.

• Service members on active duty shall establish their status by presenting a current Military Identification Card (DD Form 2 (Active)) that lists an expiration date of more than one year from the date of determination.

• If the Military Identification Card is due to expire within one year from the date of the determination, the service member shall verify active duty by showing a copy of his or her current military orders. If the service member is unable to furnish a copy of his or her military orders, active duty may be verified through the nearest RAPIDS (Real Time Automated Personnel Identification System) (located at many military installations) or by notifying the following office in writing (which can be transmitted by facsimile): DEERS Support Office, ATTN: Research and Analysis, 400 Gigling Road, Seaside, California 93955–6771, Fax Number: (408) 655–8317.

Reserve Members (not on active duty for training)

• Active duty for training is temporary full-time duty in the Armed Forces performed by members of the Reserves, Army National Guard, or Air National Guard for training purposes. Active duty for training does not establish eligible status. However, a discharge from active duty for training may establish veteran status and should be referred to VA for a determination.

• A Member of a Reserve Component shall establish status by showing a current DD Form 2 (Reserve) [red] and military active duty orders showing such person is on active duty, but not on active duty for training. No other method for verifying this status is currently available.

Spouse, Children, or Unremarried Surviving Spouse of Active Duty Members or Veterans

Step 1. Establish that the individual is a spouse, dependent child, or unremarried surviving spouse of an active duty member or veteran.

• The determination as to whether an individual is a spouse of an active duty member or veteran should be made based on your agency guidance. Possession of a current Military Identification Card showing that the individual is married to a veteran or active duty member may be considered as evidence of marriage to the member.

• The determination as to whether an individual is an unremarried surviving spouse of an active-duty member or veteran should be made based on agency guidance, in accordance with the following requirements (set forth in 38 U.S.C. § 1304), in addition to a determination that the surviving spouse has not remarried:

—the surviving spouse was married to the veteran or active-duty personnel within fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated;

—the surviving spouse was married to the veteran or active-duty personnel for one year or more; or

—that a child was born of the relationship between the surviving spouse and the veteran or active-duty personnel, either during or before the marriage.

• The determination as to whether an individual is an unmarried legally adopted or biological dependent child of an honorably discharged veteran or active duty member of the Armed Forces should be made based on your agency guidance. Possession of a Military Identification Card may be considered as evidence that a child is dependent on the veteran or on the active duty member of the Armed Forces for his or her support and is under the age of 18 or if a full time student, under age 22.

Step 2. Determine that the member is on active duty or is a veteran.

• A spouse or child in possession of a Military Identification Card with an expiration date of more than one year from the date of its presentation presumptively meets the active duty requirement for his or her spouse or parent respectively.

• If the Identification Card is due to expire within one year, the spouse or child must provide a copy of the military orders for his or her spouse or parent as applicable to establish the active duty status of the service member. If married to a reserve member or if an unmarried child of a reserve member, the orders must show that the service member is on active duty and not on active duty for training.

• For dependents not possessing military orders but possessing an Identification Card with an expiration date less than one year from the date of presentation, active duty status can be verified by contacting RAPIDS or the DEERS Support Office.

• If a dependent child does not possess a Dependent Military Identification Card, status may be ascertained through the nearest RAPIDS station or by contacting the DEERS Office at the address provided above.

• A spouse or child showing a discharge certificate, DD Form 214 or equivalent, that shows active duty in the Army, Navy, Air Force, Marine Corps or Coast Guard and character of discharge ''Honorable'' is acceptable to establish the veteran status of his or her spouse or parent respectively without further inquiry, unless the certificate appears to be altered or irregular. If veteran status is claimed, but the spouse or child does not have papers showing service or discharge, refer the inquiring to the local VA regional office for determination.

Attachment 7—Interim Guidance; Federal Means-Tested Public Benefits

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the ''Act'') provides that qualified aliens entering the United States on or after August 22, 1996, are ineligible for

federal means-tested public benefits during the first five years they are qualified aliens, unless they fall within a specific exception. (With limited exceptions, non-qualified aliens are ineligible for such benefits regardless of when they entered the United States.) All qualified aliens are eligible for federal means-tested public benefits after the expiration of such five-year period, unless the State in which the alien seeks benefits has imposed additional restrictions on eligibility.

The Department of Health and Human Services and the Social Security Administration have interpreted the limitations on eligibility for federal means-tested public benefits to apply only to mandatory spending programs of the federal government in which eligibility for benefits, or the amount of such benefits, or both, are determined on the basis of income, resources, or financial need of the individual, household, or family. See 62 FR 45,256 (August 26, 1997); 62 FR 45,284 (August 26, 1997). Under the HHS and SSA interpretations, TANF, Medicaid, and SSI are federal means-tested public benefits that are not otherwise exempted under the Act. You should consult with the appropriate federal agency overseeing the benefit program you administer to determine whether the program is a federal means-tested public benefit program.

The eligibility of qualified aliens for federal means-tested public benefits turns on whether they entered the U.S. before August 22, 1996, the number of years since they obtained qualified alien status, their particular immigration status, and the specific benefits they are seeking.

1. Determine whether the qualified alien entered the United States before August 22, 1996, by reviewing the documents evidencing his or her immigration status or, if the documents do not indicate whether the alien entered before August 22, 1996, by reviewing additional documentation pursuant to guidance provided by the agency or department overseeing your program. Further determine whether the qualified alien obtained qualified alien status prior to August 22, 1996. See Attachment 6 for a list of documents evidencing qualified alien status and guidance on how to derive relevant dates from those documents. In addition to the documents listed in Attachment 6, an alien who was in the United States before August 22, 1996, in a nonimmigrant or other lawful status, but who subsequently obtained qualified alien status, may present INS Form I–94, which is stamped with the date of entry, to demonstrate entry prior to August 22, 1996.

- If the applicant entered the United States before August 22, 1996, and obtained qualified alien status before that date, he or she is eligible for all federal means-tested public benefits for which he or she satisfies all programmatic eligibility requirements. You should not engage in any further verification of immigration status for these persons.
- If the applicant entered the United States before August 22, 1996, but obtained qualified alien status after that date, you must verify that the alien was continuously present in the United States from the latest date of entry prior to August 22, 1996, until the date he or she obtained qualified alien status. In general, any single absence from the United States of more than 30 days, or a total of aggregated absences of more than 90 days, should be considered to interrupt ''continuous presence.'' To verify continuous presence, you should follow guidance provided by the agency or department overseeing your program, which may call for an applicant to present additional documentation such as tax returns, bills, rent receipts, or a letter from an employer. If the applicant can demonstrate continuous presence, he or she is eligible for all federal means-tested public benefits for which he or she satisfies all programmatic eligibility requirements.
- If the applicant entered the United States before August 22, 1996, and obtained qualified alien status after that date but was not continuously present in the United States from the latest date of entry prior to August 22, 1996, until obtaining such status, determine if he or she is eligible under Paragraphs 2 and 3 below.
- If the applicant entered the United States on or after August 22, 1996, and is a qualified alien, determine if he or she is eligible under Paragraphs 2 and 3 below.

2. With certain exceptions listed below, an applicant who entered the United States on or after August 22, 1996, and has attained qualified alien status, or who entered the United States before August 22, 1996, and obtained qualified alien status after that date but did not remain continuously present in the United States from the latest date of entry prior to August 22, 1996, until obtaining such status, is ineligible for all federal means-tested public benefits during the first five years after he or she obtained qualified alien status. Thus, unless the applicant falls within one of the excepted categories listed below, such an applicant is only eligible for federal means-tested public benefits for which he or she satisfies all programmatic eligibility requirements if five years have passed from the date the applicant attained qualified alien status. Determine the date on which the applicant attained qualified alien status by reviewing the documents evidencing his or her status or, if the documents do not indicate the date he or she obtained such status, by filing INS Form G–845 and Supplement along with a copy of the document with the local INS office.

As noted above, the following categories of aliens are exempt from this five-year ban:

a. Refugees, asylees and aliens whose deportation or removal has been withheld—*see* Attachment 5 to Interim Guidance for definition and documentation;

b. Qualified aliens lawfully residing in any state who are honorably discharged veterans and who fulfill minimum active-duty service requirements, or who are on non-training active duty in the U.S. Armed Forces, or who are the spouse, unmarried dependent child, or unmarried surviving spouse of such a veteran or active service member, provided that, in the latter case, the marriage satisfies the requirements of 38 U.S.C. 1304—*see* Attachment 6 and Exhibit B thereto to Interim Guidance for definition and documentation;

c. Cuban/Haitian entrants, as defined in section 501(e) of the Refugee Education Assistance Act of 1980;

d. Amerasian immigrants admitted to the U.S. pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988; and

e. With respect to SSI and Medicaid benefits, American Indians born in Canada and to whom the provisions of section 289 of the INA apply or members of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act).

3. Under the terms of the Act, the five-year ban does not apply to the following benefits or assistance:

- Medical assistance under Title XIX of the Social Security Act (or any successor program to such Title) for care and services that are necessary for the treatment of an emergency medical condition (as defined in § 1903(v)(3) of such Act) of the alien involved and are not related to an organ transplant procedure, if the alien involved otherwise meets the eligibility requirements for medical assistance under the state plan approved under such Title (other than the requirement of the receipt of aid or assistance under Title IV of such Act, SSI benefits under

Title XVI of such Act, or a state supplementary payment);

- Short-term, non-cash, in-kind emergency disaster relief;
- Assistance or benefits under the National School Lunch Act;
- Assistance or benefits under the Child Nutrition Act of 1966;
- Public health assistance (not including any assistance under Title XIX of the Social Security Act) for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease;
- Payments for foster care and adoption assistance under parts B and E of Title IV of the Social Security Act for a parent or child who would, in the absence of the Act's prohibition on payment of federal means-tested public benefits to qualified aliens during the first five years after entry into the U.S. with qualified alien status, be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent(s) of such child is a qualified alien;
- Benefits covered by Attorney General Order No. 2049, 61 F.R. 45985 (Aug. 30, 1996), re: government-funded community programs, services or assistance that are necessary for protection of life or safety;
- Programs of student assistance under Titles IV, V, IX, and X of the Higher Education Act of 1965, and Titles III, VII, and VIII of the Public Health Service Act;
- Means-tested programs under the Elementary and Secondary Education Act of 1965;
- Benefits under the Head Start Act; and
- Benefits under the Job Training Partnership Act.

[FR Doc. 97–29851 Filed 11–14–97; 8:45 am]
BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Revision of existing collection; generic clearance of customer service surveys.

Office of Management and Budget approval is being sought for the information collection listed below. This proposed collection was previously published in the **Federal Register** on September 2, 1997, at 62 FR 46375, allowing for a 60-day public comment period. No comments were received by the Immigration and Naturalization Service.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 17, 1997. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection: (1) *Type of Information Collection:* Revision of currently approved information collection.

(2) *Title of the Form/Collection:* Generic Clearance of Customer Service Surveys.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No agency form number. Office of Policy and Planning, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and Households. This information will be used to access individual and agency needs, identify problems, and plan for programmatic improvements in the delivery of immigration services.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 150,000 responses at 30 minutes (.5) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 75,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments may be submitted to INS via facsimile to (202) 305–0143.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center 1001 G Street, NW, Washington, DC 20530.

Dated: November 11, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–30091 Filed 11–14–97; 8:45 am]
BILLING CODE 4410–18–M

MEDICARE PAYMENT ADVISORY COMMISSION

Commission Meeting

AGENCY: Medicare Payment Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission will hold its next public meeting on Monday, November 24, 1997 and Tuesday, November 25, 1997, at the Sheraton City Centre, 1143 New Hampshire Avenue, NW, Washington, D.C., in the New Hampshire I and II room. The meetings are tentatively scheduled to begin at 9:00 a.m. on November 24 and at 9:00 a.m. on November 25.

Among the topics the Commission will discuss are: patient classification systems for post acute care payment, urban critical access hospitals, disproportionate share payment policy, risk adjustment, adjusted community rate, quality of care, impact of the Balanced Budget Act on acute care hospitals, payment policy options affecting Medicare+Choice, other policy issues concerning Medicare+Choice, outpatient hospital payment policy, and

policy goals for payment under Medicare fee for service.

Final agendas will be mailed on November 21, 1997 and will be available on the Commission's web sites (WWW.PPRC.GOV and WWW.PROPAC.GOV) at that time.

ADDRESSES: 2120 L Street, N.W.; Suite 200; Washington, D.C. 20037. The telephone number is 202/653–7220.

FOR FURTHER INFORMATION CONTACT: Ann Johnson, Executive Assistant, at 202/653–7220.

SUPPLEMENTARY INFORMATION: If you are not on the Commission mailing list and wish to receive an agenda, please call 202/653–7220 after November 21, 1997.

Lauren LeRoy,

Executive Director.

[FR Doc. 97–30150 Filed 11–14–97; 8:45 am]

BILLING CODE 6820–SE–M

NATIONAL COMMUNICATION SYSTEM

Notice of Publication of Federal Telecommunication Recommendation

AGENCY: National Communications System (NCS).

ACTION: Notice of publication.

SUMMARY: Federal Telecommunications Recommendation (FTR) 1080–1997, ''Video Teleconferencing Services at 56 to 1,920 kbit/s'' was approved for publication on October 30, 1997. This recommendation defines the specifications for video teleconferencing and video telephony systems.

FOR FURTHER INFORMATION CONTACT: Contact Stephen Perschau at telephone (703) 607–6198 or write to the National Communications System, Attn: N6, 701 South Court House Road, Arlington, VA 22204–2198.

Dennis Bodson,

Chief, Technology and Standards Division.

[FR Doc. 97–30124 Filed 11–14–97; 8:45 am]

BILLING CODE 5000–03–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Panel, Literature Section (Creation & Presentation/Planning & Stabilization Categories) to the National Council on the Arts will be held on December 3–5, 1997. The panel will meet from 9:00 a.m. to 6:30 p.m. on December 3 and December 4, and from 9:00 a.m. to 4:00 p.m. on December 5, in Room M–07 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C., 20506. A portion of this meeting, from 9:00 a.m. to 11:00 a.m. on December 5, will be open to the public for a policy discussion of guidelines, planning, field needs and trends, and Leadership Initiatives.

The remaining portions of this meeting, from 9:00 a.m. to 6:30 p.m. on December 3 and December 4, and 11:00 a.m. to 4:00 p.m. on December 5, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of March 31, 1997, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202/682–5691.

Dated: November 12, 1997.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 97–30142 Filed 11–14–97; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Computer and Information Science and Engineering Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Computer and Information Science and Engineering—1115.

Date and Time: December 03, 1997; 8:30 a.m. to 5:00 p.m., December 04, 1997; 8:30 a.m. to 2:30 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 1235.

Type of Meeting: Open.

Contact Person: Yvonne Summers, Office of the Assistant Director, Directorate for Computer and Information Science and Engineering, National Science Foundation, 4201 Wilson Blvd., Suite 1105, Arlington, VA 22230. Telephone: (703) 306–1900.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities on the CISE community; to provide advice to the Assistant Director/CISE on issues related to long range planning, and to form ad hoc subcommittees to carry out needed studies and tasks.

Agenda

(1) Review status of Implementation of CISE Reorganization
(2) Provide assessment of CISE Results and Future Plans in the context of Government Performance and Results Act (GPRA)
(3) Discuss special activities, e.g., Knowledge Distributed Intelligence (KDI, Partnership for Advanced Computational Infrastructure (PACI), Next Generation Internet, Digital Libraries II, etc.

Dated: November 10, 1997.

Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–30115 Filed 11–14–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Human Resource Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Human Resource Development (#1199).

Date and Time: December 1–2, 1997: 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 330, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Alexandra King, Program Director, Human Resource Development Division, Room 815, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 Telephone: (703) 306–1633.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the Comprehensive Partnerships for Mathematics and Science Achievement proposals 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: November 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–30116 Filed 11–14–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences; Subcommittee on Nuclear Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Mathematical and Physical Sciences (66).

Date and Time: December 3, 1997, 8 a.m.–5 p.m.

Place: Rm. 360, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Open.

Contact Person: Dr. Marvin Goldberg, Program Director for Elementary Particle Physics, Physics Division, Room 1015, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1894.

Purpose of Meeting: To provide advice and recommendations concerning experiments involving international collaborations.

Agenda: Discussion of Nuclear Physics collaborations.

Dated: November 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–30114 Filed 11–14–97; 8:45 am]

BILLING CODE 7555–01–M

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request; Review of An Information Collection Federal Contractor Welfare to Work Success Stories

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management has submitted to the Office of Management and Budget a request for clearance of an information collection. The questions are intended to elicit from Federal contractors descriptions of successes in hiring workers directly off the welfare rolls. The submissions are entirely voluntary.

We estimate that 10,000 responses will be submitted annually, and that each response will take an average of two hours to prepare. The annual estimated burden is 20,000 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or e-mail to *jmfarron@opm.gov*.

DATES: Comments on this proposal should be received on or before December 17, 1997.

ADDRESSES: Send or deliver comments to:

Donna Beecher, Director, Office of Contracting and Administrative Services, U.S. Office of Personnel Management, 1900 E St., NW, Room 1340, Washington, DC 20415,

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION, CONTACT: Kent Bailey, Publications Services Division, (202) 606–2260.

U.S. Office of Personnel Management.

Janice R. Lachance,

Acting Director.

[FR Doc. 97–30039 Filed 11–14–97; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38313; File No. SR–Amex–97–44]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by American Stock Exchange, Inc. Relating to Institutional Index Options

November 7, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 4, 1997, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to increase both position and exercise limits for its Institutional Index Options (''XII''). In addition, the Exchange proposes to increase the firm facilitation exemption for XII. The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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

The Amex proposes to increase XII position and exercise limits to 100,000 contracts on the same side of the market. Existing Exchange rules provide for XII position and exercise[3] limits of 45,000 contracts of the same side of the market of which no more than 25,000 contracts may be used for purposes of realizing any differential in price between XII and the securities underlying XII. In July of 1992, the Exchange increased position and exercise limits for XII to their current levels.[4] Since that time, options on XII continue to be traded primarily by institutional and professional investors and member firms, each often needing to hedge large asset quantities. However, institutional use of XII options to hedge large asset quantities has been limited as

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The exercise limit for XII, which is equal to XII's position limit, is determined under Exchange Rules 905C and 905.

[4] See Exchange Act Release No. 31330 (Oct. 16, 1992) 57 FR 30516 (Oct. 23, 1992).

a result of existing XII position limits causing XII users to use other less restrictive products and over-the-counter products in order to meet their hedging needs.

The Exchange believes that increasing the position and exercise limits for XII options to 100,000 contracts will allow increased institutional use of XII and allow it to be more competitive with alternative products. In addition, an increase in XII position and exercise limits will benefit not only the beneficiaries of assets managed by various institutions, but also the marketplace in general through increased liquidity.

Increasing the XII firm facilitation exemption from 100,000 contracts to 400,000 contracts in necessary to accommodate the needs of investors as well as market participants and should not substantially increase concerns regarding the potential for manipulation and other trading abuses.[5] In addition, the proposed ruled change will further enhance the potential depth and liquidity of the options market as well as the underlying markets by providing Exchange members greater flexibility in executing large customer orders, while the Exchange's existing safeguards applicable to current facilitation exemptions continue to serve to minimize any potential disruption or manipulation concerns.

These proposed changes are intended to result in little or no attendant risk to the marketplace as XII is composed of seventy-five of the most widely-held stocks in institutional portfolios that have a market value of more than one hundred million in investment funds.[6] Thus the component issues are extremely liquid and the overall index less volatile than individual stocks. Lastly, XII options are European-style and therefore can only be exercised at expiration.

To enhance its ability to monitor unhedged positions, the Amex will add a reporting requirement (new Commentary .03 to Exchange Rule 904C) for accounts having a position in excess of 45,000 a.m.-settled, European-style XII option contracts on the same-side of the market. Specifically, new Commentary .03 to Exchange Rule 904C states that if a member or member organization, other than an Exchange Specialist or Registered Options Trader, maintains a position in excess of 45,000 a.m.-settled, European-style XII option contracts on the same-side of the market on behalf of its own account or for the account of a customer, it must report information as to whether those positions are hedged and provide documentation as to how such contracts are hedged, in the manner and form required by the Exchange. In addition, to address the Commission's concerns with respect to the ability of the Exchange to monitor customer accounts that maintain large unhedged positions, the Amex will add a margin and clearing firm requirement. Pursuant to new Commentary. 04 to Exchange Rule 904C, whenever the Exchange determines that additional margin is warranted in light of the risks associated with an under-hedged option position in excess of 45,000 contracts, the Exchange may impose additional margin upon the account maintaining such under-hedged position, or assess capital charges upon the clearing firm carrying the account to the extent of any margin deficiency resulting from the higher margin requirement.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)(5) of the Act[7] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–97–44 and should be submitted by December 8, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–30131 Filed 11–14–97; 8:45 am]

BILLING CODE 8010–01–M

[5] The Exchange notes that the XII firm facilitation exemption is in addition to the standard limit and other exemptions under Exchange rules, commentaries and policies.

[6] To qualify for inclusion in XII, stocks must be held by a minimum of 200 of the reporting institutions filing Section 23(f) reports and must have traded at least 7 million shares in each of the two preceding calendar quarters.

[1] 15 U.S.C. 78f(b)(5).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39308; File No. SR–CBOE–97–40]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the "Terms and Conditions of an Order" for Purposes of the Exchange's Rules on Solicited Trades and Crossed Trades

November 6, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 25, 1997, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On October 31, 1997, the Exchange submitted Amendment No. 1 to the Proposal.[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

The Exchange proposes to amend its rules governing solicited orders and ''crossing'' orders by adding to each rule an interpretation which will define and clarify the phrase ''terms and conditions'' as used in each rule. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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

The purpose of the proposed rule change is to define and clarify the meaning of the phrases ''terms and conditions'' of an order as used in Exchange Rules 6.9 and 6.74. Pursuant to Rule 6.9, *Solicited Transactions,* a member or member organization representing an order respecting an option traded on the Exchange (an ''original order''), including a spread, combination, or straddle order as defined in Rule 6.53 and a stock-option order as defined in Rule 1.1(ii), may solicit a member or member organization or a non-member customer or broker-dealer (the ''solicited person'') to transact in-person or by order (a ''solicited order'') with the original order.

Pursuant to Rule 6.74(b), a floor broker may effect a cross of a customer order and a facilitation order subject to satisfaction of certain conditions including disclosure on an order ticket for the public customer order which is subject to facilitation, all of the terms of such order, including any contingency involving, and all related transactions in, either options or underlying or related securities. A facilitation order is defined in Rule 6.53(m) as an order which is only to be executed in whole or in part in a cross transaction with an order for a public customer of the member organization and which is clearly designated as a facilitation order.

The rules relating to both facilitation ''solicited'' and ''crossing'' transactions are designed to ensure that all market participants have an equal opportunity to participate in trades, fostering the objective of open outcry in a competitive market. The proposed rule amendment defines what is meant by the phrase ''terms and conditions'' as used in these two rules: the volume; the price; any contingencies; and any components related to the order. Components are related stock, options, futures or any other instruments or interests. A contingency order is a limit or market order to buy or sell that is contingent upon a condition being satisfied while the order is at the post. Contingent orders include: Market-if-touched orders; market-on-close-orders; stop (stop-loss) orders; and stop-limit orders.

The Exchange believes that the proposed Interpretations will enable those who solicit and those who wish to effect ''facilitation'' crosses to understand and abide by their disclosure obligations. In addition, the proposed change will aid in achieving uniformity with regard to trading crowd expectations, as well as to the type and amount of information disclosed on crossed and solicited orders.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b)(5) of the Act[4] in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to File No. SR–CBOE–97–40 and should be submitted by December 8, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See letter from Stephanie Mullins, Attorney, CBOE to David S. Sieradzki, Attorney, SEC dated October 31, 1997 (''Amendment No. 1''). Amendment No. 1 changes the item to be defined from the word ''terms'' to the phrase ''terms and conditions.'' In addition, Amendment No. 1 makes several non-substantive changes that clarify the proposal.

[4] 15 U.S.C. 78f(b).

[5] 17 C.F.R. 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–30054 Filed 11–14–97; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company; Intercontinental Capital Funding Corp.

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the Southern District of New York, dated September 17, 1997, the United States Small Business Administration hereby revokes the license of Intercontinental Capital Funding Corporation, a New York corporation, to function as a small business investment company under the Small Business Investment Company License No. 02/02–5421 issued to Intercontinental Capital Funding Corporation on September 30, 1981 and said license is hereby declared null and void as of November 5, 1997.

United States Small Business Administration.

Dated: November 5, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–30087 Filed 11–14–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company; New England MESBIC, Inc.

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the District of New Hampshire, dated September 10, 1997, the United States Small Business Administration hereby revokes the license of New England MESBIC, Inc., a Massachusetts, to function as a small business investment company under the Small Business Investment Company License No. 01/01–5318 issued to New England MESBIC, Inc. on October 26, 1982 and said license is hereby declared null and void as of November 5, 1997.

United States Small Business Administration.

Dated: November 5, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–30088 Filed 11–14–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–5386]

Pan Pac Capital Corporation; Notice of License Surrender

Notice is hereby given that *Pan Pac Capital Corporation (''Pan Pac''), 121 East Industry Court, Deer Park, New York 11729,* has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (''the Act''). *Pan Pac* was licensed by the Small Business Administration on *June 12, 1980.*

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on September 30, 1997, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 5, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–30089 Filed 11–14–97; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

Southeastern States Regional Fairness Board Public Hearing

The Southeastern States Regional Fairness Board will hold a public meeting on Monday, November 17, 1997, at 1:00 p.m., at the Charlotte Chamber of Commerce, 330 S. Tryon Street, Charlotte, North Carolina 28202, to inform the small business community of the existence of a regulatory enforcement oversight process and of SBA's desire to collect information regarding businesses' experience with regulatory enforcement actions, and to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, please contact Gary P. Peele at (312) 353–0880.

Dated: November 7, 1997.

Eugene Carlson,

Associate Administrator, Office of Communications and Public Liaison.

[FR Doc. 97–30090 Filed 11–14–97; 8:45 am]

BILLING CODE 8025–01–P–M

DEPARTMENT OF STATE

Office of Defense Trade Controls

[Public Notice No. 2624]

Notifications to the Congress of Proposed Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to section 36(c) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. § 2776).

EFFECTIVE DATE: As shown on each letter.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State ((703) 875–6644).

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to section 36(c) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: October 30, 1997.

William J. Lowell,

Director, Office of Defense Trade Controls.

United States Department of State

Washington, D.C. 20520

October 21, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold under a contract in the amount $50,000,000 or more.

The transaction described in the attached certification involves the export of 40 Solid Strap-on Boosters for integration into Mitsubishi's H–IIA launch Vehicle for use in the Japanese space program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though, unclassified, contains business information submitted to the Department of State by the applicant, publication of which cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–121–97

The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 21, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the sale of five FPS–117 long-range radar systems to the Government of Romania.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–104–97

The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 21, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the transfer of 651 LAV–25 turrets for end use by the Canadian Armed Forces.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–103–97

The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 21, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Technical Assistance Agreement with the United Kingdom.

The transaction described in the attached certification involves the transfer of hardware and software for the Defensive Aids Sub-system for the NIMROD 2000 aircraft.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–93–97

The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 24, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and assistance relating to the development of the AIM–9X Sidewinder Missile for end use by the U.S. Navy and U.S. Air Force.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though, unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–89–97

The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 24, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of satellite interface data and assistance to a joint venture arrangement involving a U.S. firm, Norway, Ukraine and Russia that will provide commercial space launch services.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, although unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–86–97

The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 21, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the sales to the Republic of Korea of 20 AN/ALQ–165 Airborne Self Protection Jammer (ASPJ) systems.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–71–97

The Honorable Newt Gingrinch, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 24, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith notification of a proposed Technical Assistance Agreement with Russia.

The transaction in the attached certification is for the preliminary design and development for equipment to be used in a solid rocket motor destruction facility.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal DTC–68–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 29, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the export of technical data and services related to the development of the GP–1 secure radio network system for the United Kingdom Ministry of Defense.

The United States Government is prepared to export these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–123–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 29, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles of defense services sold commercially under contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the export of maintenance training and software development for the Iceland Air Defense System.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–122–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 29, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000 or more.

The transaction described in the attached certification involves the export to Australia of eleven (11) Kaman SH–2G(NZ) helicopters, spare parts, support equipment, an operational flight trainer, and technical data for the Royal Australian Navy.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–120—97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 29, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith notification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000 or more.

The transaction described in the attached notification involves the export to Japan of one Landing Craft Air Cushion (LCAC) and related equipment, and spare parts for the Japanese Defense Agency.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though, unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–119–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 29, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000 or more.

The transaction described in the attached certification involves the export to New Zealand of four (4) Kaman SH–2G(NZ) helicopters and technical data for the Royal New Zealand Navy.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–118–97
The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 29, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the transfer of 312 21TP04 turbine engines for end use by the United Kingdom Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclose: Transmittal No. DTC–117–97

The Honorable Newt Gingrich, Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

October 29, 1997.

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles and defense services sold under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the export of 70 Pandur 6×6 Light Armored Vehicles to Kuwait.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC–114–97

The Honorable Newt Gingrich, Speaker of the House of Representatives.

[FR Doc. 97–30164 Filed 11–14–97; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Air Carrier and General Aviation Maintenance Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public of a meeting of the FAA Aviation Rulemaking Advisory Committee to discuss Air Carrier and General Aviation Maintenance Issues.

DATES: The meeting will be held on December 5, 1997, from 9:00 a.m. to 1:00 p.m. Arrange for presentations by November 24, 1997.

ADDRESSES: The meeting will be held at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Carolina E. Forrester, Federal Aviation Administration, Office of Rulemaking (ARM–206), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9690; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on December 5, 1997, from 9:00 a.m. to 1:00 p.m. at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314. The agenda will include:

1. Opening remarks;
2. Committee Administration;
3. Status reports from the Maintenance Recordkeeping Requirements Working Group;
4. Status reports from the Clarification of Major/Minor Repairs or Alterations Working Group;
5. A discussion of future meeting dates, locations, activities, and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by November 24, 1997, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on November 12, 1997.

Benjamin J. Burton,

Assistant Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–30143 Filed 11–14–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33498]

Grand Trunk Western Railroad Incorporated; Trackage Rights Exemption; Elgin, Joliet & Eastern Railway Company

Elgin, Joliet & Eastern Railway Company (EJ&E) has agreed to grant non-exclusive overhead trackage rights to Grand Trunk Western Railroad Incorporated (GTW) over 60.1 miles of EJ&E's main line track between the EJ&E/GTW connection at Griffith, IN (milepost 36.1 on EJ&E's Eastern Subdivision), and a point 7,500 feet west of the west switch of Eola Yard, at Eola, IL (milepost 24.0 on EJ&E's Western Subdivision).

The transaction is scheduled to be consummated on or after November 10, 1997, the effective date of the exemption.

The purpose of the trackage rights is to enable GTW to improve service and transit times between Griffith and Eola.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it 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 will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33498, 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 Robert P. vom Eigen, Hopkins & Sutter, 888 Sixteenth Street, N.W., Washington, DC 20006.

Decided: November 10, 1997.

By the Board, Beryl Gordon, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–30129 Filed 11–14–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 3, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of AlcohoL, Tobacco and Firearms (BATF)

OMB Number: 1512–0042.
Form Number: ATF F 7 (5310.12).
Type of Review: Extension.
Title: Application for License under 18 U.S.C. Chapter 44, Firearms.
Description: This form is used by the public when applying for a Federal firearms license as a dealer, importer, or manufacturer. The information requested on the form establishes eligibility for the license. The form is also used when responsible persons are added to an existing license in item 20.
Respondents: Business or other for-profit, individuals or households.
Estimated Number of Respondents: 10,000.
Estimated Burden Hours Per Respondent: 1 hour, 15 minutes.
Frequency of Response: Other (once).
Estimated Total Reporting Burden: 12,500 hours.

OMB Number: 1512–0045.
Form Number: ATF F 5130.10, Brewer's Notice.
Recordkeeping Requirements ID Number: ATF REC 5130/2.
Type of Review: Extension.
Title: Letterhead Applications and Notices Filed by Brewers.
Description: The Internal Revenue Code requires brewers to file a notice of intent to operate a brewery. ATF Form 5130.10 is similar to a permit and when approved is a brewer's authorization to operate. Letterhead applications and notices are necessary to identify activities that brewers engage in to insure that proposed operations will not jeopardize Federal revenues.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 1,400.
Estimated Burden Hours Per Respondent/Recordkeeper: 4 hours.
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 9,100 hours.

OMB Number: 1512–0130.
Form Number: ATF F 4473 (5300.9) Part II.
Type of Review: Extension.
Title: Firearms Transaction Record, Part II Non-Over-The-Counter.
Description: The form is used to determine the eligibility of a person to receive a firearm from a Federal firearms licensee. It is also used to establish the identity of the buyer. The form is also used in law enforcement investigations to trace firearms or to confirm criminal activity.
Respondents: Individuals or households, Business of other for-profit.
Estimated Number of Recordkeepers: 20,900.
Estimated Burden Hours Per Recordkeeper: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping Burden: 9,057 hours.

OMB Number: 1512–0510.
Form Number: None.
Type of Review: Extension.
Title: Letter Application to Obtain Authorization for the Assembly of a Nonsporting Rifle or Nonsporting Shotgun for the Purpose of Testing and Evaluation.
Description: This information collection is required by ATF to provide a means to obtain authorization for the assembly of a nonsporting rifle or nonsporting shotgun for the purpose of testing or evaluation.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents: 5.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 3 hours.

OMB Number: 1512–0541.
Form Number: ATF F 3312.1.
Type of Review: Extension.
Title: Crime Gun Information Referral/Request Form.
Description: This form is used by Federal, State and local law enforcement to request that ATF trace firearms used, or suspected to have been used, in crimes. The Form is also used by the national law enforcement community to refer information regarding stolen firearms, obliterated serial numbers, or suspect guns to the ATF National Tracing Center.
Respondents: State, Local or Tribal Government, Federal Government.
Estimated Number of Respondents: 23,000.
Estimated Burden Hours Per Respondents: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Recordkeeping Burden: 12,166 hours.
Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–30052 Filed 11–14–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 3, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Financial Management Service (FMS)

OMB Number: 1510–0019.

Form Number: FMS–1133.

Type of Review: Extension.

Title: Claim Against the United States for the Proceeds of a Government Check.

Description: If a payee claims non-receipt of a Treasury check, the FMS–1133 Claim Form and a copy of the negotiated check are sent to the payee. If the payee wishes to claim forgery he or she answers questions on the form, and signs and returns it to the Financial Processing Division. Claims Analysts review the claim to determine final action on the case.

Respondents: Individuals or households.

Estimated Number of Respondents: 98,500.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: Other (as needed).

Estimated Total Reporting Burden: 18,695 hours.

Clearance Officer: Jacqueline R. Perry (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–30053 Filed 11–14–97; 8:45 am]

BILLING CODE 4810–35–P

Corrections

Federal Register

Vol. 62, No. 221

Monday, November 17, 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 ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-6-010]

Trunkline Gas Company; Notice of Compliance Filing

Correction

In notice document 97–29546 appearing on page 60498, in the issue of Monday, November 10, 1997, make the following correction:

On page 60498, in the second column, the Docket No. should be as set forth above.

BILLING CODE 1505-01-D

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-402]

Certain Integrated Circuits and Products Containing Same; Notice of Investigation

Correction

In notice document 97–29269 beginning on page 59880, in the issue of Wednesday, November 5, 1997, make the following correction:

On page 59881, in the first column, in the fourth line ''September 29, 1997'' should read ''October 29, 1997''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–23]

Amendment of Class E Airspace; Flagstaff, AZ

Correction

In rule document 97–28103, beginning on page 55157, in the issue of Thursday, October 23, 1997, make the following correction:

§ 71.1 [Corrected]

On page 55158, in the third column, under **AWP AZ E5 Flagstaff, AZ [Revised]**, in the 11th line from the bottom of the paragraph, ''111°2533W'' should read ''111°3533W''.

BILLING CODE 1505-01-D

federal register

Monday
November 17, 1997

Part II

Department of Education

34 CFR Part 701

Office of Educational Research and Improvement (OERI) Conduct and Activities Evaluation Standards; Designation of Exemplary and Promising Programs; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 701

RIN 1850–AA52

Standards for Conduct and Evaluation of Activities Carried out by the Office of Educational Research and Improvement (OERI)—Designation of Exemplary and Promising Programs

AGENCY: Department of Education.

ACTION: Final regulation.

SUMMARY: The Assistant Secretary for Educational Research and Improvement (OERI) is establishing final regulations pursuant to the ''Educational Research, Development, Dissemination, and Improvement Act of 1994.'' The regulations are intended to provide quality assurance that programs designated by the Department of Education as either exemplary or promising have met criteria that will allow educators, professional organizations, and others to use these programs with confidence.

DATES: These regulations take effect December 17, 1997. However, affected parties do not have to comply with the information collection requirement in § 701.4 until the Department of Education publishes in the **Federal Register** notification of the compliance date and the control number assigned by the Office of Management and Budget (OMB) to this information collection requirement. Publication of the control number notifies the public that OMB has approved this information collection requirement under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Stephen O'Brien, U.S. Department of Education, 555 New Jersey Avenue, NW, Room 502B, Washington, D.C. Telephone: (202) 219–2141. Internet: (Steve__O'Brien@ed.gov). Individuals who use a telecommunication 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.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: On March 31, 1994, President Clinton signed Public Law 103–227, which includes Title IX, the Educational Research, Development, Dissemination, and Improvement Act of 1994 (the Act). The Act restructured OERI and provided it with a broad mandate to conduct an array of research, development, dissemination, and improvement activities aimed at strengthening the education of all students.

The Act directed the Assistant Secretary to develop, in consultation with the National Educational Research Policy and Priorities Board (the Board), the highest standards of professional excellence necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by the OERI. The legislation requires that the standards be developed in three phases.

In the first phase, standards were promulgated to establish the peer review process and evaluation criteria to be used for reviewing applications for grants and cooperative agreements and proposals for contracts. The Department published final regulations setting out these standards on September 14, 1995 (60 FR 47808). The regulations in this announcement address the second phase of development by establishing the criteria for panels to use in reviewing potentially exemplary and promising educational programs. The Assistant Secretary will later publish proposed regulations for phase three of the standards, which will govern how OERI evaluates performance of its recipients of grants, contracts, and cooperative agreements.

The OERI legislation requires that expert panels be established to review educational programs submitted by individuals or organizations. The legislation also provides that the Secretary may identify educational programs for the panels to review. The statute requires the panels to recommend to the Secretary those programs that should be designated as exemplary or promising and disseminated through the Department's National Education Dissemination System. The law requires that each panel consist of appropriately qualified experts and practitioners and requires the Secretary to develop standards that describe the procedures the panels will use in reviewing the educational programs. Section 941(a)(3) of the law broadly defines educational programs to include educational polices, research findings, practices, and products. Educational programs may range in size and complexity from an individual instructional program—such as an elementary school science program—to a comprehensive reform initiative involving multiple goals and participants. Programs at all levels of education—preschool, elementary, secondary, and postsecondary—are eligible for consideration.

In determining whether an educational program should be recommended as exemplary or promising, each panel is required by the Act to consider: (a) Whether, based on empirical data, the program is effective and should be designated as exemplary or (b) whether there is sufficient evidence to demonstrate that the program shows promise for improving student achievement and should be designated as promising. The Act expressly states that a panel shall not eliminate a program from consideration based on the lack of one type of supporting data such as test scores.

The evaluation process set forth in the final regulations will ensure that programs disseminated by the Department are high-quality, research-based programs that have provided evidence indicating they have improved teaching, learning, or both, or has demonstrated other worthy educational performance outcomes. The Department's dissemination system is designed to make information about these promising and exemplary programs available to the public as quickly as possible. The system will enable the Department to respond to all forms of requests for information and assistance, and to support the applications of research and best practice. The system will use electronic networking and the capabilities of:

—National Research Institutes;
—Educational Resources Information Center (ERIC);
—Regional Educational Laboratories;
—Department-supported dissemination and technical assistance providers;
—National Library of Education;
—Eisenhower Regional Consortia and Clearinghouse, and
—Other public and private nonprofit entities, including education associations and networks.

Until recently, the Department validated exemplary programs through its Program Effectiveness Panel (PEP) and disseminated them through the National Diffusion Network (NDN). Since this program no longer exists, with the adoption of these standards the Department will evaluate and disseminate promising educational programs in addition to exemplary programs. The Department will also work in partnership with constituency groups who have expertise in the specific topic areas represented by the expert panels to develop coordinated procedures to maximize their involvement in this work.

On June 3, 1996, the Secretary published a notice of proposed rulemaking (NPRM) for this part in the

Federal Register (61 FR 27990–27993). These final regulations contain three major changes from the NPRM. These changes are fully explained in the ''Analysis of Comments and Changes'' elsewhere in this preamble. The changes pertain to the standing panel; the distinction between ''promising'' and ''exemplary''; and the factors listed under the criteria expert panels will use to evaluate programs.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, seven parties submitted comments on the proposed regulations. This included comments from individual members of two pilot panels (math/science and gender equity) that were appointed by the Secretary to field test the expert panel process. In addition to the public comment, comments from the Board's Subcommittee on Standards are addressed as required by the legislation. The full Board approved the final regulations at a meeting on September 26, 1997. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject with appropriate sections of the regulations referenced in parentheses. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Eligibility (§ 701.3)

Comments: One commenter asked for clarification on who is eligible to submit educational programs for designation as promising or exemplary. Specifically, this commenter asked whether federally-funded entities, such as the Regional Laboratories, will be required to go through this process; whether local agencies that receive Federal funding through states, such as under Title I of the Elementary and Secondary Education Act (ESEA), may submit programs on their own; whether sponsors need to be invited to submit or may submit on their own initiative; and whether for-profit entities may submit.

Discussion: The law provides that ''individuals'' or ''organizations'' may submit educational programs for review. Since the law is silent on the specific nature of the organizations, the Secretary believes that for-profit agencies would be eligible to submit programs for review. With respect to the OERI-funded Regional Educational Laboratories, the law provides that the Secretary may identify those programs for panel review. In addition, the Secretary believes that the Laboratories could submit one or more of their programs on their own initiative. The question of whether local agencies that receive Federal funding through a State or Federal entity, such as under Title I of the ESEA, can submit on their own or must go through their funding agency, will be addressed in administrative guidance.

Changes: None.

Content of Submissions (§ 701.4)

Comments: Three commenters made suggestions about this section. Two commenters believed that requiring funding and staffing information was burdensome and not germane to the designation of a program as promising or exemplary. One commenter believed that this section should require program sponsors to submit specific materials related to content and methods. Another commenter believed that this section should include the requirement that the program include evidence of sustainability of improvement with targeted student populations.

Discussion: The Secretary believes that funding and staffing information should be included to help determine whether an educational program should be recommended as either exemplary or promising. The Secretary agrees that sponsors should be required to submit information or materials specific to content and methods, as available and appropriate. The Secretary believes that the evidence of sustainability of student improvement should be evaluated by peer reviewers in accordance with § 701.22.

Changes: Section 701.4(b)(7) has been renumbered as § 701.4(b)(8) and a new § 701.4(b)(7) has been added to include a provision for specific materials relevant to content and methods.

Procedures for Submitting Educational Programs (New § 701.5)

Comments: One commenter believed that the regulations should contain more specificity about the procedure for submitting programs to the expert panels. This commenter requested specifics on who receives the submissions and whether they may be submitted at any time or only on specific dates.

Discussion: The Secretary agrees that the general submission procedures should be included in regulations. A sponsor seeking the exemplary or promising designation for its educational program may submit its program at any time for consideration to the Assistant Secretary, who will assign the submitted program to the appropriate panel for review. The individual expert panels will set appropriate timelines for program submissions. In addition, the Assistant Secretary will periodically establish and announce in the **Federal Register** specific topic areas of high priority. Sponsors of educational programs in these areas will be invited to submit them for consideration.

Changes: A new § 701.5 has been added to include general procedures for submitting educational programs for review by an expert panel.

Establishment of Panels (§ 701.10)

Comments: The Board's Subcommittee on Standards recommended a change to the expert panel system. The Subcommittee thought that the structure of having members of the expert panels drawn from a separate standing panel of educational experts was an unwieldy, overly-complicated structure. The Board recommended that the expert panels be formed separately from a standing panel, which would instead provide an administrative oversight and monitoring function for the expert panels.

Discussion: The Secretary agrees that the expert panel should be formed separately from a standing panel. The Secretary will determine the feasibility of establishing a separate standing panel for the oversight and monitoring functions referred to by the Board—functions which are administrative in nature and could also be performed by OERI staff. Elimination of a reference to a standing panel in the regulations would not alter the composition and function of the expert panels as outlined in the NPRM.

Changes: Section 701.10(a) has been removed, § 701.10(b) has been revised, § 701.11 has been removed, § 701.12(a) has been revised, and § 701.12 has also been renumbered as § 701.11.

Panel Membership (§§ 701.11 and 701.12)

Comments: One commenter observed that §§ 701.11 and 701.12 in the NPRM did not explicitly state that those serving on the panels would represent both the community of practice and that of research. One commenter believed that each panel should include one or more members with evaluation expertise in order to help evaluate evidence of effectiveness.

Discussion: The Secretary agrees with these comments.

Changes: A sentence has been added at the end of the renumbered § 701.11(a) (formerly § 701.12(a)) stating that the membership of the expert panels will represent both the community of practice and the community of research. Additionally, §§ 701.11(b)(3) and

701.11(b)(4) have been renumbered as §§ 701.11(b)(4) and 701.11(b)(5), respectively; and a new provision for § 701.11(b)(3) has been added to include the selection of at least one individual with expertise in evaluating educational programs.

Difference Between Promising and Exemplary Programs (§ 701.21)

Comments: Five comments were received on the distinction between promising and exemplary programs. As proposed in § 701.21, the distinction was based upon the generalizability of the educational programs. Promising programs had to meet each of the criteria of educational effectiveness in § 701.22 (success, quality, educational significance, and usefulness to others) with respect to only one ''context or population.'' Exemplary programs had to meet each of the criteria ''with respect to multiple contexts or multiple populations.''

Two commenters believed that the distinction should stay the way it was in the NPRM, although one of those suggested some clarifying language. However, three commenters questioned the distinction on the basis that it was too narrowly and artificially drawn and did not reflect the commonly understood meaning of the words ''promising'' and ''exemplary.'' In this regard, one commenter believed that promising programs should not have to meet every criterion in § 701.22 at the same level as exemplary programs. Two commenters believed that promising programs should have to meet the criteria at the same level as exemplary, but that the evidence required of promising programs should be less stringent and that exemplary programs should be held to a higher standard of evidence.

Discussion: The Secretary agrees with those commenters who questioned the proposed distinction and advised OERI to give a more common sense meaning to the terms ''promising'' and ''exemplary.'' The Secretary believes that the distinction between promising and exemplary programs specified in legislation is sufficient to cover these concerns. The Secretary relies upon the expert judgment of the expert panel reviewers in determining the nature and weight of evidence necessary to designate a program as either promising or exemplary, and in applying the criteria listed in § 701.22 in making this determination.

Changes: A revision has been made to the distinction between ''promising'' and ''exemplary.''

Criteria (§ 701.22)

Comments: Five commenters provided comments on this section and suggested revisions to either the wording of the criteria or to the content of the factors listed under each criterion or both. These comments included comments from one member of the math/science pilot panel and three members of the gender equity pilot panel. Although the math/science panel member did provide comments specific to the proposed criteria and factors, the consensus of this panel was that the expert panel process would be better served if each panel developed its own factors specific to the content or discipline or both under review by the individual panel. One commenter suggested that the word ''replicability'' would better capture the concept for the criterion entitled ''usefulness to others.'' In addition, OERI's Board (The Subcommittee on Standards) thought that the regulations should be as simple as possible and should give the expert panels as much discretion as possible in evaluating programs submitted for review.

Discussion: In addition to the math/science and gender equity panels, the Secretary will establish pilot panels in technology and early reading in the next year. The Secretary has determined that until the work of all four pilot panels is concluded, the regulation should retain only the four criteria outlined in the NPRM in § 701.22 and allow each panel the flexibility to establish its own individual factors under each criterion that are specific to its content or discipline. The fact that the comments from the public suggested various changes to the factors underscores the desirability of this approach. While the final regulations will therefore no longer require the expert panels to apply the factors listed in the NPRM, the Secretary encourages each panel to look at these factors as suggested examples. The Secretary will review the factors developed by all of the panels to see if the criteria set forth in the final regulations need to be modified.

Changes: The factors specified under each of the four criteria have been eliminated and the criterion, ''usefulness to others'' has been changed to ''replicability.''

Assessment of Educational Impact

In the NPRM the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the NPRM and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Part 701

Education, Educational research, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number does not apply)

Dated: November 11, 1997.

Ricky T. Takai,

Acting Assistant Secretary for Educational Research and Improvement.

The Secretary amends chapter VII of title 34 of the Code of Federal Regulations by adding a new part 701 to read as follows:

PART 701—STANDARDS FOR CONDUCT AND EVALUATION OF ACTIVITIES CARRIED OUT BY THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT (OERI)—DESIGNATION OF EXEMPLARY AND PROMISING PROGRAMS

Subpart A—General

Sec.

701.1 What is the purpose of these standards?
701.2 What definitions apply?
701.3 Who is eligible to submit an educational program for review?

701.4 What must a program sponsor submit for review?
701.5 What are the procedures for submitting an educational program for review by an expert panel?

Subpart B—Selection of Panel Members

701.10 How are panels established?
701.11 How is the membership of expert panels determined?

Subpart C—The Expert Panel Review Process

701.20 How does an expert panel evaluate programs?
701.21 What is the difference between an exemplary and a promising program?
701.22 What criteria are used to evaluate programs for exemplary or promising designation?

Authority: 20 U.S.C. 6011(i), unless otherwise noted.

Subpart A—General

§ 701.1 What is the purpose of these standards?

(a) The standards in this part implement section 941(d) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

(b) These standards are intended to provide quality assurance that educational programs designated by the U.S. Department of Education as either exemplary or promising have met criteria that will allow educators, professional organizations, and others to use these programs with confidence.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.2 What definitions apply?

The following definitions apply to this part:

Assistant Secretary means the Assistant Secretary for the Office of Educational Research and Improvement.

Educational programs mean educational policies, research findings, practices, and products.

Program sponsor means a party submitting an educational program for designation by the Secretary as either promising or exemplary.

Secretary means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.3 Who is eligible to submit an educational program for review?

Any public or private agency, organization or institution, or an individual may submit an educational program for review.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.4 What must a program sponsor submit for review?

(a) To have an educational program considered for designation as exemplary or promising, a sponsor must submit to the Secretary a description of the program, program materials, and a discussion of the program that is responsive to the criteria in § 701.22.

(b) Information submitted must include, to the extent relevant to the particular program,—

(1) A program abstract of 250 words or less;

(2) A description of the salient features of the program;

(3) A description of the program's philosophy and history;

(4) Site information, including demographics;

(5) A description of evaluation results;

(6) Funding and staffing information;

(7) Specific materials relevant to content and methods, as appropriate; and

(8) Organization name, address, telephone and fax numbers, e-mail address (if available), and contact person.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.5 What are the procedures for submitting an educational program for review by an expert panel?

(a) An applicant seeking the exemplary or promising designation for its educational program may submit its program at any time for consideration to the Assistant Secretary, who will assign the submitted program to the appropriate expert panel for review.

(b) The Assistant Secretary will periodically establish and announce in the **Federal Register** specific topic areas of high priority. Sponsors of educational programs in these areas will be invited to submit their programs for consideration.

(c) The individual expert panels will set appropriate timelines for reviewing program submissions.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

Subpart B—Selection of Panel Members

§ 701.10 How are panels established?

The Assistant Secretary selects individuals, based on their areas of expertise, to serve on expert panels in specific topic areas for the purpose of reviewing and evaluating educational programs and recommending, to the Secretary, those programs that should be designated as exemplary or promising.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.11 How is the membership of expert panels determined?

(a) For the review of each program or group of programs, the Assistant Secretary establishes an expert panel. The membership of the expert panels will represent both the community of practice and the community of research.

(b) In establishing the membership of each expert panel, the Assistant Secretary—

(1) Selects individuals who have in-depth knowledge of the subject area or content of the program or group of programs to be evaluated;

(2) Selects at least one current teacher, principal, or other school-based or community-based professional;

(3) Selects at least one individual with expertise in evaluating educational programs;

(4) Ensures that no more than one-third of the panel members are employees of the Federal Government; and

(5) Ensures that each panel member does not have a conflict of interest, as determined in accordance with paragraph (c) of this section, with respect to any educational program the panel member is asked to review.

(c) Panel members are considered employees of the U.S. Department for the purposes of conflicts of interest analysis and are subject to the provisions of 18 U.S.C. 208, 5 CFR 2635.502, and the Department's policies used to implement those provisions.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

Subpart C—The Expert Panel Review Process

§ 701.20 How does an expert panel evaluate programs?

(a) Each panel member shall—

(1) Independently review each program based on the criteria in § 701.22;

(2) Provide written comments based on an analysis of the strengths and weaknesses of the program according to the criteria;

(3) Participate in site visits or other verification activities, if appropriate; and

(4) Participate in a meeting of the expert panel, if appropriate, to discuss the reviews.

(b) A panel may not eliminate an educational program from consideration based solely on the fact that the program does not have one specific type of supporting data, such as test scores.

(c) Each expert panel shall make a recommendation to the Secretary as to

whether the program is exemplary, promising, or neither.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.21 What is the difference between an exemplary and a promising program?

(a) In determining whether an educational program should be recommended as exemplary or promising, the panel shall consider—

(1) Whether, based on empirical data, the program is effective and should be designated as exemplary; or

(2) Whether there is sufficient evidence to demonstrate that the program shows promise for improving student achievement and should be designated as promising.

(b) The Secretary relies upon the judgment and expertise of peer reviewers, as established in § 701.11, to determine the nature and extent of evidence required to distinguish between promising and exemplary programs and to apply the four criteria established in § 701.22, and their own individual factors under each criterion in making this determination.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

§ 701.22 What criteria are used to evaluate programs for exemplary or promising designation?

The Secretary establishes the following evaluation criteria for expert panels to use in determining whether an educational program should be recommended as exemplary, promising, or neither:

(a) Evidence of success.

(b) Quality of the program.

(c) Educational significance.

(d) Replicability.

(Authority: 20 U.S.C. 6011(i)(2)(B)(iii) and (E), 6041(d))

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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

59275–59558 3
59599–59772 4
59773–59990 5
59991–60154 6
60155–60450 7
60451–60636 10
60637–60762 12
60763–60994 13
60995–61206 14
61207–61432 17

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7046 59559
7047 59773
7048 60153
7049 60637
7050 60761

Executive Orders:
12938 (See notice of November 12, 1997) 60993
13067 59989

Administrative Orders:
Notice of November 12, 1997 60993

Memorandums:
November 4, 1997 60995

5 CFR

1201 59991
1209 59992
2411 60997

Proposed Rules:
532 59300
630 59301
2411 61035

7 CFR

1 61207
3 60451
29 60155
46 60998
301 .....60763, 61210, 61213
650 61215
920 60156
922 60158
923 60158
924 60158
927 60999
989 60764

8 CFR

204 60769
213a 60122
214 60122
299 60122

9 CFR

78 60639
92 60161
93 60161
94 .....60161, 61002
95 60161
96 60161
97 60161
98 60161
130 .....60161, 61005
310 61007
331 61009
381 .....61007, 61009
417 61007

Proposed Rules:
94 61036
304 59304
308 59304
310 .....59304, 59305
320 59304
327 59304
381 .....59304, 59305
416 59304
417 59304

10 CFR

13 59275
32 59275
50 59275
51 59275
55 59275
60 59275
72 59275
110 59275
431 59978

Proposed Rules:
2 60789

11 CFR

Proposed Rules:
100 60047

12 CFR

204 59775
225 60639
271 61217
325 60161
614 59779
619 59779

Proposed Rules:
3 59944
204 60671
208 59944
225 59944
325 59944
567 59944
792 60799

14 CFR

25 .....59561, 60640
39 .....59277, 59280, 59565, 59566, 59780, 59781, 59993, 60161, 60451, 60642, 60643, 60644, 60645, 60772, 60773, 60775, 60777, 61010, 61222, 61223
71 .....59783, 60455, 60647, 60778, 60779, 61426
73 60456
97 .....60647, 60651, 60653
255 59784

Proposed Rules:
39 .....59310, 59826, 59827, 59829, 59830, 60047, 60049, 60183, 60184, 60186, 60188, 60189, 60191, 60193, 60807, 60808, 60810, 60813
71 .....60051, 60315, 60460, 60461, 60462, 60814

73 60463
255 ..... 59313, 60195

15 CFR

Proposed Rules:
303 59829
960 59317

16 CFR

403 61225
1615 60163
1616 60163

17 CFR

15 61226

Proposed Rules:
3 59624
32 59624
33 59624

18 CFR

4 59802
11 61228
375 59802

19 CFR

101 60164
122 60164
133 61231

Proposed Rules:
123 61251
201 61252

20 CFR

416 59812

Proposed Rules:
404 60672

21 CFR

16 60614
173 59281
510 60781
520 60656
558 ..... 60657, 60781, 61011
900 60614

Proposed Rules:
201 61041
514 59830
600 59386
606 59386

24 CFR

203 60124
206 60124

25 CFR

Proposed Rules:
11 61057

26 CFR

1 60165

Proposed Rules:
1 60196

27 CFR

47 61232

29 CFR

2200 61011
2204 59568
4001 60426
4006 60426
4022 60426
4041 60426
4044 61012
4050 60426

30 CFR

47 60984
870 60138
914 59569
938 60169
946 60658

Proposed Rules:
50 60673
707 59639
874 59639

31 CFR

1 60781

32 CFR

285 61013
311 59578

Proposed Rules:
199 61058

33 CFR

100 ..... 60177, 60178
165 60178

Proposed Rules:
100 60197

34 CFR

701 61428

36 CFR

Proposed Rules:
7 60815

37 CFR

1 61235

Proposed Rules:
2 59640
3 59640

38 CFR

17 60783
21 59579

Proposed Rules:
21 60464

39 CFR

111 ..... 60180, 61014

40 CFR

52 ..... 59284, 59995, 59996, 60784, 61016, 61236, 61237, 61241
58 59813
62 60785
69 61204
80 ..... 59998, 60132
81 ..... 60001, 61237, 61241
123 61170
180 60660
233 61173
247 60962
260 59287
271 61175
721 59579

Proposed Rules:
52 ..... 59331, 60052, 60318
58 59840
60 61065
62 60817
63 ..... 60566, 60674, 61065
79 60675
80 60052
141 ..... 59388, 59486
142 ..... 59388, 59486
260 59332
268 60465
300 ..... 60058, 60199

41 CFR

105–60 60014

42 CFR

424 59818

43 CFR

11 60457
1860 59820
3710 59821

Proposed Rules:
4700 60467

44 CFR

64 ..... 59290, 60662
65 61247
67 61248

Proposed Rules:
67 61259

46 CFR

Proposed Rules:
10 60122
15 60122
27 60939

47 CFR

1 ..... 59822, 60025
5 60664
21 ..... 60025, 60664
22 60664
23 60664
24 60664
25 59293
26 60664
27 60664
42 59583
61 59583
64 60034
73 ..... 59605, 60664
74 ..... 60025, 60664
76 ..... 61016, 61034
78 60664
80 60664
87 60664
90 60664
95 60664
97 60664
101 60664

Proposed Rules:
1 60750
20 60199
21 ..... 60199, 60750
74 ..... 60199, 60750
76 61065
90 60199
36 59842

48 CFR

1515 60664
1552 60664

Proposed Rules:
225 59641
252 59641

49 CFR

199 59297
385 60035

Proposed Rules:
350 60817
701 61070

50 CFR

17 59605
679 ..... 59298, 59623, 60182, 60667
660 60788

Proposed Rules:
17 ..... 59334, 60676
216 61077
222 59335
600 59386
648 60676
679 ..... 59844, 60060, 60677

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 17, 1997

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Kiwifruit research, promotion, and consumer information order; referendum procedures; published 10-17-97

Pears (winter) grown in Oregon et al.; published 11-14-97

AGRICULTURE DEPARTMENT

Food and Consumer Service

Food distribution program:

Paperwork burden reduction; published 10-16-97

AGRICULTURE DEPARTMENT

Natural Resources Conservation Service

Wetlands protection; technical assistance policy removed; published 11-17-97

AGRICULTURE DEPARTMENT

Privacy Act; implementation; published 11-17-97

ENERGY DEPARTMENT

Acquisition regulations:

Improper business practices and personal conflicts of interest, etc.; published 10-16-97

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

California; published 9-16-97

FEDERAL COMMUNICATIONS COMMISSION

Radio services, special:

Fixed microwave services—

Local multipoint distribution service; 28 GHz and 31 GHz bands use; published 9-17-97

Radio stations; table of assignments:

Michigan; published 10-17-97

FEDERAL TRADE COMMISSION

Trade regulation rules:

Leakproof, guaranteed leakproof, etc.; deceptive use as descriptive of dry cell batteries; CFR part removed; published 11-17-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:

Topical antimicrobal drug products for over-the-counter human use—

OTC first aid antibiotic drug products; final monograph; published 11-15-96

LABOR DEPARTMENT

Employment Standards Administration

Longshore and Harbor Workers' Compensation Act:

Civil money penalties adjustment; published 10-17-97

SECURITIES AND EXCHANGE COMMISSION

Securities:

Offshore press conferences; meetings with company representatives conducted offshore and press related materials released offshore; published 10-17-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

General Electric Co.; published 10-31-97

Airworthiness standards:

Special conditions—

Ballistic Recovery Systems, Inc.; Cirrus SR-20 model airplane; parachute recovery system installation; published 10-16-97

Boeing model 767-27C airplanes; published 10-16-97

Class D and E airspace; published 10-16-97

Class E airspace; published 10-16-97

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Firearms:

Arms, ammunition, and implements of war—

Defense articles and services from specified new independent states of the former Soviet Union and Yugoslavia; certain restrictions removed; published 11-17-97

TREASURY DEPARTMENT

Customs Service

Trademarks, trade names, and copyrights:

Anticounterfeiting Consumer Protection Act; disposition of merchandise bearing counterfeit American trademarks; published 11-17-97

VETERANS AFFAIRS DEPARTMENT

Loan guaranty:

Credit standards; published 10-17-97

Medical benefits:

Patient care; informed consent; published 10-17-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Agricultural commodities; laboratory testing service fees; comments due by 11-28-97; published 10-28-97

Irish potatoes grown in—

Colorado; comments due by 11-25-97; published 9-26-97

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Livestock and poultry disease control:

Tuberculosis-exposed animals; transportation and disposal expenses; comments due by 11-24-97; published 9-23-97

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Loan and purchase programs:

Wheat, feed grains, rice and upland cotton; production flexibility contracts; comments due by 11-24-97; published 10-23-97

AGRICULTURE DEPARTMENT

Food and Consumer Service

Commodity supplemental food program:

Caseload assignment; comments due by 11-24-97; published 10-23-97

AGRICULTURE DEPARTMENT

Import quotas and fees:

Dairy tariff-rate quota licensing; comments due by 11-28-97; published 10-15-97

BLIND OR SEVERELY DISABLED, COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE

Committee for Purchase From People Who Are Blind or Severely Disabled

Javits-Wagner-O'Day program; miscellaneous amendments; comments due by 11-25-97; published 9-26-97

COMMERCE DEPARTMENT

Economic Analysis Bureau

International services surveys:

Foreign direct investments in U.S.—

BE-12; benchmark survey-1997; reporting requirements; comments due by 11-24-97; published 10-8-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Caribbean Fishery Management Council; hearings; comments due by 11-25-97; published 10-14-97

Caribbean, Gulf, and South Atlantic fisheries—

Gulf of Mexico reef fish; comments due by 11-25-97; published 9-26-97

West Coast States and Western Pacific fisheries—

Chinook salmon; comments due by 11-28-97; published 11-13-97

Marine mammals:

Incidental taking—

BP Exploration (Alaska); on-ice seismic activity; ringed seals; comments due by 11-26-97; published 10-27-97

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Comercial items and commercial components; FAR provisions and clauses in subcontracts; comments due by 11-24-97; published 9-23-97

Pay-as-you-go pension costs; comments due by 11-24-97; published 9-23-97

Taxes associated with divested segments; comments due by 11-24-97; published 9-23-97

DEFENSE DEPARTMENT

Engineers Corps

Danger zones and restricted areas:

Severn River, MD; Naval Station Annapolis small boat basin; comments due by 11-24-97; published 10-24-97

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control; new motor vehicles and engines:

Nonroad diesel engines; emission standards; comments due by 11-24-97; published 9-24-97

Air quality implementation plans; approval and promulgation; various States:

Connecticut; comments due by 11-24-97; published 10-24-97

Minnesota; comments due by 11-24-97; published 10-23-97

New Hampshire; comments due by 11-26-97; published 10-27-97

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:

Kentucky et al.; comments due by 11-24-97; published 10-23-97

Hazardous waste:

Land disposal restrictions—

Metal wastes and mineral processing wastes treatment standards, etc. (Phase IV); data availability; comments due by 11-25-97; published 11-10-97

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Maneb; comments due by 11-24-97; published 9-24-97

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 11-24-97; published 9-25-97

FARM CREDIT ADMINISTRATION

Farm credit system:

Capital adequacy and related regulations; miscellaneous amendments; comments due by 11-24-97; published 9-23-97

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

California; comments due by 11-24-97; published 10-17-97

Missouri; comments due by 11-24-97; published 10-17-97

Wisconsin; comments due by 11-24-97; published 10-17-97

Television broadcasting:

Video programming; blocking based on program ratings; technical requirements; comments due by 11-24-97; published 10-9-97

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Commercial items and commercial components; FAR provisions and clauses in subcontracts; comments due by 11-24-97; published 9-23-97

Pay-as-you-go pension costs; comments due by 11-24-97; published 9-23-97

Taxes associated with divested segments; comments due by 11-24-97; published 9-23-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:

Labeling of drug products (OTC)—

Diphenhydramine; comments due by 11-28-97; published 8-29-97

INTERIOR DEPARTMENT

Indian Affairs Bureau

Fish and wildlife:

Columbia River treaty fishing access sites; use; comments due by 11-28-97; published 9-29-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Virginia sneezeweed; comments due by 11-28-97; published 9-29-97

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Abandoned mine land reclamation; enhancement; comments due by 11-24-97; published 10-24-97

JUSTICE DEPARTMENT

Prisons Bureau

Inmate control, custody, care, etc.:

Good conduct time; credit awarded for satisfactory progress toward earning general educational development (GED) credential; comments due by 11-25-97; published 9-26-97

Literacy program (GED standard); satisfactory progress definition; comments due by 11-25-97; published 9-26-97

LABOR DEPARTMENT

Mine Safety and Health Administration

Coal mine safety and health:

Underground coal mines—

Self-rescue devices; use and location requirements; comments due by 11-25-97; published 9-26-97

LABOR DEPARTMENT

Pension and Welfare Benefits Administration

Employee Retirement Income Security Act:

Health care continuation coverage; information request; comments due by 11-24-97; published 9-23-97

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Freedom of Information Act; implementation; comments due by 11-28-97; published 10-28-97

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Commercial items and commercial components; FAR provisions and clauses in subcontracts; comments due by 11-24-97; published 9-23-97

Pay-as-go pension costs; comments due by 11-24-97; published 9-23-97

Taxes associated with divested segments; comments due by 11-24-97; published 9-23-97

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Central liquidity facility; first priority security interest in specific assets; comments due by 11-24-97; published 9-25-97

Organization and operations—

Overlaps in fields of membership and community chartering policy; interpretive ruling and policy statement; comment request; comments due by 11-28-97; published 10-29-97

NUCLEAR REGULATORY COMMISSION

Production and utilization facilities; domestic licensing:

Nuclear power plants—

Decommissioning; financial assurance requirements; comments due by 11-25-97; published 9-10-97

SECURITIES AND EXCHANGE COMMISSION

Securities:

Shareholder proposals; comments due by 11-25-97; published 9-26-97

SOCIAL SECURITY ADMINISTRATION

Social security benefits and supplemental security income:

Federal old age, survivors and disability insurance, and aged, blind, and disabled—

Administrative review process; identification and referral of cases for quality review under Appeals Council's authority; comments due by 11-24-97; published 9-25-97

Medical opinion evidence evaluation; comments due by 11-24-97; published 9-25-97

Social security benefits:

Federal old age, survivors and disability insurance—

Medical-vocational guidelines; clarification; comments due by 11-24-97; published 9-23-97

TRANSPORTATION DEPARTMENT

Privacy Act; implementation; comments due by 11-24-97; published 10-24-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

American Champion Aircraft Corp.; comments due by 11-28-97; published 9-26-97

Boeing; comments due by 11-26-97; published 10-27-97
Dornier; comments due by 11-28-97; published 10-29-97
Fokker; comments due by 11-28-97; published 10-17-97
General Electric Co.; comments due by 11-24-97; published 9-24-97
Saab; comments due by 11-28-97; published 10-29-97
Class E airspace; comments due by 11-24-97; published 10-23-97

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Motor carrier safety standards:
Financial responsibility; self-insurance requirements and application processing fees; comments due by 11-24-97; published 9-23-97

TRANSPORTATION DEPARTMENT
Federal Railroad Administration
Railroad safety; passenger equipment safety standards; comments due by 11-24-97; published 9-23-97

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Motor vehicle safety standards:
Lamps, reflective devices, and associated equipment—
Auxiliary signal lamps and safety lighting inventions; comments due by 11-26-97; published 10-27-97

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials:

Hazardous materials transportation—

Miscellaneous amendments; comments due by 11-24-97; published 9-24-97

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●**1, 2 (2** Reserved)	(869–032–00001–8)	$5.00	Feb. 1, 1997
●**3** (1996 Compilation and Parts 100 and 101)	(869–032–00002–6)	20.00	[1] Jan. 1, 1997
●**4**	(869–032–00003–4)	7.00	Jan. 1, 1997
5 Parts:			
●1–699	(869–032–00004–2)	34.00	Jan. 1, 1997
●700–1199	(869–032–00005–1)	26.00	Jan. 1, 1997
●1200–End, 6 (6 Reserved)	(869–032–00006–9)	33.00	Jan. 1, 1997
7 Parts:			
●0–26	(869–032–00007–7)	26.00	Jan. 1, 1997
●27–52	(869–032–00008–5)	30.00	Jan. 1, 1997
●53–209	(869–032–00009–3)	22.00	Jan. 1, 1997
●210–299	(869–032–00010–7)	44.00	Jan. 1, 1997
●300–399	(869–032–00011–5)	22.00	Jan. 1, 1997
●400–699	(869–032–00012–3)	28.00	Jan. 1, 1997
●700–899	(869–032–00013–1)	31.00	Jan. 1, 1997
●900–999	(869–032–00014–0)	40.00	Jan. 1, 1997
●1000–1199	(869–032–00015–8)	45.00	Jan. 1, 1997
●1200–1499	(869–032–00016–6)	33.00	Jan. 1, 1997
●1500–1899	(869–032–00017–4)	53.00	Jan. 1, 1997
●1900–1939	(869–032–00018–2)	19.00	Jan. 1, 1997
●1940–1949	(869–032–00019–1)	40.00	Jan. 1, 1997
●1950–1999	(869–032–00020–4)	42.00	Jan. 1, 1997
●2000–End	(869–032–00021–2)	20.00	Jan. 1, 1997
●**8**	(869–032–00022–1)	30.00	Jan. 1, 1997
9 Parts:			
●1–199	(869–032–00023–9)	39.00	Jan. 1, 1997
●200–End	(869–032–00024–7)	33.00	Jan. 1, 1997
10 Parts:			
●0–50	(869–032–00025–5)	39.00	Jan. 1, 1997
●51–199	(869–032–00026–3)	31.00	Jan. 1, 1997
●200–499	(869–032–00027–1)	30.00	Jan. 1, 1997
●500–End	(869–032–00028–0)	42.00	Jan. 1, 1997
●**11**	(869–032–00029–8)	20.00	Jan. 1, 1997
12 Parts:			
●1–199	(869–032–00030–1)	16.00	Jan. 1, 1997
●200–219	(869–032–00031–0)	20.00	Jan. 1, 1997
●220–299	(869–032–00032–8)	34.00	Jan. 1, 1997
●300–499	(869–032–00033–6)	27.00	Jan. 1, 1997
●500–599	(869–032–00034–4)	24.00	Jan. 1, 1997
●600–End	(869–032–00035–2)	40.00	Jan. 1, 1997
●**13**	(869–032–00036–1)	23.00	Jan. 1, 1997
14 Parts:			
●1–59	(869–032–00037–9)	44.00	Jan. 1, 1997
●60–139	(869–032–00038–7)	38.00	Jan. 1, 1997
140–199	(869–032–00039–5)	16.00	Jan. 1, 1997
●200–1199	(869–032–00040–9)	30.00	Jan. 1, 1997
●1200–End	(869–032–00041–7)	21.00	Jan. 1, 1997
15 Parts:			
0–299	(869–032–00042–5)	21.00	Jan. 1, 1997
●300–799	(869–032–00043–3)	32.00	Jan. 1, 1997
●800–End	(869–032–00044–1)	22.00	Jan. 1, 1997
16 Parts:			
●0–999	(869–032–00045–0)	30.00	Jan. 1, 1997
●1000–End	(869–032–00046–8)	34.00	Jan. 1, 1997
17 Parts:			
●1–199	(869–032–00048–4)	21.00	Apr. 1, 1997
●200–239	(869–032–00049–2)	32.00	Apr. 1, 1997
●240–End	(869–032–00050–6)	40.00	Apr. 1, 1997
18 Parts:			
●1–399	(869–032–00051–4)	46.00	Apr. 1, 1997
●400–End	(869–032–00052–2)	14.00	Apr. 1, 1997
19 Parts:			
●1–140	(869–032–00053–1)	33.00	Apr. 1, 1997
●141–199	(869–032–00054–9)	30.00	Apr. 1, 1997
●200–End	(869–032–00055–7)	16.00	Apr. 1, 1997
20 Parts:			
●1–399	(869–032–00056–5)	26.00	Apr. 1, 1997
●400–499	(869–032–00057–3)	46.00	Apr. 1, 1997
●500–End	(869–032–00058–1)	42.00	Apr. 1, 1997
21 Parts:			
●1–99	(869–032–00059–0)	21.00	Apr. 1, 1997
●100–169	(869–032–00060–3)	27.00	Apr. 1, 1997
●170–199	(869–032–00061–1)	28.00	Apr. 1, 1997
●200–299	(869–032–00062–0)	9.00	Apr. 1, 1997
●300–499	(869–032–00063–8)	50.00	Apr. 1, 1997
●500–599	(869–032–00064–6)	28.00	Apr. 1, 1997
●600–799	(869–032–00065–4)	9.00	Apr. 1, 1997
●800–1299	(869–032–00066–2)	31.00	Apr. 1, 1997
●1300–End	(869–032–00067–1)	13.00	Apr. 1, 1997
22 Parts:			
1–299	(869–032–00068–9)	42.00	Apr. 1, 1997
●300–End	(869–032–00069–7)	31.00	Apr. 1, 1997
●**23**	(869–032–00070–1)	26.00	Apr. 1, 1997
24 Parts:			
●0–199	(869–032–00071–9)	32.00	Apr. 1, 1997
200–499	(869–032–00072–7)	29.00	Apr. 1, 1997
500–699	(869–032–00073–5)	18.00	Apr. 1, 1997
●700–1699	(869–032–00074–3)	42.00	Apr.1, 1997
●1700–End	(869–032–00075–1)	18.00	Apr. 1, 1997
●**25**	(869–032–00076–0)	42.00	Apr. 1, 1997
26 Parts:			
●§§ 1.0-1–1.60	(869–032–00077–8)	21.00	Apr. 1, 1997
●§§ 1.61–1.169	(869–032–00078–6)	44.00	Apr. 1, 1997
●§§ 1.170–1.300	(869–032–00079–4)	31.00	Apr. 1, 1997
●§§ 1.301–1.400	(869–032–00080–8)	22.00	Apr. 1, 1997
●§§ 1.401–1.440	(869–032–00081–6)	39.00	Apr. 1, 1997
●§§ 1.441-1.500	(869-032-00082-4)	22.00	Apr. 1, 1997
●§§ 1.501–1.640	(869–032–00083–2)	28.00	Apr. 1, 1997
●§§ 1.641–1.850	(869–032–00084–1)	33.00	Apr. 1, 1997
●§§ 1.851–1.907	(869–032–00085–9)	34.00	Apr. 1, 1997
●§§ 1.908–1.1000	(869–032–00086–7)	34.00	Apr. 1, 1997
●§§ 1.1001–1.1400	(869–032–00087–5)	35.00	Apr. 1, 1997
●§§ 1.1401–End	(869–032–00088–3)	45.00	Apr. 1, 1997
●2–29	(869–032–00089–1)	36.00	Apr. 1, 1997
30–39	(869–032–00090–5)	25.00	Apr. 1, 1997
●40–49	(869–032–00091–3)	17.00	Apr. 1, 1997
●50–299	(869–032–00092–1)	18.00	Apr. 1, 1997
●300–499	(869–032–00093–0)	33.00	Apr. 1, 1997
500–599	(869–032–00094–8)	6.00	[4] Apr. 1, 1990
●600–End	(869–032–00095–3)	9.50	Apr. 1, 1997
27 Parts:			
1–199	(869–032–00096–4)	48.00	Apr. 1, 1997

Title	Stock Number	Price	Revision Date
200–End	(869–032–00097–2)	17.00	Apr. 1, 1997
28 Parts:			
1-42	(869–032–00098–1)	36.00	July 1, 1997
●43-end	(869-032-00099-9)	30.00	July 1, 1997
29 Parts:			
●0–99	(869–032–00100–5)	27.00	July 1, 1997
●100–499	(869–032–00101–4)	12.00	July 1, 1997
●500–899	(869–032–00102–2)	41.00	July 1, 1997
●900–1899	(869–032–00103–1)	21.00	July 1, 1997
●1900–1910 (§§ 1900 to 1910.999)	(869–032–00104–9)	43.00	July 1, 1997
1910 (§§ 1910.1000 to end)	(869–032–00105–7)	29.00	July 1, 1997
●1911–1925	(869–032–00106–5)	19.00	July 1, 1997
1926	(869–032–00107–3)	31.00	July 1, 1997
●1927–End	(869–032–00108–1)	40.00	July 1, 1997
30 Parts:			
●1–199	(869–032–00109–0)	33.00	July 1, 1997
200–699	(869–032–00110–3)	28.00	July 1, 1997
●700–End	(869–032–00111–1)	32.00	July 1, 1997
31 Parts:			
●0–199	(869–032–00112–0)	20.00	July 1, 1997
200–End	(869–032–00113–8)	42.00	July 1, 1997
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–032–00114–6)	42.00	July 1, 1997
●191–399	(869–032–00115–4)	51.00	July 1, 1997
●400–629	(869–032–00116–2)	33.00	July 1, 1997
●630–699	(869–032–00117–1)	22.00	July 1, 1997
●700–799	(869–032–00118–9)	28.00	July 1, 1997
●800–End	(869–032–00119–7)	27.00	July 1, 1997
33 Parts:			
1–124	(869–032–00120–1)	27.00	July 1, 1997
125–199	(869–032–00121–9)	36.00	July 1, 1997
●200–End	(869–032–00122–7)	31.00	July 1, 1997
34 Parts:			
●1–299	(869–032–00123–5)	28.00	July 1, 1997
●300–399	(869–032–00124–3)	27.00	July 1, 1997
●400–End	(869–032–00125–1)	44.00	July 1, 1997
35	(869–032–00126–0)	15.00	July 1, 1997
36 Parts			
●1–199	(869–032–00127–8)	20.00	July 1, 1997
200–299	(869–032–00128–6)	21.00	July 1, 1997
300–End	(869–032–00129–4)	34.00	July 1, 1997
●37	(869–032–00130–8)	27.00	July 1, 1997
38 Parts:			
0–17	(869–032–00131–6)	34.00	July 1, 1997
●18–End	(869–032–00132–4)	38.00	July 1, 1997
●39	(869–032–00133–2)	23.00	July 1, 1997
40 Parts:			
●1–49	(869–032–00134–1)	31.00	July 1, 1997
●1–51	(869–028–00141–6)	50.00	July 1, 1996
●52	(869–028–00142–4)	51.00	July 1, 1996
●53–59	(869–028–00143–2)	14.00	July 1, 1996
*60	(869–032–00139–1)	52.00	July 1, 1997
●61–62	(869–032–00140–5)	19.00	July 1, 1997
●63–71	(869–032–00141–3)	57.00	July 1, 1997
●72–80	(869–028–00146–7)	34.00	July 1, 1996
●81–85	(869–032–00143–0)	32.00	July 1, 1997
86	(869–032–00144–8)	50.00	July 1, 1997
●87-135	(869–032–00145–6)	40.00	July 1, 1997
●136–149	(869–032–00146–4)	35.00	July 1, 1997
●150–189	(869–032–00147–2)	32.00	July 1, 1997
*●190–259	(869–032–00148–1)	22.00	July 1, 1997
260–265	(869–032–00149–9)	29.00	July 1, 1997
*●266–299	(869–032–00150–2)	24.00	July 1, 1997
●300–399	(869–032–00151–1)	27.00	July 1, 1997
●400–424	(869–032–00152–9)	33.00	[6] July 1, 1996
●425–699	(869–032–00153–7)	40.00	July 1, 1997
*●700–789	(869–032–00154–5)	38.00	July 1, 1997
●790–End	(869–032–00155–3)	19.00	July 1, 1997
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
●1–100	(869–032–00156–1)	14.00	July 1, 1997
101	(869–032–00157–0)	36.00	July 1, 1997
●102–200	(869–032–00158–8)	17.00	July 1, 1997
201–End	(869–032–00159–6)	15.00	July 1, 1997
42 Parts:			
●1–399	(869–028–00163–7)	32.00	Oct. 1, 1996
●400–429	(869–028–00164–5)	34.00	Oct. 1, 1996
●430–End	(869–028–00165–3)	44.00	Oct. 1, 1996
43 Parts:			
●1–999	(869–028–00166–1)	30.00	Oct. 1, 1996
●1000–end	(869–028–00167–0)	45.00	Oct. 1, 1996
●44	(869–028–00168–8)	31.00	Oct. 1, 1996
45 Parts:			
●1–199	(869–028–00169–6)	28.00	Oct. 1, 1996
●200–499	(869–028–00170–0)	14.00	[5] Oct. 1, 1995
●500–1199	(869–028–00171–8)	30.00	Oct. 1, 1996
●1200–End	(869–028–00172–6)	36.00	Oct. 1, 1996
46 Parts:			
●1–40	(869–028–00173–4)	26.00	Oct. 1, 1996
●41–69	(869–028–00174–2)	21.00	Oct. 1, 1996
●70–89	(869–028–00175–1)	11.00	Oct. 1, 1996
●90–139	(869–028–00176–9)	26.00	Oct. 1, 1996
●140–155	(869–028–00177–7)	15.00	Oct. 1, 1996
●156–165	(869–028–00178–5)	20.00	Oct. 1, 1996
●166–199	(869–028–00179–3)	22.00	Oct. 1, 1996
●200–499	(869–028–00180–7)	21.00	Oct. 1, 1996
●500–End	(869–028–00181–5)	17.00	Oct. 1, 1996
47 Parts:			
●0–19	(869–028–00182–3)	35.00	Oct. 1, 1996
●20–39	(869–028–00183–1)	26.00	Oct. 1, 1996
●40–69	(869–028–00184–0)	18.00	Oct. 1, 1996
●70–79	(869–028–00185–8)	33.00	Oct. 1, 1996
●80–End	(869–028–00186–6)	39.00	Oct. 1, 1996
48 Chapters:			
●1 (Parts 1–51)	(869–028–00187–4)	45.00	Oct. 1, 1996
●1 (Parts 52–99)	(869–028–00188–2)	29.00	Oct. 1, 1996
●2 (Parts 201–251)	(869–028–00189–1)	22.00	Oct. 1, 1996
●2 (Parts 252–299)	(869–028–00190–4)	16.00	Oct. 1, 1996
●3–6	(869–028–00191–2)	30.00	Oct. 1, 1996
●7–14	(869–028–00192–1)	29.00	Oct. 1, 1996
●15–28	(869–028–00193–9)	38.00	Oct. 1, 1996
●29–End	(869–028–00194–7)	25.00	Oct. 1, 1996
49 Parts:			
●1–99	(869–028–00195–5)	32.00	Oct. 1, 1996
●100–185	(869–028–00196–3)	50.00	Oct. 1, 1996
●186–199	(869–028–00197–1)	14.00	Oct. 1, 1996
●200–399	(869–028–00198–0)	39.00	Oct. 1, 1996
●400–999	(869–028–00199–8)	49.00	Oct. 1, 1996
●1000–1199	(869–028–00200–5)	23.00	Oct. 1, 1996
●1200–End	(869–028–00201–3)	15.00	Oct. 1, 1996
50 Parts:			
●1–199	(869–028–00202–1)	34.00	Oct. 1, 1996
●200–599	(869–028–00203–0)	22.00	Oct. 1, 1996
●600–End	(869–028–00204–8)	26.00	Oct. 1, 1996
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.