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Monday
January 26, 1998

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Contents

Federal Register

Vol. 63, No. 16

Monday, January 26, 1998

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
New England et al., 3667–3670

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Rural Utilities Service

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
Horses from Mexico; quarantine requirements, 3638–3640
Interstate transportation of animals and animal products (quarantine):
Brucellosis in cattle and bison—
State and area classifications, 3637–3638
PROPOSED RULES
Interstate transportation of animals and animal products (quarantine):
Scrapie infected sheep and goats and source flocks; interstate movement from States that do not quarantine, 3671–3673

Army Department
See Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Base realignment and closure—
Savanna Army Depot Activity, IL, 3723

Census Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 3700–3701

Centers for Disease Control and Prevention
NOTICES
Meetings:
National Institute for Occupational Safety and Health Scientific Counselors Board, 3749

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Oklahoma, 3700

Commerce Department
See Census Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
NOTICES
Noncompetitive transactions executed on or subject to contract market rules; reevaluation, 3708–3721

Copyright Office, Library of Congress
PROPOSED RULES
Copyright office and procedures:
Satellite carrier compulsory license; unserved household; definition, 3685–3686

Defense Department
See Army Department
See Engineers Corps
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 3721–3722
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 3722

Education Department
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 3724
Postsecondary education:
National direct and Federal Perkins student loan programs; directory of designated low-income schools; availability—
Teacher cancellation benefits, 3790

Employment and Training Administration
NOTICES
Unemployment compensation:
Ex-servicemembers; remuneration schedules, 3767

Energy Department
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
NOTICES
Committees; establishment, renewal, termination, etc.:
Environmental Management Advisory Board, 3724–3725

Engineers Corps
NOTICES
Port of New York and New Jersey; Federal participation in navigation improvements feasibility study; comment request, 3723–3724

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Illinois, 3650–3652
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Arizona, 3687–3693
Illinois, 3693
Pesticide programs:
Antimicrobial rule development; stakeholders meetings, 3686
NOTICES
Agency information collection activities:
Proposed collection; comment request, 3737–3741

Meetings:
Drinking water issues—
National drinking water contaminant occurrence data base design; stakeholders, 3741–3742
Local Government Advisory Committee, 3742
Pesticide programs:
Liquid chemical sterilant products; pesticide regulation notice availability, 3742–3743

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
PROPOSED RULES
Class E airspace, 3673–3677

Federal Communications Commission
NOTICES
Rulemaking proceedings; petitions filed, granted, denied, etc., 3743

Federal Deposit Insurance Corporation
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 3743–3744

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Arizona Public Service Co. et al., 3731–3734
Hydroelectric applications, 3734
Meetings; Sunshine Act, 3735–3736
Applications, hearings, determinations, etc.:
Central Louisiana Electric Co., Inc., 3725
Cinergy Services, Inc., 3725
CLECO Energy, L.L.C., 3725
Consumers Energy Co., 3725–3726
East Tennessee Natural Gas Co., 3726
Entergy Services, Inc., 3726–3727
Florida Gas Transmission Co., 3727
Florida Power & Light Co., 3727
Granite State Gas Transmission Inc., 3727
Idaho Power Co., 3727–3728
Long Island Lighting Co., 3728
New Century Services, Inc., 3728
Niagara Mohawk Power Corp., 3728
Rochester Gas & Electric Corp., 3729
Union Electric Co., 3729
UtiliCorp United Inc., 3730
Virginia Electric & Power Co., 3730–3731
West Texas Utilities Co., 3731
Wisconsin Electric Power Co., 3731

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Letcher County, KY; withdrawn, 3783

Federal Trade Commission
NOTICES
Prohibited trade practices:
Boeing Co., 3744
Grey Advertising, Inc., et al., 3744–3746
Progressive Mortgage Corp. et al., 3746
Schwegmann Giant Super Markets, Inc., 3746
Sensormatic Electronics Corp. et al., 3747–3748
Tenet Healthcare Corp., 3748

Food and Drug Administration
NOTICES
Food additive petitions:
Bio-Cide International, Inc., 3749–3750
Reports and guidance documents; availability, etc.:
Efficacy studies to support marketing of fibrin sealant products manufactured for commercial use; industry guidance, 3750–3752

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Wisconsin
Sargento Foods, Inc.; cheese processing plant, 3701–3702

General Services Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 3748–3749
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 3722

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Health Care Financing Administration
NOTICES
Medicaid:
State allotments for payment of Part B premiums for qualifying individuals (FY 1998), 3752–3756

Hearings and Appeals Office, Energy Department
NOTICES
Cases filed, 3736–3737

Housing and Urban Development Department
NOTICES
Organization, functions, and authority delegations:
Assistant Secretary for Community Planning and Development, 3761

Interior Department
See Land Management Bureau
See National Park Service

Internal Revenue Service
PROPOSED RULES
Employment taxes and collection of income taxes at source:
Electronic tip reports, 3680–3685
Income taxes:
Partnership income return, 3677–3680

International Trade Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 3702
Antidumping:
Polyethylene terephthalate film, sheet, and strip from—
Korea, 3703–3704
Stainless steel wire rods from—
France, 3704–3708

Antidumping and countervailing duties:
Administrative review requests, 3702–3703

International Trade Commission
NOTICES
Import investigations:
Rotatable photograph and card display units and components, 3765

Justice Department
See Prisons Bureau
NOTICES
Pollution control; consent judgments:
A. Steiert & Sons, Inc., 3765
Atlantic Pipeline Co. et al., 3765–3766
San Francisco, CA, et al., 3766

Labor Department
See Employment and Training Administration
See Pension and Welfare Benefits Administration

Land Management Bureau
NOTICES
Meetings:
Wild Horse and Burro Advisory Board, 3761–3762
Realty actions; sales, leases, etc.:
Oregon, 3762–3763

Library of Congress
See Copyright Office, Library of Congress

Maritime Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 3784

National Aeronautics and Space Administration
RULES
Acquisition regulations:
Contract administration; miscellaneous amendments, 3652–3653
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities—
Submission for OMB review; comment request, 3722

National Credit Union Administration
NOTICES
Meetings; Sunshine Act, 3773

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
Occupant crash protection—
Safety belt systems designed to transport prisoners in rear seats of law enforcement vehicles, 3662–3666
Rear impact guards; petition denied, 3654–3662
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Dan Hill & Associates, Inc., 3784–3785

National Institutes of Health
NOTICES
Meetings:
National Institute of General Medical Sciences, 3758
National Institute of Mental Health, 3757–3758
National Institute of Neurological Disorders and Stroke, 3758–3759
National Institute on Drug Abuse, 3756–3757
National Library of Medicine, 3759
Scientific Review Center initial review groups, 3759

National Oceanic and Atmospheric Administration
PROPOSED RULES
Pacific Halibut Commission, International:
Pacific halibut fisheries—
Catch sharing plans, 3693–3699

National Park Service
NOTICES
Concession contract negotiations:
Whiskeytown-Shasta-Trinity National Recreation Area, CA; marina services operation, 3763
Environmental statements; availability, etc.:
Joshua Tree National Park, CA, 3763
Meetings:
Denali National Park Subsistence Resource Commission, 3763
Mississippi River Coordinating Commission, 3764
National Register of Historic Places:
Pending nominations, 3764
Oil and gas plans of operation; availability, etc.:
Padre Island National Seashore, TX, 3765

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities; domestic licensing:
Nuclear power plants—
Components; construction, inservice inspection, and inservice testing; industry codes and standards, 3673
NOTICES
Generic letters:
Control rod insertion problems; bulletin supplement issuance; cancellation, 3773–3774

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Morgan Stanley & Co. Inc. et al., 3767–3772
Pentair, Inc., et al., 3772–3773

Postal Service
RULES
International Mail Manual:
International surface air lift service; postage rates adjustment and miscellaneous changes, 3642–3650
NOTICES
Privacy Act:
Systems of records, 3774–3775

Presidential Documents
ADMINISTRATIVE ORDERS
Argentina; designation as major non-NATO ally (Presidential Determination No. 98-9 of January 6, 1998), 3635

Prisons Bureau
NOTICES
Environmental statements; notice of intent:
Inmates housed by District of Columbia Corrections Department; privatized contracting mandate, 3766–3767

Public Debt Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 3785–3787

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Research and Special Programs Administration
RULES
Pipeline safety:
Hazardous liquid transportation—
Older hazardous liquid and carbon dioxide pipelines; pressure testing, 3653

Rural Utilities Service
RULES
Rural development:
Distance learning and telemedicine loan and grant program; correction, 3637
NOTICES
Grants and cooperative agreements; availability, etc.:
Distance learning and telemedicine program, 3700

Securities and Exchange Commission
NOTICES
Applications, hearings, determinations, etc.:
Public utility holding company filings, 3775–3779
Ssga Funds et al., 3779–3781

Substance Abuse and Mental Health Services Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 3759–3761

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
CSX Transportation, Inc., 3785

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 3781–3782

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Maritime Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
See Surface Transportation Board
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 3782–3783
Aviation proceedings:
Agreements filed; weekly receipts, 3783

Treasury Department
See Internal Revenue Service
See Public Debt Bureau
RULES
Currency and foreign transactions; financial reporting and recordkeeping requirements:
Bank Secrecy Act; implementation—
Funds transmittals by financial institutions; conditional exceptions to full compliance with safe harbor provisions of Travel Rule, 3640–3642

United States Enrichment Corporation
NOTICES
Meetings; Sunshine Act, 3787

Separate Parts In This Issue

Part II
Department of Education, 3790

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.

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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.

3 CFR

Presidential Determinations:

No. 98–9 of January 6, 1998 3635

Executive Orders:

12947 (See Notice of January 21, 1998).....3445

7 CFR

1703.....3637

Proposed Rules:

1001.....3667
1001.....3667
1002.....3667
1004.....3667
1005.....3667
1006.....3667
1007.....3667
1012.....3667
1013.....3667
1030.....3667
1032.....3667
1033.....3667
1036.....3667
1040.....3667
1044.....3667
1046.....3667
1049.....3667
1050.....3667
1064.....3667
1065.....3667
1068.....3667
1076.....3667
1079.....3667
1106.....3667
1124.....3667
1126.....3667
1131.....3667
1134.....3667
1135.....3667
1137.....3667
1138.....3667
1139.....3667

9 CFR

78.....3637
93.....3638

Proposed Rules:

54.....3671
79.....3671

10 CFR

Proposed Rules:

50.....3673

14 CFR

Proposed Rules:

71 (3 documents) 3673, 3674, 3675

26 CFR

Proposed Rules:

1.....3674
31.....3680

31 CFR

103.....3640

37 CFR

Proposed Rules:

201.....3685

39 CFR

20.....3642

40 CFR

52.....3650

Proposed Rules:

Ch. I 3686
52 (2 documents) 3687, 3693

48 CFR

1842.....3652

49 CFR

195.....3653
571 (2 documents) 3654, 3662

50 CFR

Proposed Rules:

300.....3693

Federal Register
Vol. 63, No. 16
Monday, January 26, 1998

Presidential Documents

Title 3—

The President

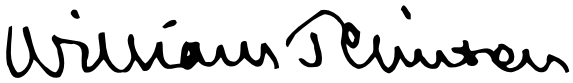
Presidential Determination No. 98–9 of January 6, 1998

Designation of Argentina as a Major Non-NATO Ally

Memorandum for the Secretary of State

I hereby designate the Republic of Argentina a major non-NATO ally of the United States pursuant to section 517 of the Foreign Assistance Act of 1961, as amended, for the purposes of the Foreign Assistance Act of 1961, as amended, and the Arms Export Control Act.

You are authorized and directed to publish this determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, January 6, 1998.

[FR Doc. 98–1945
Filed 1–23–98; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
Vol. 63, No. 16
Monday, January 26, 1998

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

Rural Utilities Service

7 CFR Part 1703

Distance Learning and Telemedicine Loan and Grant Program; Correction

AGENCY: Rural Utilities Service, USDA.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations which were published Friday, June 13, 1997 (62 FR 32434). The regulations related to RUS' policy and requirements for submitting an application for financial assistance, and the method of selecting projects to receive loans and grants and allocating the available funds for the Distance Learning and Telemedicine Loan and Grant Program.

EFFECTIVE DATE: January 26, 1998.

FOR FURTHER INFORMATION CONTACT: Ken B. Chandler, Acting Assistant Administrator-Telecommunications Program, Rural Utilities Service, STOP 1590, Room 4056, South Building, 1400 Independence Avenue, SW., Washington, DC 20250–1590. Telephone (202) 720–9554, Facsimile (202) 720–0810.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections affect persons applying for loans or grants under 7 CFR Part 1703, Subpart D.

Need for correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 7 CFR Part 1703

Community development, Grant programs—education, Grant programs—health care, Grant programs—housing and community development, Loan programs—education, Loan programs—health care, Loan programs—housing and community development, Reporting and recordkeeping requirements, Rural areas.

Accordingly, 7 CFR part 1703, subpart D, is corrected by making the following correcting amendments:

PART 1703—RURAL DEVELOPMENT

1. The authority citation for Part 1703 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.* and 950aaa *et seq.*; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

2. In § 1703.102, the definition of *Comprehensive rural telecommunications plan* is removed and the definition for *Telecommunications Systems Plan* is added in alphabetical order to read as follows:

§ 1703.102 Definitions.

* * * * *

Telecommunications Systems Plan means the plan submitted by an applicant in accordance with § 1703.109(f).

* * * * *

§ 1703.103 [Amended]

3. In § 1703.103, paragraph (a)(3) is amended by adding the words ''or loan'' after the word ''grant'.

4. In § 1703.107, paragraph (a)(5) is revised to read as follows:

§ 1703.107 Ineligible loan and grant purposes.

* * * * *

(5) To purchase equipment that will be owned by the local exchange carrier or another telecommunications service provider, unless such carrier or provider is the recipient of the financial assistance being provided under this subpart;

* * * * *

§ 1703.109 [Amended]

5. In § 1703.109, paragraph (h) introductory text is amended by removing the word ''statues'' in the first sentence and adding in its place the word ''statutes''.

6. In § 1703.113, the third sentence in paragraph (b), and the entire paragraph (c) are revised to read as follows:

§ 1703.113 Application filing dates, location, processing, and public notification.

* * * * *

(b) * * * To be considered for loan funds during the fiscal year (FY) that the application is submitted, any information needed to complete the application must be postmarked no later than August 14. * * *

(c) Applications requesting grant funds must be submitted to RUS and postmarked not later than June 1 if the applications are to be considered during the fiscal year the application is submitted. It is suggested that applications be submitted prior to the above deadline to ensure they can be reviewed and considered complete by the deadline. RUS will review each application for completeness in accordance with § 1703.109, and notify the applicant, within 15 working days of the results of this review, citing any information which is incomplete. To be considered for grant funds, the applicant must submit the information to complete the application by June 1. If the applicant fails to submit such information by the appropriate deadline, the application will be considered during the next fiscal year.

* * * * *

§ 1703.122 [Amended]

7. In § 1703.122, in paragraph (e) introductory text the word ''that'' is added after the phrase ''if any,''.

Dated: January 16, 1998.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 98–1737 Filed 1–23–98; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 97–082–2]

Brucellosis in Cattle; State and Area Classifications; California

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule

that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of California from Class A to Class Free. We have determined that California meets the standards for Class Free status. The interim rule was necessary to relieve certain restrictions on the interstate movement of cattle from California.

EFFECTIVE DATE: The interim rule was effective on October 15, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. R. T. Rollo, Jr., Staff Veterinarian, National Animal Health Programs, VS, APHIS, Suite 3B08, 4700 River Road Unit 36, Riverdale, MD 20737–1231, (301) 734–7709; or e-mail: rrollo@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on October 15, 1997 (62 FR 53531–53532, Docket No. 97–082–1), we amended the brucellosis regulations in 9 CFR part 78 by removing California from the list of Class A States in § 78.41(b) and adding it to the list of Class Free States in § 78.41(a).

Comments on the interim rule were required to be received on or before December 15, 1997. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

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

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 78 and that was published at 62 FR 53531–53532 on October 15, 1997.

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 20th day of January 1998.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–1777 Filed 1–23–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. 96–052–3]

Horses from Mexico; Quarantine Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations regarding the importation of horses from Mexico to remove the requirement that such horses be quarantined for not less than 7 days in vector-proof quarantine facilities before being imported into the United States. This action is warranted because Mexico has reported no cases of Venezuelan equine encephalomyelitis (VEE) in more than a year, and we have determined that horses imported into the United States from Mexico without a 7-day quarantine will not pose a risk of transmitting VEE to horses in the United States.

EFFECTIVE DATE: February 10, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737–1231, (301) 734–3276.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 (referred to below as ''the regulations'') govern the importation into the United States of specified animals and animal products, including horses from Mexico, to prevent the introduction into the United States of various animal diseases.

On August 8, 1997, we published in the **Federal Register** (62 FR 42705–42707, Docket No. 96–052–2) a proposal to amend the regulations to remove the requirement that horses imported into the United States from Mexico be quarantined for not less than 7 days in a vector-free facility. With this change, horses imported into the United States from Mexico would only need to be quarantined for an average of 3 to 4 days.

We also proposed to remove the requirement that horses from Mexico intended for importation into the United States through land border ports be quarantined in Mexico at a facility approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS) and constructed so as to prevent the entry of mosquitoes and other hematophagous insects.

At the time that we published our proposal, the requirements for horses imported into the United States from Mexico were in regulations designated as 9 CFR part 92. As a result of a final rule published in the **Federal Register** on October 28, 1997 (62 FR 56000–56026, Docket No. 94–106–9), and effective on November 28, 1997, the regulations for importing animals have been redesignated as 9 CFR part 93.

We solicited comments concerning the proposed rule for 60 days ending October 7, 1997. We received 4 comments by that date. They were from representatives of industry. Two of the commenters supported the proposed rule. The remaining commenters had concerns about the proposed rule. Those concerns are discussed below.

One commenter felt that a year of disease-free status is not long enough to ensure that Mexico is free from VEE. Accordingly, the commenter suggested that we retain the 7-day quarantine for horses entering the United States from Mexico.

The standing policy of Veterinary Services, APHIS, is to propose to reduce the quarantine required for horses from a region when that region's last confirmed case of VEE occurred at least 1 year ago. This policy was implemented during the last outbreak of VEE in the State of Chiapas, Mexico, in 1993. One year of disease free status provides us with confidence that the outbreak is under control, that the disease is not spreading, and that the region has implemented effective measures to contain the disease. At this time, the last confirmed case of VEE in Mexico was reported almost 18 months ago, and there appears to be no reason to continue requiring the 7-day quarantine for horses entering the United States from Mexico. Therefore, we are making no changes to the proposed rule in response to this comment.

Both commenters expressing concerns maintained that Mexico has less stringent criteria than the United States regarding the movement of horses into and out of the country and noted that, because the United States is expected to abide by the European Union's strict

criteria regarding the transportation of horses, removing the 7-day quarantine for horses from Mexico may negatively affect the disease-free status of the United States. Accordingly, both commenters asked that before the removal of the 7-day quarantine, the Government of Mexico establish specific guidelines for identifying, isolating, and tracking the location and progress of infectious diseases such as VEE.

As with U.S. regulations, Mexico's VEE requirements for horses moving into Mexico depend on the horses' region of origin. For example, Mexico has no restrictions concerning testing for VEE of horses from Europe because the disease does not occur, and never has been reported, in Europe. For horses from regions where VEE has occurred, but where the disease may not be routinely reported, Mexico requires certification that VEE has not been reported within a radius of 200 kilometers of the horses' premises of origin, and that the horses to be imported into Mexico test negative for VEE. In addition, Mexico prohibits the importation of horses from regions, such as the country of Venezuela, where cases of VEE are frequently reported. The 1996 VEE outbreak in Mexico resulted from a local strain of VEE, not a VEE strain that was inadvertently imported into the country.

Regarding Mexico's restrictions on horses moving from Mexico to another country, Mexico's handling of horses for export is dependent on the requirements imposed by the country of destination. Mexico does not determine these requirements. If Mexico wants to export its horses to a certain country, Mexico must comply with that country's requirements.

Further, Mexico responded to the 1996 outbreak, which occurred in the southern State of Oaxaca, by (1) Immediately restricting the movement of all horses from that State, (2) intensively vaccinating all horses in the area of the outbreak, (3) vaccinating horses in the neighboring States of Chiapas, Veracruz, and Guerrero, and (4) in collaboration with the Department of Public Health, fumigating against mosquitos, which are vectors for VEE. These actions prevented any further spread of the disease, as evidenced by no further detections of VEE cases in Mexico for the past 18 months.

In light of Mexico's import and export procedures, and the country's active control and eradication activities when outbreaks of VEE have occurred, we do not believe that reducing the minimum quarantine period for horses from Mexico will negatively affect the disease status of the United States, and we do not believe that it is necessary to establish specific guidelines on Mexico for identifying, isolating, or tracking VEE. Therefore, we are making no changes to the proposed rule in response to these comments.

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 without change.

Although a 7-day quarantine will no longer be required, horses from Mexico intended for importation into the United States, except those imported for immediate slaughter, must continue to be quarantined at a designated port until they (1) test negative to an official test for dourine, glanders, equine pirplasmosis, and equine infectious anemia; and (2) test negative to any other tests that may be required by APHIS. Additionally, all horses intended for importation from Mexico must continue to be quarantined until they are inspected and found free from communicable disease and fever-tick infestation. On average, these tests and inspections take 3 to 4 days.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

This rule removes the requirement that horses imported from Mexico be quarantined for 7 days at vector-proof quarantine facilities. This requirement is no longer necessary, due to the elimination of VEE in Mexico. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective 15 days after the date of publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the regulations regarding the importation of horses from Mexico to remove the requirement that such horses be quarantined for not less than 7 days in vector-proof quarantine facilities before being imported into the United States. This action is warranted because Mexico has reported no cases of VEE in the past year, and horses imported into the United States from Mexico without a 7-day quarantine will not pose a risk of transmitting VEE to horses in the United States. Horses imported from Mexico will still be required to be held in quarantine until it has been determined that the animals are free of exotic pests and diseases.

Horses enter the United States from Mexico for a variety of reasons, including for breeding, competition, racing, research, and slaughter. During fiscal year 1996, about 7,359 horses were imported into the United States from Mexico. In fiscal year 1995, there were about 15,317 horses imported from Mexico.

Under the restrictions placed on imported Mexican horses due to an outbreak of VEE in that country in 1996, horses intended for importation into the United States from Mexico were held in a vector-proof quarantine facility for 7 days prior to entering the United States. Because Mexico has been determined to be free of VEE, this rule eliminates the requirement for a 7-day quarantine at a facility approved by the Administrator of APHIS and constructed so as to prevent the entry of mosquitoes and other hematophagous insects. Horses imported from Mexico will continue to be required to be held in quarantine until it has been determined that the animal is free of exotic pests and diseases. This quarantine period generally lasts 3 or 4 days, based on the turnaround time at the laboratory where blood tests are performed.

Horses intended for importation into the United States from Mexico are quarantined in Mexican facilities operated by the Mexican Cattleman's Association. Different fees are assessed by the six State chapters which operate facilities along the United States/Mexico border. We estimate that the quarantine charge at vector-proof facilities is between $5.00 and $35.00 per head per day for the 7-day quarantine, or $35 to $250 per animal imported. Quarantine charges at the other facilities, which are not vector-proof, that will again be eligible to quarantine horses intended for importation into the United States average $3.00 per head per day. A 4-day quarantine will cost importers $12.00 per animal imported. Therefore, importers could potentially save between $23 and $238 per animal imported in quarantine charges. Of course, there are other amenities at some of the vector-proof facilities that may still draw some importers to those facilities. At fiscal year 1996 import levels, the elimination of the VEE quarantine will decrease the quarantine costs of domestic importers by between $169,257 and $1.75 million annually.

In addition, the removal of the VEE restriction will eliminate the need for daily visits during the quarantine period to the quarantine facility by APHIS'

veterinary medical officers (VMOs) and animal health technicians (AHTs) to conduct temperature checks of the animals to be imported. APHIS charges hourly user fees for inspection services conducted outside the United States. The published hourly fee for VMOs and AHTs is $56.00. The agency estimates that it takes 3 hours for APHIS personnel to travel to Mexican quarantine facilities and complete the temperature checks. The elimination of these checks will save the importer about $1,176 per shipment. Since slaughter horse imports from Mexico average about 40 head per shipment, this is a savings of about $29.40 per head. Other types of imported horses from Mexico average about two head per shipment, for a savings of $588 per head. At fiscal year 1996 import levels, the elimination of the user fees for horse inspection for VEE in Mexico will decrease the cost of importation by about $2.5 million annually.

The Regulatory Flexibility Act requires that the Agency specifically consider the economic impact associated with rule changes on small entities. The Small Business Administration (SBA) has set forth size criteria by Standard Industrial Classification (SIC) which can be used as a guide in determining which economic entities meet the definition of a small business. The SBA's definition of a small business engaged in the wholesale trading of livestock is one that employs no more than 100 persons. Currently, there are 1,992 domestic entities that trade livestock wholesale. About 1,965 of these entities are classified as small by the SBA. The exact number of domestic wholesale livestock traders currently importing Mexican horses cannot be determined. However, entities, whether large or small, engaged in importing Mexican horses will be positively impacted by this rule change.

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

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 new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 93

Animal disease, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 93 is amended as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 93.308 [Amended]

2. In § 93.308, paragraph (a)(1) is amended by removing the reference to ''§ 93.317'' and adding in its place the reference to ''§§ 93.317 and 93.324''.

§ 93.324 [Amended]

3. Section 93.324 is amended by removing the words '', for not less than 7 days and'' and by removing the words ''approved by the Administrator and constructed so as to prevent the entry of mosquitoes and other hematophagous insects''.

§ 93.326 [Amended]

4. In § 93.326, the first sentence is amended by removing the words ''93.323, and 93.324'' and adding in their place the words ''and 93.323''.

Done in Washington, DC, this 20th day of January 1998.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–1775 Filed 1–23–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

Conditional Exceptions to Bank Secrecy Act Regulations Relating to Orders for Transmittals of Funds by Financial Institutions

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Grant of conditional exceptions.

SUMMARY: This document contains two conditional exceptions to a provision of the Bank Secrecy Act regulations. The exceptions permit financial institutions to comply more efficiently with requirements for inclusion of certain information in transmittal orders for transmissions of funds.

EFFECTIVE DATE: January 26, 1998.

FOR FURTHER INFORMATION CONTACT: Peter Djinis, Associate Director, FinCEN, (703) 905–3920; Charles Klingman, Financial Institutions Policy Specialist, Office of Program Development, FinCEN, (703) 905–3920; Stephen R. Kroll, Legal Counsel, FinCEN, and Cynthia L. Clark, Acting Deputy Legal Counsel, Office of Legal Counsel, FinCEN, (703) 905–3590.

SUPPLEMENTARY INFORMATION:

I. Introduction

The statute generally referred to as the ''Bank Secrecy Act,'' Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330, authorizes the Secretary of the Treasury, *inter alia*, require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311–5330) appear at 31 CFR part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.[1]

II. FinCEN Issuance 98–1

This document, FinCEN Issuance 98–1, grants two conditional exceptions to the operation of the rules contained at 31 CFR 103.33(g). The background, purpose, and terms of the two exceptions are explained below.

Background

On January 3, 1995, the Financial Crimes Enforcement Network (''FinCEN'') of the Department of the Treasury issued a rule, 31 CFR 103.33(g) (the ''Travel Rule''), requiring financial institutions to include certain information in transmittal orders relating to transmittals of funds of $3,000 or more. The Travel Rule complements the rules jointly issued by the Board of Governors of the Federal Reserve System and FinCEN (the ''Joint Rule'') requiring the maintenance of

[1] Information relating to the Paperwork Reduction Act appears at the end of this Issuance.

records by insured depository institutions and other financial institutions with respect to domestic and international transmittal of funds transactions.[2] The Joint Rule defines the terms used in both that Rule and the Travel Rule.

Both the Joint Rule and the Travel Rule were amended on April 1, 1996, in response to a request for regulatory relief by affected financial institutions. The changes to the Travel Rule made at that time included addition of a ''safe harbor'' for Travel Rule compliance prior to the date of an institution's conversion to the expanded message format of the Fedwire funds transfer system of the Federal Reserve Banks.[3] The ''safe harbor'' permits an institution—prior to the completion of its Fedwire conversion—to omit from a transmittal order some of the information otherwise required by the Travel Rule, so long as the missing information is retrieved and supplied in a reasonable amount of time in response to a law enforcement request or a judicial order, or to a request by another financial institution that would otherwise have received the information to assist the latter institution in its own Bank Secrecy Act compliance efforts.

Use of Customer Information File Information

A group of banks and brokers and dealers in securities (the ''Working Group'')[4], has sought relief from the strict operation of the Travel Rule's requirement that each transmittor's financial institution and intermediary financial institution include in a transmittal order the transmittor's name and street address. *See* 31 CFR 103.33(g)(1) (i)–(ii) and (g)(2) (i)–(ii). Absent an exception or special rule of some kind, satisfaction of the terms of the Travel Rule require the use of true name and street address information. The Bank Secrecy Act rules for the maintenance of customer and transaction records (one of which is the Joint Rule), and for the reporting of various transactions or circumstances, require the use of true name and street address information, and prior guidance issued by FinCEN stated plainly that ''[t]he use of a code name, or pseudonym is prohibited'' under the Travel Rule. Question and Answer 19, Guidance for Financial Institutions on the Transmittal of Funds ''Travel Regulations'' (January 1997).[5]

The Working Group has represented that the present ability of many covered institutions to satisfy the Travel Rule at all depends upon the ability of those institutions to make use electronically of information contained in the institutions' automated customer information files, or ''CIFs.'' CIFs, the Working Group has told FinCEN, will always contain each customer's actual account number. However, CIFs will often contain a post office box mailing address rather than the customer's street address, or (somewhat less frequently) a nominee or ''special'' or coded name rather than the customer's true name; in other cases CIFs may contain both true and nominee, ''special'' or coded name or Post Office Box address information, but will be programmed to use the latter for communications purposes outside the institution itself. The result is that, although the originating institution will know a customer's street address and true name, reliance on CIFs as presently programmed could produce ''traveling information'' other than actual names and street addresses. The banks and broker-dealers involved have further represented that reprogramming CIFs so that those files can produce true name and address information when necessary to satisfy the Travel Rule (if for some reason the files contain post office box addresses or nominee, ''special,'' or coded names) will require significant resources and would likely involve diverting programming time away from more urgent programming needs, especially correction of the world-wide ''Year 2000'' problem.

Full Travel Rule Compliance Following Conversion to Expanded Fedwire Message Format

The ''safe harbor'' contained in 31 CFR 103.33(g) only applies prior to the date that an institution completes its conversion to the expanded message format of the Fedwire funds transfer system. Generally, that transformation is required to be completed by the end of 1997.

A number of financial institutions have represented to FinCEN that they have found it impossible to begin full compliance with the Travel Rule immediately upon conversion to the expanded Fedwire message format. The inability to meet the date for full compliance set out in the safe harbor arises because of delays in completing related programming tasks, for example the linking of inbound and outbound message systems.

Need for Flexibility in Administration of Travel Rule

Although the Travel Rule complements the Joint Rule, FinCEN has made clear in the past that the purposes of the Travel Rule are not incompatible with flexibility in applying the Rule's literal terms. The need for administrative flexibility is increased because Treasury intends, within the next 18 months, to review and consider making appropriate modifications to the Travel Rule. *See* 61 FR 14383, 14387–14388. Modifications are appropriate to meet particular operating problems, so long as complete information is available, at some point, in the domestic funds transfer chain and investigators are given adequate notice that the funds transmittal order itself must be supplemented by other information to provide a complete picture of the transmittal involved. *See* 31 CFR 103.33(g)(3).

Grant of Exceptions

By virtue of the authority contained in 31 CFR 103.45(a) and (b), which has been delegated to the Director of FinCEN, the following exceptions to the operation of the rules in 31 CFR 103.33(g) are approved:

1. A transmittor's financial institution that is otherwise subject to the terms of 31 CFR 103.33(g) with respect to transmittal of funds may satisfy (i) the requirement of 31 CFR 103.33(g)(1)(i) that the name of the transmittor be included in a transmittal order, and (ii) the requirement of 31 CFR 103.33(g)(1)(ii) that the transmittor's address be included in a transmittal order, with respect to a particular transmittal order, by including in the transmittal order the name and address information with respect to the transmittor contained in the financial institution's general automated CIFs, so long as:

[2] The provisions of 12 U.S.C. 1829b(b), amended the Bank Secrecy Act (i) to require the Secretary of the Treasury and the Federal Reserve Board jointly to promulgate recordkeeping requirements for international funds transfers by depository institutions and nonbank depository institutions, and (ii) to authorize the Secretary and the Board jointly to promulgate regulations for domestic funds transfers by depository institutions. The Secretary is authorized by 31 U.S.C. 5318(g) to require financial institutions to carry out anti-money laundering programs. Both 31 U.S.C. 5318(h) and 12 U.S.C. 1829b(b) were added to the Bank Secrecy Act by the Annunzio-Wylie Anti-Money Laundering Act of 1992 (Title XV of Pub. L. 102–550).

[3] The expanded Fedwire format was announced by the Federal Reserve Board on the same day as the Joint Rule and the Travel Rule. *See* 60 FR 220 and 60 FR 234 (January 3, 1995).

[4] The members of the Working Group are Bank of America, N.A.; The Bank of New York; Bankers Trust Company; The Chase Manhattan Bank; Citibank, N.A.; J.P. Morgan, Inc.; Marine Midland Bank; Merrill Lynch, Pierce, Fenner & Smith; MTB Bank; NationsBank, N.A.; Prudential Securities, Inc.; and Republic National Bank of New York.

[5] The January 1997 Guidance document was distributed to banks, thrift institutions, and credit unions by their respective federal regulators and was the subject of NASD–R Notice to Members 97–13, sent to members of the National Association of Securities Dealers.

(a) The CIFs are not specifically altered for the particular transmittal of funds in question,

(b) The CIFs are generally programmed and used by the institution for customer communications, not simply for transmittal of funds transactions, and as so programmed generate other than true name and street address information;

(c) The institution itself knows and can associate the CIF information used in the funds transmittal order with the true name and street address of the transmittor of the order;

(d) The transmittal order includes a question mark symbol (''?'') immediately following any designation of the transmittor other than by a true name on the order; and

(e) Any report required to be made under 31 CFR 103.21 or 31 CFR 103.22 by the institution with respect to the funds transmittal to which the transmittal order relates contains true name and street address information for the transmittor and plainly associates the report with the particular funds transmittal in question.

This exception has no application to any funds transmittals for whose processing an institution does not automatically rely on preprogrammed and prespecified CIF name and address information. Moreover, institutions are reminded that the use of nominee, ''special,'' or coded names is barred by the Travel Rule, in the absence of the foregoing exception with respect to CIFs only. Any new customer request for use of a nominee, or ''special'' or coded name in a CIF after the date of this Issuance should be carefully evaluated by depository institutions as a potentially suspicious transaction requiring reporting under 31 CFR 103.21, and reported unless an examination reveals that the request is made for an independent lawful business purpose and is the sort in which the customer involved would be expected to engage.

2. A financial institution will have complied with the terms of 31 CFR 103.33(g) for a transmittal order sent prior to April 1, 1998 and on or after the date of the conversion to the expanded Fedwire message format of the bank sending the transmittal order, if

(a) The transmittal order was an order to which the terms of 31 CFR 103.33(g)(3) would have applied if the order had been sent prior to the date of such conversion, and

(b) The terms of 31 CFR 103.33(g)(3) are satisfied with respect to such order as if such paragraph continued to apply by its terms to such transmittal order.

The foregoing exceptions do not in any way modify the obligations of financial institutions under any other provisions of 31 CFR part 103, including, without limitation, the obligation to maintain and retrieve information about transmittals of funds or the contents of orders for the transmittals of funds. Terms used in the foregoing exceptions and not defined in this document have the meaning given to such terms in 31 CFR part 103. The foregoing exceptions may be modified or revoked at any time in the sole discretion of the Department of the Treasury, by document published in the **Federal Register**. Exception 1, above, will expire on May 31, 1999, for transmittals of funds initiated after that date, if not revoked or modified with respect to such expiration date prior to that time.

III. Paperwork Reduction Act

The collection of information contained in this issuance has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1506–0008. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The collection of information in this issuance is in the *Grant of Exceptions* section of this issuance, paragraph 1.(d). This information is required to comply with the Bank Secrecy Act. This information will be used to assure that a code or ''special'' name (*i.e.*, a name other than the transmittor's true name) on accounts at banks and with brokers and dealers in securities are not used to launder money or hide assets derived from illegal activities. The collection of information is mandatory. All information collected pursuant to the Bank Secrecy Act, including this information collection, is confidential pursuant to 31 U.S.C. 5316(c) and may be shared with regulatory and law enforcement authorities but its availability is strictly limited. All records required to be retained by 31 CFR part 103 must be retained for five years.

The likely respondents are banks and brokers and dealers in securities.

Frequency: Each time a transmittal order contains a code or special name, *i.e.*, a name other than the transmittor's true name.

Estimated Number of Such Transmittal Orders: 5,000.

Estimate of Total Annual Burden:

Reporting burden estimate = approximately 250 hours for reporting.

Recordkeeping burden estimate = approximately 1,250 hours for recordkeeping.

Estimate of Total Annual Cost for Hour Burdens: Based on $20 per hour, the total cost of compliance is estimated to be approximately $33,000.

Estimate of Total Other Annual Costs to Respondents: None.

FinCEN specifically invites comments on the following subjects: (a) Whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, including whether the information shall have practical utility; (b) the accuracy of FinCEN's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; 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.

In addition, the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. Thus, FinCEN also specifically requests comments to assist with this estimate. In this connection, FinCEN requests commenters to identify any additional costs associated with the collection of information. These comments on costs should be divided into two parts: (1) Any additional costs associated with reporting; and (2) any additional costs associated with recordkeeping.

Comments concerning the accuracy of the burden estimate and suggestions for reducing the burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Treasury Department, Office of Information and Regulatory Affairs, Washington, D.C., 20503.

Signed this 16th day of January 1998.

William F. Baity,

Acting Director—FinCEN, Department of the Treasury.

[FR Doc. 98–1671 Filed 1–23–98; 8:45 am]

BILLING CODE 4820–03–P

POSTAL SERVICE

39 CFR Part 20

International Surface Airlift

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service published for comment a proposed rule amending International Surface Air Lift Service in the **Federal Register** on September 9, 1997 (62 FR 47394). The Postal Service hereby gives notice that it is adopting the proposal with minor revision.

EFFECTIVE DATE: February 28, 1998.

FOR FURTHER INFORMATION CONTACT: [Robert Michelson], (202) 268–5731.

SUPPLEMENTARY INFORMATION: On September 9, 1997, the Postal Service published in the **Federal Register** (62 FR 47394) a notice of proposed changes in rates and conditions of service for International Surface Air Lift (ISAL) Service. ISAL is a bulk mailing service for international shipment of publications, advertising mail, catalogs, directories, books, other printed matter, and small packets. The service is available to approximately 125 countries. To use ISAL, a mailer must send at least 50 pounds of these items at one time, presorted by country of destination. Identical piece mailings are not required to qualify. Postage for ISAL is calculated according to a rate structure including both per-piece and per-pound elements with destination countries separated into four rate groups. A discount is given to ISAL mail tendered at the Dropship ISAL Service Centers (Dropship ISCs) (formerly, gateway airport mail facilities) at New York (JFK), San Francisco, Chicago, and Miami, or when direct shipment (750 pounds or more to a single destination) can be arranged from one of the acceptance cities. An additional discount is available for M-bags (printed matter to a single addressee).

The Postal Service reviewed the current ISAL service and is making changes to ISAL preparation requirements that will reduce operating costs. The Postal Service also proposed rate discounts based on the place of mailing, the availability of transportation, and the volume of mail. The Postal Service believes that these changes make the service available to more users at more convenient locations and still will cover the cost of providing the service with a reasonable contribution to institutional costs. The Postal Service proposed the change to ISAL as described below.

The Postal Service requested comments by October 9, 1997, and by that date received seven comments: five from international mail consolidators, one from a printing/mailing company, and one from an international mail order consulting firm.

Minimum Weight

Currently there is no required minimum amount of mail per sack prepared by the mailer. The mailer merely places the mail for a particular country in a mail sack and labels the sack to that country. This has resulted in an unacceptable number of sacks containing small amounts of mail. In some cases, the sack itself weighed more than the mail in the sack. This resulted in an excessive number of sacks, higher transportation costs, and complaints from other postal administrations. Therefore, the Postal Service proposed a minimum weight of 11 pounds for direct country sacks prepared by mailers. When there is less than 11 pounds, but 10 or more pieces (a package), the mailer will prepare this mail in a mixed country package rate group sack. This mail will be entitled to the ISAL rate as if it had been placed in the direct country sack. When there are fewer than 10 pieces to a country, this mail will be prepared in ''residual'' sacks by rate group. Residual mail cannot exceed 10 percent, by weight, of the rest of the mailing.

One commenter agreed with the need to establish a minimum weight for direct country sacks since it ''would keep cost in line and increase the availability of equipment.'' Another commenter agreed with the need for change, but recommended that the 11 pound requirement be lowered and that smaller sacks be used.

The Postal Service does not believe that it is practical to procure and use smaller sacks for ISAL. The same sacks are used by the Postal Service for other types of mail. The expense of acquiring, stocking, and distributing another type of sack that would be used only for mailer-prepared ISAL is not economical or feasible. Therefore, the Postal Service will adopt the 11-pound minimum sack weight for direct country sacks.

One commenter thought the 10 percent residual mail rule was too restrictive and suggested a special rate for residual mail without a limit on the amount contained in the mailing. The Postal Service reviewed this suggestion and has decided to retain the 10 percent residual at the ISAL rate. Mailers can use the single piece rates, either air or surface, or make use of other international business products.

One commenter questioned the definition of a package and suggested that a package be considered either 10 or more pieces or 1 pound. This would allow mailers to place more mail in mixed country package sacks instead of in residual sacks. The Postal Service reviewed this and has decided to amend the definition of a package to be 10 or more pieces to the same country or separation or 1 pound or more regardless of the number of pieces. Accordingly, International Mail Manual (IMM) 246.2, 246.941a, 946.941b, and 246.942c are amended.

Acceptance Cities

Since the inception of ISAL, the Postal Service has limited the number of cities where ISAL mailings could be deposited. This was intended to reduce the cost of maintaining an extensive transportation network. Many customers not located near an acceptance point could not use ISAL. The Postal Service proposed a Full Service rate that will be available from all post offices where bulk mail is accepted and will make ISAL accessible to all customers. Mailers may still mail at the lower Dropship ISC rate by tendering their mail to a Dropship ISC.

One commenter opposed deposit of ISAL at all post offices because it would ''overload the transportation system, adversely affect service, and create problems of recognizing the product and possible improper return.'' The Postal Service disagrees. The majority of ISAL volume is currently deposited at ISC facilities. The amounts mailed at post offices is so small compared with total mail volume that it could not possibly overload the Postal Service's transportation system. In addition, since all ISAL will be labeled to the ISC for handling, there is no reason to believe that this mail will be mishandled in the domestic network or that there will be any overall impact on service.

Volume Discount

The Postal Service proposed to institute volume discounts for large users of ISAL. The size of the discount would be based on the amount of postage paid during the previous postal fiscal year. Mailers would receive a discount of five percent if they paid $2 million in ISAL postage in a year, a discount of 10 percent if they paid $5 million in ISAL postage, and a discount of 15 percent if they paid $10 million or more in ISAL postage. Three comments expressed complete support for the discounts. One comment criticized the larger discounts as excessive, and suggested that the maximum discount be seven percent. One comment criticized the discounts because they were based on ISAL postage alone. This comment suggested that ISAL, International Priority Airmail (IPA), and Valuepost Canada services were alternative services that met similar, although different service needs and that postage paid for both should be

considered in qualifying for ISAL discounts. One comment criticized the discounts as violating the rate setting provisions of the Postal Reorganization Act. This comment argued that the discounts were rate reductions for large mailers which, in the case of consolidators, would make it difficult for smaller companies to compete. This comment also argued that there is no reason to give discounts on the basis of the previous year's volume. There was no reason to reward customers on the basis of how much ISAL postage was paid last fiscal year when the terms and conditions for mailing were different. There is no clear relationship between the amount of postage paid and the amount of contribution to institutional costs. That there is no reason to reward large customers who use both ISAL and remail, and that the rate differential between customers which qualify for no discounts and which choose not to take advantage of the International Service Center drop shipment rates is appropriate.

After considering all of the comments, the Postal Service has concluded that the discounts should be adopted as proposed considering ISAL and IPA mail to be included in the qualifying volume mail for ISAL discounts. International mail delivery is a competitive market. The Private Express Statutes, which generally limit competition with the Postal Service for the carriage of letters, have been suspended to allow international remail (39 CFR 320.8). The Postal Service, the postal administrations of other countries (*e.g.* the Netherlands and the United Kingdom), and private sector concerns all compete for the carriage of letters and other mailable matter. The international mail market is also one in which consolidators, which take international mail from many smaller mailers and merge it so as to take advantage of lower rates, are a significant factor in which delivery agent will handle the mail. Competitors of the Postal Service offer discounts to consolidators and large mailers; if the Postal Service does not act competitively, it will lose business to them.

The Postal Service is required to charge rates that apportion costs on a fair and equitable basis (39 U.S.C. § 101(d)), that are fair and reasonable, 39 U.S.C. § 403(a), and that do not make any undue or unreasonable discrimination or grant any undue or unreasonable preference, 39 U.S.C. § 403(c). What is fair, reasonable, and not unduly discriminatory or preferential is largely a question of fact in which all circumstances must be taken into account, including the reality of a competitive marketplace. At a minimum, similarly situated mailers must receive the same or comparable treatment and pay the same rates. However, as stated by the Court of Appeals in upholding the Postal Service's authority to negotiate rates and services with large mailers, ''the reasons that may compel a uniform rate of postage in the United States no longer apply to large-volume international mailers'' *(UPS Worldwide Forwarding, Inc.* v. *U.S. Postal Service*, 66 F.3d 621, 637–38 (3d Cir. 1995). Published volume discounts are another way to compete for large-volume international mailers, and a way to compete that involves greater certainty and less administrative effort than negotiating rates and services with them. Moreover, published volume discounts ensure that similarly situated mailers (*i.e.*, mailers of like quantities of similar mail) pay the same rates.

Increasing discounts based on increased usage does not make rates unfair, unreasonable, unduly discriminatory, or preferential. In general, the more a mailer mails the greater the number of full direct sacks that will be prepared, thereby reducing Postal Service handling costs. Moreover, the larger a mailer, the more aggressively competitors such as the postal services of the Netherlands and the United Kingdom will bid for their business. Although the Postal Service does not have definite knowledge of what rates these competitors offer at any given time since they are under no legal obligation to disclose rates or the customers to which those rates are offered, it is known that they offer significant discounts to large mailers. Unless the Postal Service prices its services competitively by offering discounts, it will lose the business of large mailers.

Basing discounts on the amount of postage paid in the previous year is not unfair, unreasonable, unduly discriminatory, or preferential. Experience shows that while mail volumes may fluctuate from year to year, past usage is generally a good indicator of present and future usage. Moreover, mailers need certainty to plan their budgets, set their prices, and otherwise conduct their businesses. Basing rates on past usage gives mailers that certainty, since they know how much they are mailing and can reasonably foresee which level of discount they will qualify for the next year. It is fair, reasonable, and not unduly discriminatory to base discounts on volumes that are highly likely to predict usage and which also make sense to customers in conducting their own businesses.

Differences in rates between what a smaller mailer pays to mail ISAL at any bulk mail acceptance unit and what a large mailer pays to mail at an International Service Center (ISC) with the maximum discounts are not unduly discriminatory because the large and small mailers are not situated similarly. The mail posted by the smaller mailer requires more handling and domestic transportation than the mail posted by the larger mailer, thereby increasing the Postal Service's cost. Moreover, there is more intense competition for the larger mailer's business. This is a competitive market, if the smaller mailers believe that rates are too high, then they have the option of using another service provider or a consolidator who can qualify for rate discounts. Ultimately, the market will determine which rates both the large and the small mailer will pay, whether it is to the Postal Service or to a competitor.

The Postal Service does not believe that volume discounts will affect competition between large and small consolidators. This is a competitive market in which significant discounts are already being offered to large consolidators by other providers. They already have, or can have, an advantage in the rates they pay for the mail they send. Whether discounts are offered, or not offered, by the Postal Service will not change that.

The Postal Service has concluded that the size of the discounts should not be reduced. As stated above, the Postal Service does not have definite knowledge of the rates being offered by the competitors. It appears, however, that the proposed discounts as proposed are necessary to hold the business it now has.

Several commenters requested clarification for the basis of the discount or requested that revenue for other products be included for determining the discounts. The Postal Service will count ISAL and IPA revenue to qualify for the volume discounts. If a permit holder has more than one account and/or in several cities, these revenues may be combined. Agents who prepare mail for the owner of the mail and tender it under the owner's permit during postal fiscal year 1997 will only be counted for a discount during postal fiscal year 1998. Agents must be prepared to submit postage statements that reflect their representation of the owners of the mail between September 14, 1996 through and September 12, 1997 to be included for discounts in postal fiscal year 1998 (September 13, 1997 through September 11, 1998). Each year after,

the level of discount will be determined only by the postage paid by the permit holder.

To qualify for volume discounts, mailers must apply to the Manager, Mail-order, International Business Unit, 475 L'Enfant Plaza, SW, Room 370–IBU, Washington, DC 20260–6500. The Manager will evaluate all requests and inform the mailer and the post office(s) of mailing whether discounts are approved and the level of discount. The Manager, Mail-order will inform all applicants of the total qualifying revenue and the size of their discount within 30 days of receiving the application. Mailers may appeal this determination of the Manager of Mail-order by providing the necessary documentation supporting the discount for the initial postal fiscal year 1998. The Manager of Mail-order will make a final determination on the appeal of the discount level within 5 business days from receipt of the appeal letter. IMM 246.715, is added to describe how mailers can qualify for volume discounts.

Direct Shipment Rates

The Postal Service proposed that direct shipment rates continue to be available for mailers tendering 750 pounds or more to one country at any office from which the Postal Service can obtain direct transportation to the destination country. A new rate schedule has been developed for this service to reflect current costs.

One commenter agreed with having separate direct shipment but stated that the $0.25 per pound rate difference might be too low. Another commenter favored the current rate structure of having the same rates for Gateway (Dropship ISC) and Direct Shipment, at least in major markets, arguing that by having to pay a higher rate, the value of drop shipment option would be greatly decreased.

The cost of providing Direct Shipment service is higher than the cost of providing service from ISCs. The mailer also avoids having to transport mail to an ISC. The price difference of $0.25 per pound reflects the Postal Service's additional cost for providing Direct Shipment service.

Price Adjustments

Five commenters noted the general size of the rate increase. Depending on the method of analysis, the destination rate group, and the origin of the mail, commenters found that the rates applicable to these mailings might increase substantially (anywhere from 10 to 50 percent). One of the commenters stated that the Dropship ISC and volume rates were very good, but that the increase for the Western Hemisphere was excessive and suggested a separate rate group for Mexico. Several commenters suggested that some of the proposed rates would not be competitive with other alternatives.

The Postal Service has carefully reviewed the proposed rate structure to ensure that the proposed not only meets the requirements of postal rate making, but also offers the most competitive and economical rates possible. Changes in the rates reflect the need to cover costs, make a contribution to the institutional costs of the Postal Service, and exhibit the effects of customer worksharing and competitiveness. Based on these comments and criteria, the Postal Service has decided to reduce the proposed rates of Rate Group 2, South America, by 10 cents a pound. IMM 246.71 is revised to reflect this change. The comment suggesting a specific country rate to Mexico raises an interesting idea. However, the Postal Service needs sufficient time to evaluate the impact of this concept on ISAL mailers. It also needs sufficient time to conduct such a review without delaying implementation of the new ISAL rates in which all ISAL mailers benefit. The Postal Service will continue to study this concept. The analysis period will be at least 6 months.

Labeling Requirements

One commenter questioned the need for the mailer to use two sack labels (one label and Tag 155). The commenter stated that such preparation is cost prohibitive and suggested using palletized mail preparation. The commenter also suggested that mail for rate groups 1 and 4 be combined because both groups are labeled to the same dispatch point.

One of the main benefits of ISAL is that it allows the mailer to prepare mail to the finest point possible and avoid the cost of the Postal Service handling the mail. It is therefore necessary for the mailer to prepare sack labels and tags. In addition, under certain circumstances, the Postal Service accepts ISAL on pallets. This significantly reduces preparing large mailings to a single country destination.

Corrections

There were several errors in the original text of IMM part 246, published in 62 FR 47394–47399.

1. Exhibit 246.71, Footnote 3, is corrected to show the delivery zones for Osaka, Japan as 52–93.

2. In IMM 246.941, the maximum weight of a package is changed from 20 pounds to 11 pounds.

3. In section 246.943.a.1, Exhibit A is changed to Exhibit 246.71 and the information for Osaka is corrected to read: Osaka OSA (for postal codes 52–93).

4. Section 246.2 is changed to reflect that residual mail cannot exceed 10 percent of the combined weight of qualifying mail (consisting of Direct Country Sacks, M-Bags, Direct Country Package Sacks).

Conclusion

Accordingly, the Postal Service adopts the following amendments to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, Incorporation by reference, International postal services.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408.

2. The IMM is amended to incorporate part 246, International Surface Air Lift Service, as follows:

246 International Surface Air Lift (ISAL) Service 246.1 Definition

International Surface Air Lift (ISAL) is a bulk mailing system that provides fast, economical international delivery of publications, advertising mail, catalogs, directories, books, other printed matter, and small packets. The cost is lower than airmail and the service is much faster than surface mail. ISAL shipments are flown to the foreign destinations and entered into that country's surface or non-priority mail system for delivery.

246.2 Qualifying Mail and Minimum Quantity Requirements

Only printed matter as defined in 241 and small packets as defined in 260 that meet all applicable mailing standards may be sent in this service. There is a minimum volume requirement of 50 pounds per mailing except for the Direct Shipment option, which requires a minimum 750 pounds to a single country destination. Small packets may not be enclosed in M-bags and do not qualify for the Full Service, Direct Shipment, or Dropship ISC M-bag rates. Mail is prepared as (1) direct country sacks when there are 11 pounds or more to a single country or required country separation; (2) mixed country package sacks when there are 10 or more pieces

or at least 1 pound of mail to a single country, but less than 11 pounds; and (3) residual mail when there are fewer than 10 pieces or less than 1 pound of mail to a single country. Residual mail may not exceed 10 percent, by weight, of the mail presented in direct country sacks, M-Bags, and mixed country package sacks. Qualifying residual mail is subject to the appropriate ISAL rate (Full Service, Direct Shipment, M-Bag, or Dropship ISC).

Note: A package is defined as 10 or more pieces of mail to the same country separation or 1 pound or more regardless of the number of pieces. Packages of letter-size pieces of mail should be no thicker than approximately a handful of mail (4 to 6 inches). Packages of flat size mail may be thicker than 6 inches but must not weigh more than 11 pounds.

246.3 Service Options 246.31 Availability

ISAL service is available to the foreign countries listed in exhibit 246.71 from all post offices where bulk mail is accepted and from the Dropship ISCs listed in 246.32.

246.32 Dropship ISAL International Service Centers

ISAL deposited at the following Dropship ISAL ISCs qualify for the Dropship ISC rates shown in 246.71:

AMC JFK BLDG 250, JFK International Airport, Jamaica, NY 11430–9998
San Francisco P&DC, 1300 Evans Ave, San Francisco, CA 94188
AMC San Francisco,* BLDG 660 Rd 6, San Francisco CA 94158–9998
Miami P&DC, 2200 NW 72 Ave, Miami FL 33152
AMC Miami,* Miami International Airport, Miami FL 33159–9998
Chicago O'Hare Dropship ISAL Service Center, International Processing Center Annex, 3333 N. Mount Prospect RD, Franklin Park IL 60131

246.4 Special Services

The special services described in Chapter 3 are not available for items sent by ISAL.

246.5 Customs Documentation

See 244.6 and 264.5 for the requirements for customs forms.

246.6 Permits

Mailers depositing mail at a Dropship ISC must maintain an advance deposit account at that city if postage is paid by advance deposit account.

246.7 Postage

246.71 Rates

Rate group	Per piece	Full service per lb.		Direct shipment per lb.		Dropship ISC per lb.	
		Regular	M-bag*	Regular	M-bag*	Regular	M-bag*
1	$.25	$3.10	$2.50	$2.35	$1.75	$2.10	$1.50
2	.10	4.00	2.60	3.25	1.85	3.00	1.60
3	.10	3.95	3.00	3.20	2.25	2.95	2.00
4	.10	6.25	4.25	5.50	3.50	5.25	3.25

See exhibit 246.71 for network countries and individual rates.
* Small packets may not be mailed at these rates.

246.711 Full Service Rates

ISAL mailings presented at any post office that accepts bulk mail, other than a Dropship ISC listed in 246.32, and not eligible for the direct shipment rate and are paid at the full-service rates. Postage for regular ISAL is paid on a per-piece and a per-pound basis. M-bags are subject to the M-bag pound rate only. Small packets are not eligible for the M-bag rates and may not be included in M-bags.

246.712 Direct Shipment Rates

Mailers are eligible for the direct shipment rates from the acceptance post office (except Dropship ISCs) when the Postal Service is able to arrange direct transportation from the origin office to the destination country. To qualify, mailers must present a minimum of 750 pounds to each destination country. Mailers must contact the post office of mailing at least 14 days before the first desired mailing date. A postal employee must complete PS Form 3655, International Surface Airlift (ISAL) Direct Shipment Option Advisement and Confirmation of Transactions, and fax it to the distribution network office (DNO) to obtain a contract for transportation. If the DNO cannot arrange direct transportation, the direct shipment rate does not apply. The Postal Service may cancel direct shipment rates and service when direct transportation is no longer available.

246.713 Dropship ISC Rates

ISAL mailings transported by the mailer to the Dropship ISCs listed in 246.32 are eligible for the Dropship ISC rate.

246.714 Volume Discount

Mailers who spend $2 million or more combined on ISAL and IPA in the preceding postal fiscal year may receive discounts off the rates shown in 246.71:

a. over $2 million to $5 million: 5 percent discount

b. over $5 million to $10 million: 10 percent discount

c. over $10 million: 15 percent discount

Mailers entitled to these discounts must place the full per-piece rate on each piece of mail if payment is by postage meter or mailer-precanceled stamps. The discount is calculated on the postage statement.

246.715 Qualifying for Volume Discounts

To qualify for volume discounts, mailers must apply in writing to the Manager, Mail-order, International Business Unit, 475 L'Enfant Plaza, SW, Room 370–IBU, Washington, DC 20260–6500. The Manager evaluates all requests and informs the mailer and the post office(s) of mailing whether discounts are approved and the level of discount. Mailers must supply the following information:

The postal fiscal year for the qualifying mail.

The permit number(s) and post office(s) where the permits are held.

The total revenue for the postal fiscal year.

The post office(s) where the discount is to be claimed.

The combined ISAL and IPA revenue is counted toward the discounts. The Postal Service will count as revenue to qualify for the volume discounts postage paid by only a permit holder. If a permit holder has more than one account, or accounts in several cities, then these revenues may be combined to qualify for discounts. Agents who prepare mail for the owner of the mail and mail paid by the owner's permit may not include

*Plant verified mail is transported to these facilities by the mailer.

in the revenue to qualify for the discounts, except for the initial year (Postal Fiscal Year 1997, which is September 14, 1996 through September 12, 1997).

Customers may be required to substantiate their request by providing copies of all mailing statements for the appropriate postal fiscal year. All decisions of the Manager, Mail-order are final. A new section (246.715) is added to describe how mailers can qualify for volume discounts.

246.72 Payment Methods

246.721 Postage Meter, Permit Imprint, or Precanceled Stamps

Postage must be paid by postage meter, permit imprint, or mailer-precanceled stamps. Postage is computed on Form 3650, Postage Statement—International Surface Air Lift. Form 3650 is required for all ISAL mailings.

246.722 Piece Rate

The applicable per piece postage must be affixed to each piece (except M-bags. See 246.723) by meter or mailer-precanceled stamps, unless postage is paid by permit imprint. Mailers may use a permit imprint only with identical weight pieces unless authorized under the postage mailing systems in DMM P710, P720, or P730. All of the permit imprints for printed matter shown in exhibit 152.3 are acceptable.

246.723 Pound Rate

Postage for the pound rate portion must be paid either by meter stamp(s) attached to the finance copy of the postage statement or from the mailer's advance deposit account.

246.8 Weight and Size Limits

Any item sent by ISAL must conform to the weight and size limits for the types of printed matter described in 243 or for small packets in 263.

246.9 Preparation Requirements

246.91 Addressing

See 122.

246.92 Marking

Items must be endorsed with the appropriate markings as shown in 244.2 for printed matter and in 264.2 for small packets. For publishers' periodicals (Periodicals Mail), the imprint authorized under 244.211c(2) or 244.211c(3) may be used in place of the ''PRINTED MATTER—PERIODICALS'' endorsement. Individual items paid by meter postage or mailer-precanceled stamps must be endorsed ''International Surface Air Lift'' or ''ISAL.''

246.93 Sealing and Packaging

Printed matter must be prepared to protect the contents and permit easy inspection. If not contained in envelopes or wrappers, folded items must have the open edges secured by tape, tabs, or wafer seals of sufficient quantity and strength to keep the items from opening during postal handling.

246.94 Makeup Requirements for ISAL

246.941 Packaging the Following Guidelines Apply

a. General: All ISAL mail must be prepared in packages within sacks as appropriate. A package is defined as 10 or more pieces of mail to the same country or separation or 1 pound or more regardless of the number of pieces. Packages of letter-size mail pieces should be no thicker than approximately a handful of mail (4–6 inches). Packages of flat size mail may be thicker than 6 inches but must not weigh more than 11 pounds. Packages and sacks must be prepared and labeled as described below. All mail pieces in a package must be ''faced'' in the same direction (*i.e.*, arranged so that the addresses read in the same direction, with an address visible on the top piece). Pieces that cannot be bundled because of their physical characteristics may be placed loose in the sack.

b. Thickness Packages of letter-size mail should be no thicker than approximately a handful of mail (4 to 6 inches). Packages of flat-size mail may be thicker than 6 inches but must not weigh more than 11 pounds. Each package must be securely tied. Placing rubber bands around the length and then the girth is the preferred method of securing packages of letter-size mail. Plastic strapping placed around the length and then the girth is the preferred method of securing packages of flat-size mail.

a. Direct Country Packages. When there are 10 or more pieces or 1 pound or more to the same country, then such pieces must be prepared as a direct country package. If there is less than 11 pounds of mail to the same country, then the direct country package must be labeled with a facing slip showing the destination country or country separation. The facing slip must be placed on the address side of the top piece of each package in such a manner that it will not become separated from the package. The pressure-sensitive labels and optional endorsement lines used domestically for presort mail are prohibited for International Surface Airlift Mail.

b. Residual Packages. If there is not enough mail to prepare a direct country package (fewer than 10 pieces or less than 1 pound), the mail is considered residual mail. When there are fewer than 10 pieces to the same country, then such pieces should be combined in packages with other mail for countries within the same rate group that similarly have fewer than 10 pieces. Such mixed country packages must be labeled with a facing slip marked ''Residual, Rate Group ____. The designated rate group (#1, #2, #3, or #4) must be inserted as appropriate. The facing slip must be placed on the address side of the top piece of each package in such a manner that it will not become separated from the package. The pressure-sensitive labels and optional endorsement lines used domestically for presort mail are prohibited for International Surface Airlift Mail.

(Exception: The 10 piece criterion is when there are fewer than 10 pieces to the same country which weigh more than 11 pounds. Such mail pieces should be packaged together as a direct country package and placed in a direct country sack. Pieces that cannot be packaged because of their physical characteristics may be placed loose in the sack.)

946.942 Sacking

Once packages of ISAL mail are prepared, the packages are then placed into one of three types of designated sacks:

a. Direct Country Sack. Prepare a direct country sack if there are at least 11 pounds of mail to the same country. The mail must be packaged and enclosed in a gray plastic ISAL sack and labeled to the country with Tag 155, Surface Airlift Mail. The maximum weight of a direct country sack must not exceed 66 pounds.

b. Mixed Country Package Sack. Prepare a mixed country package sack for those direct country packages where there is less than 11 pounds of mail to the same country. The mail must be packaged as direct country packages, identified with a facing slip showing the destination country or country separation, and enclosed in a green pouch labeled to the dropship ISAL service center. Tag 155, also must be attached to the sack. Prepare a mixed country package sack for each of the respective rate groups for which there is a direct country package and label as follows:

Rate group 1—AMC Kennedy—JFK 003
Rate group 2—AMC Miami 33159
Rate group 3—AMC San Francisco 941

Rate group 4—AMC Kennedy—JFK 003

c. Residual Sack. Prepare a residual sack for those packages of mail that contain fewer than 10 pieces or less than 1 pound of mail to any one country (residual packages). The mail must be packaged as residual packages, appropriately identified with a facing slip, and enclosed in a green pouch labeled to the dropship ISAL service center. Tag 155 also must be attached to the sack. The mailer must prepare a residual sack for each of the respective rate groups for which there is a residual package and label it as follows:

Rate group 1—AMC Kennedy—JFK 003
Rate group 2—AMC Miami 33159
Rate group 3—AMC San Francisco 941
Rate group 4—AMC Kennedy—JFK 003

246.943 Sack Labeling

Depending on the type of sack, labels are prepared as follows:

a. Direct Country Sack. For a direct country sack, use a gray plastic ISAL sack. Use Tag 155 to label each sack with the destination country's name. Mailers must complete four blocks on Tag 155:

1. To (Pour) Block: enter the name of the ISAL country foreign exchange office, its three-letter exchange office code, and the country's name. See Exhibit 246.71 for the name of the foreign exchange office and its three-letter exchange office code. As an example, for Ireland, this block will be as follows:

Dublin DUB Ireland

2. Customer Permit No. Block: Enter permit number.

3. Kg. Block: Enter the combined weight of the sack and its contents in kilograms (1 pound = 0.4536 kilogram).

4. Date Block: Enter date as shown on PS Form 3650, Postage Statement—International Surface Air Lift.

After completing the above items on Tag 155, attach it to the neck of the sack.

b. Mixed Country Package Sack. For a mixed country package sack, use a domestic green nylon pouch and label it to the appropriate dropship ISAL service center as follows:

Rate group 1—AMC Kennedy—JFK 003
Rate group 2—AMC Miami 33159
Rate group 3—AMC San Francisco 941
Rate group 4—AMC Kennedy—JFK 003

Labels are prepared as follows:

Content:

Line 1: Dropship ISAL Service Center
Line 2: ISAL DRX
Line 3: Mailer, Mailer Location

Example:

AMC KENNEDY—JFK 003
ISAL DRX
ABC COMPANY, NEW YORK, NY

For the mixed country package sack label, use Content Identification Number (CIN) 753.

In addition, use Tag 155 to label each sack with the appropriate drop ship ISAL service center. Mailers must complete four blocks on Tag 155:

1. To (Pour) Block: enter the name of the dropship ISAL service center and rate group:

AMC Kennedy—JFK 003
Rate Group 1

AMC Miami 33159
Rate Group 2

AMC San Francisco 941
Rate Group 3

AMC Kennedy—JFK 003
Rate Group 4

2. Customer Permit No. Block: Enter your permit.

3. Kg. Block: Enter the combined weight of the sack and its contents in kilograms. (1 pound = 0.4536 kilogram).

4. Date Block: Enter date as shown on Form 3650.

After completing the above items on Tag 155, attach it to the sack.

c. Residual Sack. For a residual sack, use a domestic green nylon pouch and label it to the appropriate dropship ISAL service center as follows:

Rate group 1—AMC Kennedy—JFK 003
Rate group 2—AMC Miami 33159
Rate group 3—AMC San Francisco 941
Rate group 4—AMC Kennedy—JFK 003

Labels are prepared as follows:

Content:

Line 1: Drop ship ISAL Service Center
Line 2: ISAL WKG
Line 3: Mailer, Mailer Location

Example:

AMC KENNEDY—JFK 003
ISAL WKG
ABC COMPANY, NEW YORK, NY

For the residual sack label, use CIN 754.

In addition, use Tag 155 to label each sack with the appropriate dropship ISAL service center. Mailers must complete three blocks on Tag 155:

1. To (Pour) Block: Enter the name of the drop ship ISAL service center and rate group:

AMC Kennedy—JFK 003
Rate Group 1

AMC Miami 33159
Rate Group 2

AMC San Francisco 941
Rate Group 3

AMC Kennedy—JFK 003
Rate Group 4

2. Customer Permit No. Block: Enter your 10-digit ISAL permit or customer identification number.

3. Kg. Block: Enter the combined weight of the sack and its contents in kilograms. (1 pound = 0.4536 kilogram).

4. Date Block: Enter date as shown on Form 3650.

After completing the above items on Tag 155, attach it to the sack.

246.944 Sack Separation

When presenting an ISAL shipment to the Postal Service, the mailer must physically separate the sacks of mail by type (direct, mixed, residual) and rate group (1, 2, 3, 4) at time of mailing.

246.945 Direct Sacks to One Addressee (M-bags) for ISAL

M-bags may be sent in the ISAL service to all ISAL destination countries. Weight, makeup, sacking, and sorting requirements must conform to part 245. Tag 158 must show the complete address of the addressee and the sender. Tags 155 and 158 must be attached securely to the neck of each sack. M-bags may not contain small packets.

246.95 Mailer Notification

Mailers who wish to mail shipments that weigh over 750 pounds but who are not eligible for direct shipment rates must notify the ISAL coordinator at the office of mailing at least 14 days before the planned date of mailing. Specific country information and weight per country must be provided. No prior notification is required for mailers with 750 pounds or less.

EXHIBIT 246.71.—INTERNATIONAL SURFACE AIR LIFT SERVICE NETWORK COUNTRIES AND RATES

Country	City	Code	Rate group
Albania	Tirana	TIA	1
Algeria	Algiers	ALG	4
Angola	Luanda	LAD	4

EXHIBIT 246.71.—INTERNATIONAL SURFACE AIR LIFT SERVICE NETWORK COUNTRIES AND RATES—Continued

Country	City	Code	Rate group
Argentina	Buenos Aires	BUE	2
Aruba	Oranjestad	AUA	2
Australia	Sydney	SYD	3
Austria	Vienna	VIE	1
Bahrain	Bahrain	BAH	4
Bangladesh	Dhaka	DAC	4
Belgium	Brussels	BRU	1
Belize	Belize City	BZE	2
Benin	Cotonou	COO	4
Bolivia	La Paz	LPB	2
Brazil	Rio de Janeiro	RIO	2
Bulgaria	Sofia	SOF	1
Burkina Faso	Ouagadougou	OUA	4
Cameroon	Douala	DLA	4
Central African Republic	Bangui	BGF	4
Chile	Santiago	SCL	2
China	Beijing (Peking)	PEK	3
Colombia	Bogota	BOG	2
Congo, Dem. Rep. of (Zaire)	Kinshasa	FIH	4
Costa Rica	San Jose	SJO	2
Côte d'Ivoire (Ivory Coast)	Abidjan	ABJ	4
Cuba	Havana	HAV	2
Czech Republic	Prague	PRG	1
Denmark	Copenhagen	CPH	1
Dominican Republic	Santo Domingo	SDQ	2
Ecuador	Guayaquil	GYE	2
Egypt	Cairo	CAI	4
El Salvador	San Salvador	SAL	2
Ethiopia	Addis Ababa	ADD	4
Fiji	Nadi	NAN	3
Finland	Helsinki	HEL	1
France	Paris	PAR	1
French Guiana	Cayenne	CAY	2
Gabon	Libreville	LBV	4
Germany	Frankfurt	FRA	1
Ghana	Accra	ACC	4
Great Britain	London	LON	1
Greece	Athens	ATH	1
Guatemala	Guatemala City	GUA	2
Guyana	Georgetown	GEO	2
Haiti	Port-au-Prince	PAP	2
Honduras	Tegucigalpa	TGU	2
Hong Kong	Hong Kong	HKG	3
Hungary	Budapest	BUD	1
Iceland	Reykjavik	REK	1
India	Mumbai	BOM	4
Indonesia	Jakarta	JKT	3
Iran	Tehran	THR	4
Ireland	Dublin	DUB	1
Israel	Tel Aviv	TLV	4
Italy	Rome	ROM	1
Jamaica	Kingston	KIN	2
Japan [1]	Tokyo	TYO	3
Japan [1]	Osaka	OSA	3
Jordan	Amman	AMM	4
Kenya	Nairobi	NBO	4
Korea, Rep. of (South)	Seoul	SEL	3
Kuwait	Kuwait City	KWI	4
Lebanon	Beirut	BEY	4
Liechtenstein	Basel	BSL	1
Luxembourg	Luxembourg	LUX	1
Madagascar	Antananariva	TNR	4
Malaysia	Kuala Lumpur	KUL	3
Mali	Bamako	BKO	4
Mauritania	Nouakchott	NKC	4
Mauritius	Port Louis	MRU	4
Mexico	Mexico City	MEX	2
Morocco	Casablanca	CAS	4
Mozambique	Maputo	MPM	4
Netherlands	Amsterdam	AMS	1
Netherlands Antilles	Curacao	CUR	2
New Zealand	Auckland	AKL	3

EXHIBIT 246.71.—INTERNATIONAL SURFACE AIR LIFT SERVICE NETWORK COUNTRIES AND RATES—Continued

Country	City	Code	Rate group
Nicaragua	Managua	MGA	2
Niger	Niamey	NIM	4
Nigeria	Lagos	LOS	4
Norway	Oslo	OSL	1
Oman	Muscat	MCT	4
Pakistan	Karachi	KHI	4
Panama	Panama City	PTY	2
Papua New Guinea	Port Moresby	POM	3
Paraguay	Asuncion	ASU	2
Peru	Lima	LIM	2
Philippines	Manila	MNL	3
Poland	Warsaw	WAW	1
Portugal	Lisbon	LIS	1
Qatar	Doha	DOH	4
Reunion Island	St Denis	RUN	4
Romania	Bucharest	BUH	1
Russia	Moscow	MOW	1
San Marino	Rome	ROM	1
Saudi Arabia	Dhahran	DHA	4
Senegal	Dakar	DKR	4
Singapore	Singapore	SIN	3
South Africa	Johannesburg	JNB	4
Spain [3]	Madrid	MAD	1
Sri Lanka	Colombo	CMB	4
Sudan	Khartoum	KRT	4
Suriname	Paramaribo	PBM	2
Sweden	Stockholm	STO	1
Switzerland	Basel	BSL	1
Syria	Damascus	DAM	4
Taiwan	Taipei	TPE	3
Tanzania	Dar es Salaam	DAR	4
Thailand	Bangkok	BKK	3
Togo	Lome	LFW	4
Trinidad and Tobago	Port of Spain	POS	2
Tunisia	Tunis	TUN	4
Turkey	Istanbul	IST	1
Uganda	Kampala	KLA	4
United Arab Emirates	Dubai	DXB	4
Uruguay	Montevideo	MVD	2
Venezuela	Caracas	CCS	2
Yemen	Sanaa	SAH	4
Zambia	Ndola	NLA	4
Zimbabwe	Harare	HRE	4

Footnotes:
[1] To expedite service, Japan Post has requested that ISAL shipments to Japan be separated by two destinations delivery zones as follows: Osaka (OSA) for postal codes 52–79, 91, and Tokyo (TYO) for all other postal codes.
[2] Including the Canary Islands.

Stanley F. Mires,
Chief Counsel, Legislative.

[FR Doc. 98–1670 Filed 1–23–98; 8:45 am]
BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL160–1a; FRL–5951–6]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Direct Final Rule.

SUMMARY: On August 20, 1997, Illinois submitted a variance to allow Marathon Oil to emit particulate matter in increased quantities from June 14, 1996, to September 5, 1996, to allow the company to defer repairs of its control equipment until a scheduled system shutdown. The submittal included modeling to indicate that the temporary emissions increase would not be expected to cause a violation of air quality standards. USEPA is approving this variance because air quality standards continue to be protected.

DATES: This action is effective on March 27, 1998 unless USEPA receives written adverse or critical comments by February 25, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal are available for inspection at the following address: (It is recommended that you telephone John Summerhays at (312) 886–6067, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency,

Region 5, Chicago, Illinois 60604, (312) 886–6067.

SUPPLEMENTARY INFORMATION:

I. Background

The State's submittal addresses emissions at the Fluid bed Catalytic Cracking Unit (FCCU) at Marathon Oil Company's refinery in Robinson, in Crawford County, Illinois. The FCCU uses catalyst in particle form to convert heavier petroleum materials into lighter, more valuable products. At issue are the quantity of particles that may be emitted from this unit. The normal emission limit for this unit, according to an equation based on the weight of material input to the process under normal capacity operation, is about 84 pounds per hour. The variance requested by the company and granted by the State authorizes emissions of 450 pounds per hour for the relevant 3-month period.

The circumstances leading to the company's variance request involved discovery of evidence that emissions from the FCCU were exceeding the unit's limit and suggesting problems with the cyclones at the unit. Repair of the cyclones requires a month-long shutdown of the FCCU, which would dramatically reduce production of gasoline. The company argued that allowance to defer remedying the problems was needed to avoid undue hardship on the company, because immediate repair would be less efficient (due to difficulties of working on hot equipment in hot weather and due to reduced preparation for repairs) and would eliminate gasoline production for much of the peak driving season. The company sought the variance until the maintenance shutdown that was already scheduled for October 1996 (subsequently rescheduled to commence September 5, 1996).

II. Review of Submittal

Crawford County is designated unclassifiable for PM_{10}. Consequently, given that the variance would be a temporary relaxation of the State Implementation Plan (SIP), the principal review criterion is whether the variance has been demonstrated not to threaten continued attainment of the national ambient air quality standards (NAAQS).

The company provided limited modeling to demonstrate the impact of the variance. This modeling used the Industrial Source Complex Model to simulate potential impacts of the FCCU, using relevant plume release characteristics and using meteorological data from Terre Haute, Indiana. This modeling estimated the impact of 450 pounds per hour of emissions of total suspended particulate matter, which was assumed to include 13.5 percent or 60.75 pounds per hour of PM_{10} emissions. The estimate impact of these emissions was a peak 24-hour average PM_{10} impact of 1.8 micrograms per cubic meter ($\mu g/m^3$) and a peak annual average PM_{10} impact of 0.13 $\mu g/m^3$. These impacts are well below the 24-hour PM_{10} standard of 150 $\mu g/m^3$ and the annual PM_{10} standard of 50 $\mu g/m^3$.

An important issue not adequately addressed by the company was whether the addition of the FCCU impact to the impacts of other relevant sources would cause concentrations above the NAAQS. The State addressed this issue in part by examining PM_{10} air quality data at its nearest monitoring site, approximately 50 miles northwest, in Charleston, Coles County, Illinois. No exceedances had been recorded at this site. The State indicated that no other facilities with significant emissions were present near the facility, but the State did not address the impacts of other emission points within the Marathon refinery. Also, unfortunately, neither the company nor the State provided a copy of the inputs or outputs of the modeling or otherwise provided full details of the analysis, most notably with respect to switches used (e.g. for stack tip downwash). Nevertheless, it is reasonable to presume that any deviations from recommended approaches to these unaddressed issues would not change the general magnitude of FCCU's estimated impact.

USEPA in its review considered other readily available information. USEPA examined the concentrations observed at the Coles County monitoring site from 1994 to 1996, which included a peak 24-hour average of 47 $\mu g/m^3$ and a 3-year average of 18 $\mu g/m^3$. USEPA also examined concentrations in Vigo County, Indiana, approximately 45 miles to the north-northeast, where the highest 24-hour average concentration in 1994 to 1996 among several sites was 75 $\mu g/m^3$, and the highest 3-year average was 29 $\mu g/m^3$. USEPA further examined emissions data submitted by Illinois to the national emissions data base. This data base shows estimated plant total emissions of particulate matter of about 700 tons per year, or about 160 pounds per hour. Much of these emissions are from combustion sources (e.g. heaters); thus, a high fraction of the total particulate matter emissions will be PM_{10}. Also, plumes for these other units are likely to be hotter and higher than the FCCU plume. Therefore, it is reasonable to assume that complete modeling of the emissions of this facility would show impacts in the same order of magnitude as those found for the FCCU. Since the addition of even ten times the modeled FCCU impact to concentrations monitored at available monitoring sites is well below the air quality standards, it is reasonable to conclude that the emissions allowed under the variance requested by Marathon would not cause violations of the NAAQS.

Ordinarily, USEPA would expect the source or the State to provide a more thorough analysis of whether a requested variance might cause a violation of the NAAQS. However, special circumstances in this case give USEPA adequate assurances that the NAAQS will not be violated. First, and most importantly, a substantial attainment margin exists, such that attainment would likely be shown even if a more complete analysis of various aspects of this issue were to show substantially greater concentrations. Second, although the nearest monitors are relatively distant, the various locations are expected to encounter similar air quality as would be found near the Marathon facility. Third, the temporary nature of the variance means that emissions are potentially elevated for a much shorter period than the five years modeled, such that the likelihood of violations is reduced, which in a qualitative way supports a conclusion that the variance will not threaten attainment.

III. Today's Action

USEPA is approving the variance adopted by the Illinois Pollution Control Board on November 21, 1996, for the Marathon Oil Company refinery near Robinson, Illinois. This variance provides a temporary emissions limit of 450 pounds per hour for the FCCU at this facility.

A noteworthy characteristic of this variance is that the period for which the variance applies is wholly in the past. Therefore, aside from judging whether the variance is approvable, USEPA must also judge whether the variance warrants inclusion as a codified element of the Illinois SIP. USEPA is undertaking an effort to revise its presentation of SIPs in a manner that more clearly identifies the enforceable elements of each SIP. Part of this effort is to eliminate referencing of variances that have expired long ago and thus are no longer of interest. The variance for Marathon alters the limitation to be enforced for approximately three months in 1996 but has no effect on the current regulations governing emissions at this facility. Consequently, USEPA is not codifying the variance for Marathon as part of the Illinois SIP. Nevertheless, for USEPA enforcement purposes, the emissions limitation that applies to

Marathon's FCCU for the June 14 to September 5, 1996, period is the limitation given in the State's variance rather than the otherwise applicable limitation in the State's regulations.

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

IV. Administrative Requirements

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

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. This action affects a only one source and therefore does not affect a substantial number of small entities.

Under section 202 of the Unfunded Mandates Reform Act of 1995, USEPA must undertake various actions in association with 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 the private sector, of $100 million or more. 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 the private sector, result from this action.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 27, 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 8, 1998.

Michelle D. Jordan,

Acting Regional Administrator, Region V.

[FR Doc. 98–1763 Filed 1–23–98; 8:45 am]

BILLING CODE 6560–50–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1842

Miscellaneous Revisions to the NASA FAR Supplement Coverage on Contract Administration

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) contract administration policy to update references to OMB Circulars and NASA internal guidance documents and to provide revised guidance on audit followup procedures.

EFFECTIVE DATE: January 26, 1998.

FOR FURTHER INFORMATION CONTACT:

Jack Horvath, NASA, Office of Procurement, Analysis Division (Code HC), (202) 358–0456.

SUPPLEMENTARY INFORMATION:

Background

NFS sections 1842.101 and 1842.7301 reference OMB Circulars A–88 and A–128. Both of these have been cancelled and replaced by OMB Circular A–133, and the NFS references are updated accordingly. Section 1842.102–70(b) provides guidance for NASA Centers on advising NASA Headquarters of changes in contract administration activity. This section is further clarified to indicate that NASA Center reports to Headquarters are required semiannually. Finally, changes are made to section 1842.7301 to include references to new NASA guidance documents and to clarify audit followup activities.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This final rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Part 1842

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR part 1842 is amended as follows:

1. The authority citation for 48 CFR part 1842 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1842—CONTRACT ADMINISTRATION

1842.101 [Amended]

2. In paragraph (a)(i) to section 1842.101, the phrase ''OMB Circular No. 88'' is revised to read ''OMB Circular No. A–133''.

3. In paragraph (a)(ii) to section 1842.101, ''(Code HS)'' is revised to read ''(Code HK)''.

1842.102–70 [Amended]

4. In section 1842.102–70, paragraph (b) introductory text is revised to read as follows:

1842.102–70 Review of administration and audit services.

* * * * *

(b) A summary, including a negative summary, of the Center's assessment shall be submitted by the procurement officer to the Headquarters Office of Procurement (Code HK) by not later than January 15 and June 15 of the fiscal year. The summary shall include—

* * * * *

1842.7301 [Amended]

5. Section 1842.7301 is revised to read as follows:

1842.7301 NASA external audit follow-up system.

(a) This section implements OMB Circular No. A–50, NASA Policy Directive (NPD) 1200.1, and NASA Procedures and Guidelines (NPG) 1200.1, ''Management Accountability and Control, Audit Liaison, and Audit Follow-up'', which provide more detailed guidance. Recommendations for external audits (OMB Circular No. A–133, Audits of States, Local Governments, and Non-Profit Institutions) shall be resolved by formal review and approval procedures analogous to those at 1815.406–171.

(b) The external audit followup system tracks up contract and OMB Circular No. A–133 audits where NASA has resolution and disposition authority. The objective of the tracking system is to ensure that audit recommendations are resolved as expeditiously as possible, but at a

maximum, within 6 months of the date of the audit report.

(c)(1) The identification and tracking of contract audit reports under NASA cognizance are accomplished in cooperation with the DCAA.

(2) Identification and tracking of OMB Circular No. A–133 audit reports are accomplished in cooperation with the NASA Office of the Inspector General (OIG) by means of a transmittal memorandum. A transmittal memorandum is sent by the OIG to the procurement officer of each NASA Center having an award (contract, grant, or other agreement) covered by the audit report. The transmittal memorandum will identify any significant audit findings.

(d)(1) All reportable contract audit reports are defined by Part 15, Section 6, of the DCAA Contract Audit Manual (CAM) shall be reported quarterly to the Headquarters Office of Procurement (Code HC); and

(2) Only OMB Circular No. A–133 audit reports involving the following shall be reported quarterly to Code HC:

(i) A significant management control issue; or

(ii) Questioned costs of $10,000 or more due to an audit finding (see Subpart E-Auditor, paragraph 510 of OMB Circular No. A–133).

(3) NASA contracting officers will maintain a dialogue with DOD Administrative Contracting Officers (ACO) who have been delegated activities on NASA contracts. A review will be conducted no less frequently than semiannually, and the status and disposition of significant audit findings will be documented in the contract file.

(e)(1) The terms ''resolution'' and ''disposition'' are defined in Appendix A of NPG 1200.1.

(2) The resolution and disposition of OMB Circular No. A–133 audits are handled as follows:

(i) Audit findings pertaining to an individual NASA award are the responsibility of the procurement officer administering that award.

(ii) Audit findings having a Governmentwide impact are the responsibility of the cognizant Federal agency responsible for oversight. For organizations subject to OMB Circular No. A–133, there is either a cognizant agency or an oversight agency. The cognizant agency is the Federal agency that provides the predominant amount of direct funding to the recipient organization unless OMB makes a specific cognizant agency for audit assignment. To provide for the continuity of cognizance, the determination of the predominant amount of direct funding will be based on the direct Federal awards expended in the recipient's fiscal years ending in 1995, 2000, 2005, and every fifth year thereafter. When there is no direct funding, the Federal agency with the predominant indirect funding is to assume the oversight responsibilities. In cases where NASA is the cognizant or oversight Federal agency, audit resolution and disposition is the responsibility of the procurement officer for the Center having the largest amount of direct funding, or, if there is no direct funding, the largest amount of indirect funding for the audited period. A copy of the memorandum dispositioning the findings shall be provided by each Center having resolution responsibility for the particular report to the Headquarters OIG office and Code HC.

[FR Doc. 98–1753 Filed 1–23–98; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–121; Notice–3]

RIN 2137–AD 05

Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Confirmation of effective date of Direct Final rule.

SUMMARY: This document confirms the effective date of the amendments of the direct final rule which extends the time for compliance with the requirements for pressure testing of older hazardous liquid and carbon dioxide pipelines.

EFFECTIVE DATES: This document confirms January 20, 1998 as the effective date of the direct final rule, published on October 21, 1997, at 62 FR 54591.

FOR FURTHER INFORMATION CONTACT: Mike Israni, (202) 366–4571, e-mail: mike.israni@rspa.dot.gov, regarding the subject matter of this document, or the Dockets Unit (202) 366–4453, for copies of this document or other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 1997, RSPA published a direct final rule (62 FR 54591) titled ''Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines.'' In that rule, RSPA stated that if no adverse comments were received by December 22, 1997, it would publish a confirmation notice in the **Federal Register** by January 5, 1998, and if an adverse comment was received, RSPA would issue a notice to confirm that fact and would withdraw the direct final rule in whole or in part. The rule also stated that RSPA might then incorporate the adverse comment(s) into a subsequent direct final rule or might publish a notice of proposed rulemaking.

The Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) met on November 18, 1997, in Houston, TX, to consider the extension of the time for compliance discussed in the October direct final rule. (The THLPSSC was established by statute to evaluate the technical feasibility, reasonableness, and practicability of proposed regulations.) The consensus of the THLPSSC was to support the direct final rule.

RSPA received one industry comment supporting RSPA's action on extension of time for compliance. Therefore, this document confirms new compliance dates for pressure testing older hazardous liquid and carbon dioxide pipelines as amended in the direct final rule effective January 20, 1998.

The new compliance dates are as follows:

—Before December 7, 1998, plan and schedule testing; or establish the pipeline's maximum operating pressure under § 195.406 (a)(5).

—Before December 7, 2000, pressure test each pipeline containing more than 50 percent by mileage of electric resistance welded pipe manufactured before 1970; and at least 50 percent of the mileage of all other pipelines; and

—Before December 7, 2003, pressure test the remainder of the pipeline mileage.

Issued in Washington, D.C. on January 21, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 98–1747 Filed 1–23–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket NHTSA–98–3342, Notice 1]

RIN 2127–AA43

Federal Motor Vehicle Safety Standards Rear Impact Guards; Rear Impact Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; response to petitions for reconsideration; technical amendment; denial of petition to extend the effective date.

SUMMARY: On January 24, 1996, NHTSA published a final rule establishing an equipment standard for underride guards and a vehicle standard which requires the installation of guards meeting the equipment standard on the rear end of heavy trailers and semitrailers. In response to petitions for reconsideration, NHTSA is amending that final rule to: clarify the 100 mm (4 inch) height requirement for the horizontal member of an underride guard, explicitly exclude from having to meet the energy absorption requirements all cargo tank motor vehicles manufactured with rear end protection complying with the high strength requirements of 49 CFR part 178 (to protect hazardous material) that occupies the area specified for NHTSA's underride guard, and increase the acceptable range of force application rates during testing. The agency is also excluding pulpwood trailers from the application of the vehicle standard and denying a petition from the Truck Trailer Manufacturer's Association (TTMA) for an extension of the effective date of the final rule.

DATES: The amendments made by this rule will become effective on January 26, 1998. Petitions for reconsideration of this rule must be received no later than March 12, 1998.

ADDRESSES: Any petitions for reconsideration should refer to the docket number and number of this notice and be submitted in writing to: Administrator, National Highway Traffic Safety Administration, Room 5220, 400 Seventh Street, SW, Washington DC, 20590.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC, 20590:

For non-legal issues:
Dr. George Mouchahoir (Telephone: 202–366–4919) or Mr. Michael Huntley (202–366–0029), Office of Crashworthiness Standards

For legal issues:
Mr. Paul Atelsek, Office of the Chief Counsel (202–366–2992), e-mail: patelsek@nhtsa.dot.gov

SUPPLEMENTARY INFORMATION:

I. Background

On January 24, 1996, the National Highway Traffic Safety Administration (NHTSA) published a final rule promulgating two new Federal Motor Vehicle Safety Standards (FMVSS) to require upgraded rear impact guards (underride guards) on trailers and semitrailers (61 FR 2004).[1] The first standard (No. 223, *Rear impact guards*) specifies performance requirements for strength and energy absorption for the underride guards themselves. This standard also contains a configuration requirement that the horizontal cross member of the guard be at least 100 mm (4 inches) high at any point across the guard width.

As issued in January 1996, the standard requires testing the guards for strength by pushing with a 203 mm by 203 mm (8 inch by 8 inch) force plate at specified points along the horizontal member of the guard. The test continues displacing the force plate at a constant rate of between 1.0 and 1.5 mm/sec (0.04 and 0.06 inches/sec) in a forward direction, as the guard is oriented on the trailer, until the guard resists a specified force, or until 125 mm (5 inches) of displacement occurs. To pass, the guard has to resist the specified force within the first 125 mm (5 inches) of displacement.

The standard's test for energy absorption is conducted by applying a force in the same way as in the test for strength, but only at one specified test point. The force is recorded at least ten times per 25 mm (1 inch) of displacement until the 125 mm (5 inch) displacement is reached and the force plate is completely withdrawn from the guard. The guard energy absorption is calculated from a force vs. deflection diagram plotted using the recorded measurements. Only plastic deformation (permanent deformation) is counted toward meeting the required amount of energy absorption—elastic rebound of the guard does not count.

The second standard (No. 224, *Rear impact protection*) requires most new trailers and semitrailers with a Gross Vehicle Weight Rating of at least 4,536 kg (10,000 pounds) to be equipped with a rear impact guard meeting the requirements of the equipment standard. This standard also specifies requirements for the location of the horizontal member of the guard relative to the rear end of the trailer or semitrailer, including a requirement that the rearmost surface of the member be located no more than 305 mm (12 inches) forward of the trailer's rear extremity. Certain types of trailers, including pole trailers and ''wheels-back'' vehicles, are excluded from the application of this rule.

The January 1996 final rule on truck underride protection specified an effective date of January 26, 1998 and a March 11, 1996 deadline for receiving petitions for reconsideration on this rule.

II. Petitions for Reconsideration

NHTSA received five petitions for reconsideration of the final rule from companies in the trailer and semitrailer equipment and manufacturing industries. In addition, one letter was received from an insurance group.

The Insurance Institute for Highway Safety (IIHS) did not request any change to the rule. IIHS's letter sought to clarify what IIHS considered a misunderstanding (i.e., undercounting) on NHTSA's part regarding the potential number of lives saved as a result of the final rule. IIHS stated that this clarification was needed if the agency is to decide on future rulemaking actions on rear underride for single-unit trucks or side underride for large trucks. NHTSA has met with IIHS staff to discuss their views on how best to estimate potential lives saved, and made adjustments in its data collection efforts to improve the quality of its data on underride crashes. The letter was not labeled as a petition and will not be addressed further.

One of the petitioners was Rite-Hite Corporation which manufactures ''dock locks,'' safety restraint equipment that is mounted on loading docks to secure trailers to the docks during loading and unloading. Rite-Hite requested that the agency modify the configuration and strength specifications of the guard to be compatible with its dock locks. It stated that the requirements of the final rule directly affect the ability of its dock locks to safely engage and hold trailers to the loading docks. The Rite-Hite loading dock device uses a hook that wraps around and over the rear protection guard to help prevent guards from riding up and over the restraining barriers, and to help prevent incidents

[1] Although both trailers and semitrailers are equally affected by the rule, they will sometimes be referred to simply as ''trailers'' in the remainder of this document.

that can result from trailer tip-over and landing gear collapse. Rite-Hite estimates that 100,000 of these dock locks currently exist.

Rite-Hite asked NHTSA to comment on the role of its final rule with regard to limiting civil tort liability. Rite-Hite states that some vehicle manufacturers and others in the industry consider the final rule to be the sole factor to be considered in designing underride guards. It requested that the agency clarify that compliance with the final rule does not by itself insulate any manufacturer of rear impact guards from all civil tort liability. It also urged NHTSA to state that guard and trailer manufacturers must also take into account other safety issues, such as loading dock uses of rear impact guards, in making appropriate and reasonable design choices that are consistent with the final rule.

Rite-Hite also petitioned for several changes to specific provisions of the final rule. It requested NHTSA to change the minimum cross sectional vertical height requirement in S5.1 of Standard No. 223, which currently specifies that ''[t]he horizontal member of each guard shall have a cross sectional vertical height of *at least* 100 mm [4 inches] at any point across the guard width'' (emphasis added). Some manufacturers are manufacturing guards with horizontal members that are 100 mm (4 inches) high on *both* the front and back sides of the horizontal member. Rite-Hite is concerned because the vehicle restraint may not engage properly in certain circumstances (e.g., abnormally high horizontal member, guard located forward of the rear extremity, poor alignment of the vehicle with the dock, and bumpers affixed to the horizontal member). It is also concerned that the restraint's warning light may not indicate the failure to engage without being modified.

To address this potential problem, Rite-Hite petitioned NHTSA to either: (1) Specify 4 inches as the maximum height, (2) change the regulatory language to restrict the height specification to the rear-facing side of the horizontal member, or (3) insert an interpretation that the existing language applies only to the rear-facing side of the horizontal member and an advisory that some vehicle restraint manufacturers recommend forward-facing surfaces be about 1.25 inches high.

Rite-Hite also requested NHTSA to modify S5.2.1 of Standard No. 223 to increase the minimum guard strength at location P2 (in the center of the guard, where Rite-Hite's dock locks attach). It stated that, because many vehicle restraints will provide 2–3 times more holding power than the guard strength requirement of the rule (50,000 N, or 11,240 lb), guard strength is not sufficient to withstand the forces encountered during premature trailer pull-out from loading docks. Therefore, Rite-Hite petitioned the agency to increase the minimum force at test point P2 (where dock locks typically attach) to approximately 150,000 N (33,370 lb).

Rite-Hite requested that the test procedures of S6.6 of Standard No. 223 be amended so the guard would have to meet similar strength requirements when pushed in a rearward direction (i.e., in the opposite direction from the striking vehicle) as it has to meet when it is pushed forward.

Rite-Hite requested that NHTSA delete the exclusion from Standard No. 224 for ''wheels-back vehicles.'' These are vehicles on which the rear tires are fixed at a position within 305 mm (12 inches) of the rear extremity of the trailer. Rite-Hite suggested that there will be an increase of loading dock incidents without an underride guard to secure the rear of the trailer to the dock. It also argued that wheels-back vehicles with wide-spaced single tires and no underride guard would increase the chance of passenger compartment intrusion, presumably by allowing the striking vehicle to penetrate between the tires.

Rite-Hite also requested that the horizontal member of the guard, and of hydraulic guards in particular, not be permitted, as it currently is, to extend rearward of the rear extremity of the vehicle. The company is concerned about damage to the dock locks, the dock walls, the underride guard itself, and with the dock lock not properly engaging. It is also concerned that rear-extending guards will prevent the trailer from backing up flush with the dock, creating a gap between the trailer bed and the loading dock, even with a dock lock engaged. Rite-Hite states that this gap could cause loss of ''lip purchase'' of loading dock levelers on the bed of the trailer, and personal injury to loading dock employees. Rite-Hite also asked that NHTSA clarify that hydraulic guards must meet the dimensional and guard strength requirements for non-hydraulic guards.

To ensure adequate engagement with dock locks, Rite-Hite also requested that the horizontal member be restricted to a position no more than 2 inches forward of the trailer rear extremity, rather than the currently permitted 305 mm (12 inches).

Rite Hite wants the agency to specify a minimum horizontal guard member height of 457 (18 inches) above the ground. It is concerned that lower heights might not adequately engage the dock locks and might increase the chances of the guards being damaged by road surfaces and falling off.

Finally, Rite Hite requested NHTSA to prohibit a sloped surface on the forward side of the rear impact guard and require a vertical surface there instead. Rite Hite states that the sloping surface will depress all kinds of vehicle restraints designed to hold on to the underride guard, thus causing disengagement.

TTMA petitioned the agency to define ''cargo tank motor vehicle'' and make it clear that any vehicle so constructed would not have to meet the energy absorption requirements of the rule. It stated that the ''present definition of a special purpose vehicle defines a cargo tank motor vehicle excluded by Standard No. 224 by its operational characteristics, namely, hazardous material held in transit, instead of by its construction characteristics.'' It noted that cargo tank motor vehicles are required by 49 CFR 178.345–8(d)[2] to have very strong rear end protection to protect the cargo tank and its piping in the event that another vehicle impacts it from the rear. TTMA argued that a manufacturer cannot design a guard to meet both the extreme rigidity requirements of 49 CFR 178.345–8(d) and the energy absorption (yielding) requirements of S5.2.2 of Standard No. 223.

Great Dane Trailers, Inc. (Great Dane) petitioned the agency to increase the permissible range of force application during the strength and energy absorption tests. It stated that the current requirement to maintain a constant rate of between 1 mm and 1.5 mm per second (60 mm and 90 mm per minute) ''may require expensive and sophisticated equipment'' and that the rate of displacement is not a significant indicator of the performance of the guard. Great Dane suggested changing the requirement to specify a rate that ''averages not less than 1 mm and not more than 25 mm per second over each 25 mm of displacement.''

Great Dane also requested that the minimum energy absorption test be amended to double the displacement of the horizontal member of the guard. Great Dane stated that its current guards do not respond by plastic deformation until 75 mm (3 inches) of displacement has been achieved, and that stopping the test at 125 mm (5 inches) of displacement, as currently specified,

[2] These rules are administered by the Department of Transportation's Research and Special Programs Administration (RSPA).

will require it to weaken the guards to meet the requirements. Great Dane petitioned to displace the guard to 250 mm (10 inches), thus ensuring more plastic deformation of the guards and increasing the energy absorption to 2–3 times the desired minimum. Great Dane subsequently forwarded test data that it believed supported its request.

STRICK Corporation (STRICK), a trailer manufacturer, also expressed concern over the need to purchase expensive precision testing equipment to replace their current devices. In its testing, STRICK found it ''impossible to determine the exact displacement for each and every second over the time of the test.'' STRICK petitioned to change the requirement from maintaining a constant rate of displacement between 1 mm and 1.5 mm per second band to a requirement of ''displacement rate of the force is approximately constant over a time of 1 to 5 minutes''. STRICK is basically requesting a slower force application (i.e., more time, which would be required with a slower pump) to reach the 125 mm (5 inch) required displacement. STRICK also argued that the ''displacement requirement'' in the final rule was inserted without adequate notice and represents a major change from the proposal.

Finally, James King & Co. (King) petitioned the agency to amend the rule to require that rear truck underride guards protect from damage the reflective conspicuity markings required by Standard No. 108, *Lamps, reflective devices, and associated equipment.* King has observed that few manufacturers have provided the protective measures that NHTSA had suggested that manufacturers could take (e.g., mounting the reflective material in a steel channel or placing small metal beads above and below the reflective stripe). As a result, King believes that, contrary to the agency's assumptions, the majority of markings are damaged after a short time in use. King did not suggest a particular solution.

III. Response to Petitions

NHTSA agrees with Rite Hite that mere compliance with NHTSA's vehicle safety standards does not insulate any guard or trailer manufacturer from civil liability. 49 U.S.C. 30103(e) explicitly states ''[c]ompliance with a motor vehicle safety standard * * * does not exempt a person from liability at common law.'' NHTSA's standards are minimum standards that specify a floor, not a ceiling, for performance. They are intended to allow manufacturers flexibility in the selection of means of compliance. Designers of underride guards and trailer manufacturers that install them are free to consider the non-highway safety implications of their designs, including the functioning of the guards with existing dock locks.

The agency also agrees with Rite Hite that the standard currently does not specify where, within its longitudinal cross section, the horizontal member of the guard must have a vertical height of 100 mm (4 inches). Some guard manufacturers are apparently misinterpreting that provision as requiring a 100 mm (4 inch) height across the entire longitudinal cross section, from front to back.

However, this reading is more design restrictive than the agency intended, and is not necessary for safety purposes. The 100 mm (4 inch) minimum height is intended to assure adequate engagement with and crushing of the frontal vehicle structure by preventing ''knife-edging'' by a guard that is too thin. In the final rule, the agency concluded that this objective would be achieved by any guard with a 100 mm (4 inch) cross sectional height that is forward of the rear extremity by not more than 305 mm (12 inches). The requirement in S5.1 of Standard No. 223 for a cross sectional vertical height of 100 mm (4 inches) does not need to be met in any specific transverse vertical plane. The important relationship is the distance between the trailer rear extremity and the forwardmost point at which at least 100 mm (4 inches) of guard height would be engaged by a colliding vehicle.

Given the preceding statement, Rite Hite's proposed changes to the regulation would unnecessarily restrict guard configuration. For example, it would be too design restrictive to require that the 100 mm (4 inch) cross section be measured at the rearmost point on the horizontal member, as Rite Hite suggests. This would be equivalent to saying that the guard must have a 100 mm (4 inch) vertical face at the rear. Although this design is common and probably the best at assuring immediate engagement, some manufacturers might prefer to use tubular designs for the horizontal member. Tubular designs would not comply with Rite Hite's suggested amendment, because the rearmost surface would be a line rather than a 100 mm (4 inch) high plane. Nevertheless, a tubular horizontal member would assure adequate engagement. It would also be too design restrictive to require that the cross section be vertical. Some shapes without vertical transverse cross sections of the required height might provide superior engagement or crash dynamics. For example, some guards might be shaped with sloped rear surfaces to account for the guard pivoting during a crash. As long as the horizontal projection of the horizontal member on a vertical plane presents a 4-inch high profile, then the desired objective will generally be achieved.

The agency is concerned about the development of certain untested guard shapes, however. As previously stated, most current guard designs have a vertical face with a 100 mm (4 inch) minimum height at the first point of contact for an underriding vehicle. This configuration provided good protection for passenger vehicle occupants in the NHTSA's tests. The non-design-restrictive requirements should not imply encouragement of the development of horizontal members with convex cross sections at the rear. For example, some manufacturers might want to design guards with angular, or lens-shaped, cross sections to achieve better aerodynamic properties. The quality of engagement of such guard shapes with the underriding vehicle has not been evaluated.

The agency is also concerned that portions of the horizontal member necessary for adequate engagement might be located more than 305 mm (12 inches) forward of the vehicle's rear extremity. For example, on a guard with a 100 mm (4 inch) high tubular horizontal cross member whose rearmost surface is located the full 305 mm (12 inches) forward of the trailer rear extremity, a full engagement of the guard's horizontal member will not occur until it has advanced 305 mm (12 inches), *plus* the 25 mm (2-inch) radius of the tube. In some cases, engagement might come too late to prevent passenger compartment intrusion. The purpose of the requirement in S5.1.3 of Standard No. 224 regarding the location of the guard's rearmost surface is to assure that full engagement is achieved as early in the crash event as possible, but in any case before the passenger vehicle has penetrated more than 305 mm (12 inches) under the trailer. Therefore, NHTSA is amending S5.1 to require that the vertical height requirement be met by the horizontally projected height of the horizontal member of the guard on a transverse vertical plane, and that the guard manufacturer's installation instructions or procedures specify that the forwardmost part of the horizontal member necessary to meet this requirement must be located no more than 305 mm (12 inches) forward of the rear extremity of the vehicle.

The agency denies Rite-Hite's request to eliminate the wheels back vehicle exclusion in S3 of Standard No. 224, as it applies to the single-tire wheels back

trailers, because the agency does not have enough information on these vehicles at this time. However, NHTSA is concerned with the possibility that some smaller passenger vehicles could fit between the tires of these trailers. In this case, the passenger vehicle might advance past the rear extremity of the trailer by 305 mm (12 inches) before reaching the rearmost point on the rear tires, and then advance an additional distance approximately equivalent to the radius of these large tires, before contacting the axle. This distance, combined with the subsequent crush of the front end of the passenger vehicle, might allow passenger compartment intrusion. The agency appreciates Rite-Hite's concern about the lack of guards leading to an inability to engage dock locks. NHTSA notes that the rule does not prohibit ''partial'' guards in between the wheels of wheels back trailers. Manufacturers of excluded vehicles may install partial or full underride guards if they consider it essential to engage loading dock restraint devices.

NHTSA requested data from TTMA on trailers and semitrailers with single rear tires. TTMA was able to confirm that these vehicles exist and provided a picture of one, but had no further information on hand. The agency also has little information on these vehicles, their tire-to-tire spacing, or their uses. Therefore, NHTSA currently has insufficient information to determine whether the wheels back exclusion should continue to apply to these vehicles or whether partial guards might be appropriate. The agency is planning to begin collecting data within the National Automotive Sampling System starting in the summer of 1998 to define the scope of this potential problem. When NHTSA has gathered the appropriate information, it will consider whether a rulemaking is warranted to address the issue of single-tire wheels back vehicles.

NHTSA denies the remainder of Rite-Hite's requests. These requests appear to be intended to ensure that guards are required to be compatible withRite-Hite's particular dock lock design. Although NHTSA is also interested in ensuring the safety of loading dock workers, the requested changes all tend to restrict underride guard design and reduce manufacturer flexibility that NHTSA considers essential to the practicability of the rule. Not all trailers and semitrailers use loading docks. Further, NHTSA understands that there are dock lock designs that do not require underride guard design restrictions. If trucking companies want maximum compatibility with all types of dock locks, including Rite-Hite's, there is nothing in NHTSA's rule to prevent them from ordering, or to prevent manufacturers from designing, underride guards exactly as Rite-Hite suggests.

For the same reason that NHTSA is granting Rite-Hite's request to clarify that the cross-sectional vertical height requirement need not be met at the forward-facing surface of the horizontal member of the guard, the agency denies Rite-Hite's request to prohibit sloping surfaces or to require a maximum height of 1.25 inches on that surface. Because there are no vehicle safety benefits related to the shape and size of the forward-facing surface, it would be unnecessarily design restrictive to impose certain geometries or height requirements on that surface. Regardless of the geometry, Rite-Hite's petition indicates that manufacturers can adapt the forward-facing surface to be compatible with dock locks by attaching a ¾ inch metal bar to the bottom of the forward-facing surface. Standard No. 223 does not prohibit this approach.

The agency also denies Rite-Hite's request to modify S5.2.1 of Standard No. 223 to require the guard's strength at location P2 be increased to approximately 150,000 N (33,370 lb). A guard strong enough to withstand the forces encountered when drivers attempt to pull out while still locked to the dock is not necessary for crashworthiness. This request pertains to the strength of the guard in the opposite direction (i.e., rearward) from the one specified in the final rule. The rule specifies a minimum strength to withstand forces in the forward direction, such as would result from an underriding vehicle. The rule does not regulate the requested aspect of performance, and regulating it would not serve the purpose of the rule. For the same reasons, the agency denies Rite-Hite's request that S6.6 of Standard No. 223 be amended so there is a rearward direction force application test in addition to the specified forward direction test. NHTSA again notes that there is nothing in the rule to prevent guard manufacturers from designing guards as Rite-Hite suggests, with 150,000 N (33,370 lb) strength in the rearward direction.

The agency denies Rite-Hite's request to amend the language of S5.1.3 of Standard No. 224 to prohibit the horizontal member of the guard from extending rearward of the transverse vertical plane tangent to the rear extremity of the vehicle. NHTSA expects that manufacturers will not design, and trucking companies will not order, underride guards for uses that will damage loading docks, dock locks, loading dock levelers, and the guards themselves. NHTSA is aware of some trailer and semitrailer applications for which a guard extending rearward of the trailer rear extremity is useful. These applications do not use loading docks. In addition, rearward mounting is useful in preventing underride and passenger compartment intrusion by the rear of the passenger vehicle. The agency does not want to prohibit these benefits for the sake of regulating the unlikely occurrence of excessively rearward guard location. For the same reasons, Rite-Hite's request that ''hydraulic guards not hinge rearward of the transverse vertical plane tangent to the rear extremity of the vehicle'' is denied. NHTSA notes that hydraulic guards are already required to meet the same dimensional and strength requirements as non-hydraulic guards.

NHTSA denies Rite-Hite's request to prohibit positioning the guard more than 2 inches forward of the trailer rear extremity. This would eliminate nearly all of the fore-aft flexibility that the agency believes that manufacturers need in positioning their guards, merely because a distance more than 50 mm (2 inches) will not be compatible with Rite-Hite's restraint. NHTSA emphasizes that the final rule specified mounting the guard within a range of 305 mm (12 inches) or less, and as close to the rear extremity as practical. This requirement is probably sufficient to ensure that the vast majority of trailers and semitrailers are compatible with Rite-Hite's needs. Nearly all guards are currently being mounted flush with the trailer rear extremity. NHTSA does not believe that the final rule will change that practice. If a certain kind of guard is needed for safely docking with dock locks, trucking companies will presumably specify such guards in their orders for new vehicles. This would be an additional factor making change unlikely.

NHTSA denies Rite-Hite's request that S5.1.2 of Standard No. 224 be amended to prohibit mounting guards with the horizontal member lower than 457 mm (18 inches) from the ground. The possibility of guard damage, along with the extensive comments received from the public on ground clearance, were discussed at length in the preamble of the January 1996 final rule. The comments indicated that it would be impractical to mount the guards much lower than the maximum clearance of 560 mm (22 inches) anyway. The agency does not expect vehicle manufacturers to mount guards at heights at which the guards or the vehicles would be damaged due to operational restrictions (e.g., railroad crossings). In addition,

higher costs of lower guards and the difficulty of meeting the strength requirements at lower heights are additional factors that will keep most manufacturers from producing guards that are lower than the maximum height. Therefore, setting a minimum clearance requirement is unnecessary. Assuming manufacturers did want to produce them for uses with fewer operational restrictions, lower guards would be safer in a crash. NHTSA has no evidence that loose guards are falling off and creating a highway hazard. Regulation is not necessary in this area.

The agency agrees with TTMA that the current language of Standard No. 224's definition of ''special purpose vehicle'' might be interpreted to exclude cargo tank motor vehicles due to their operational use, rather than their construction characteristics. The rule defines special purpose vehicles as having ''work-performing equipment (including any pipe equipment that would hold hazardous materials in transit * * *) that, while the vehicle is in transit, resides in or moves through the area that could be occupied by the horizontal member of the rear impact guard * * *'' The phrase ''that would hold hazardous materials'' might, in the case of a cargo tank motor vehicle, imply that the exclusion depends on the intentions or subsequent actions of the purchaser of the cargo tank motor vehicle. Although manufacturers generally know that trailer owners willing to pay for a trailer certified to RSPA's standards are planning to transport hazardous materials, the manufacturer of a cargo tank motor vehicle should not be charged with the responsibility for determining what its use will be after it is out of the manufacturer's control.

Therefore, as the TTMA requested, the agency is deleting the phrase in the definition of special purpose vehicle that explicitly recognized pipe equipment that would carry hazardous material as work performing equipment. Piping that carries hazardous materials would still be considered work-performing equipment, as would any other piping that needs to occupy the area of the guard while the vehicle is in transit. However, piping carrying hazardous materials would probably not be located in such an exposed location, because RSPA's regulations (e.g., 178.345–8, 178.338–10) generally require that such piping be protected by RSPA's vehicle rear end protection device or rear bumper.[3]

The standard still needs to be revised to prevent conflict with RSPA's rule. The high strength requirements for cargo tank motor vehicle rear end protection devices or rear bumpers in RSPA's regulations are incompatible with NHTSA's energy absorption requirement. NHTSA intended to apply only the configuration and strength requirements, but not the energy absorption requirements, to vehicles meeting RSPA's requirements with rear-end protection device or rear bumpers in the area specified by NHTSA for the underride guard. NHTSA's strength requirements are far lower than RSPA's, so meeting NHTSA's strength requirements will not be a problem for hazardous materials cargo tank motor vehicles. The agency stated in the final rule (at 61 FR 2023) that:

> RSPA's rule for underride guards on hazardous materials tankers (49 CFR Part 178.345–8) is generally compatible with this rule, and this rule applies to hazardous materials tankers. However, to prevent any confusion as to the relationship between RSPA's rule and NHTSA's rule, this rule explicitly recognizes that piping that carries hazardous materials while in transit needs the special protection that is provided by RSPA's rule.

Explicitly recognizing vehicles with the pipe equipment in the area of the guard as special purpose vehicles did not capture within the exclusion all the vehicles that must be excluded. Any tanker built to conform to RSPA's regulations with a rear-end protection device or rear bumper in the area specified for NHTSA's underride guard cannot practically comply with NHTSA's energy absorption requirement, regardless of whether it has pipe equipment in the area of the guard or whether the pipe equipment passes through the area where the guard could be located.

Therefore, NHTSA is adding a paragraph to the Application section of Standard No. 224 explicitly excluding all cargo tank motor vehicles built to RSPA's standards, including insulated cargo tanks and tanks that carry compressed gases, from the requirement to meet the energy absorption requirements of S5.2.2 of Standard No. 223, if the rear-end protection device or rear bumper is in the area specified for NHTSA's underride guard.

The agency is stating the exclusion more broadly than the TTMA suggested. The TTMA petitioned to add a definition for a cargo tank motor vehicle, which referenced some (but not all) of RSPA's tanker specifications. In NHTSA's view, the benefits of energy absorption for the striking vehicle are outweighed by the additional danger to that and other vehicles from spillage of hazardous cargo, so that all tankers that might be carrying hazardous materials should be excluded from the energy absorption requirement. RSPA occasionally adds cargo tank motor vehicle specifications and may also add vehicle rear end protection device or rear bumper specifications to its regulations. If the rule referenced RSPA's regulations for every specific tanker and guard type, every change to the RSPA regulations would necessitate a corresponding change to Standard No. 224's application section. Due to the difficulty of coordinating interagency rulemakings and effective dates, the rule simply references the part of RSPA's regulations that specifies cargo tank motor vehicles and rear end protection devices or rear bumper requirements, and excludes from the energy absorption requirements of this rule all cargo tank motor vehicles that comply with that part and have a rear end protection device or rear bumper in the area specified for the underride guard. Any future changes by RSPA to its tanker guard requirements will likely be made to this part, and would be automatically incorporated by reference in Standard No 224.

The agency notes that this exclusion from the energy absorption requirements for RSPA guards on cargo tank motor vehicles applies only when the RSPA rear end protection device or rear bumper occupies the space specified for the horizontal member of the NHTSA guard and meets the configuration and strength requirements specified for the NHTSA guard. For example, many cargo tank motor vehicles have a rear end protection device or rear bumper located several feet off the ground. The guards on these trailers are not excluded from NHTSA's energy absorption requirement of Standard No. 223.

The requests of Great Dane Trailers and STRICK Corporation regarding the rate of force application in the tests for strength and energy absorption can be treated together. NHTSA agrees that changing the displacement rate requirements in S6.6(a) of Standard No. 223 to accommodate concerns about the practicability of the test procedure would not affect the intent of the rule or the determination of the guard's strength. The objective of the requirement is to assure that the guard

[3] Both terms are used to refer to underride guard-type devices in RSPA's regulation. ''Rear-end protection device'' is used in 49 CFR 178.345, while ''rear bumper'' is used in 49 CFR 178.337 and 178.338. These terms are used below when discussing cargo tank motor vehicles, both to avoid confusion and to emphasize the different primary purpose they serve—protecting hazardous material in the tank, rather than protecting colliding vehicle occupants with crash protection.

is being tested quasi-statically because the specified test procedure is not a dynamic test.

The specified rate of displacement during force application (1.0 to 1.5 mm/s) may be narrow and too restrictive to accommodate slow-pumping force application equipment. NHTSA accepts Great Dane's and STRICK's assertions that new and expensive equipment would be required for those companies to achieve this rate. More powerful hydraulic pumps are required to achieve higher rates of displacement during the test, especially with stronger guards. The agency has no information on how powerful STRICK's pumps are, but NHTSA chose the quasi-static test procedure at least in part to accommodate small trailer manufacturers that presumably have less sophisticated equipment. For steel, the most common guard material, the rate of force application, within reasonable bounds, should not make a significant difference in the test results.

For reasons that seem inconsistent with the basis for their requests, both companies asked for an increase in the permitted displacement rate. The agency denies these requests. Great Dane requested an increase in the upper limit of the specified range from 1.5 mm/sec to 25 mm/sec, and STRICK requested an increase to 2.08 mm/sec. At a displacement rate of 25 mm/sec, a 125 mm (5-inch) test displacement would be completed in a very short duration of about 5 seconds. This is a very fast force application and conflicts with the intent of the rule to specify a quasi-static, not a dynamic, test procedure. Moreover, Great Dane's proposed rate of 25 mm/s would require high precision and sophisticated computer-controlled test equipment as well as powerful and efficient pumps—potentially representing upgraded equipment that both companies state they want to avoid. The agency notes that NHTSA's Vehicle Research and Test Center (VRTC) successfully performed its testing program for the subject final rule using manually-controlled test equipment with no special instrumentation. Less sophisticated equipment with lower pump capacity requires more, not less, test duration. The current upper limit on the rate of displacement during force application of 1.5 mm/sec is being retained. This should not present a problem for Great Dane or STRICK, because lower displacement rates can also be selected on more capable equipment.

Regarding the lower bound for displacement rate, the agency believes that 6.3 minutes is adequate time to achieve the required displacement without the need for sophisticated control equipment and powerful pumps. No petitioner has requested a longer period and, unless the agency is presented with evidence of a problem with this rate, it will consider longer periods as unnecessarily prolonging certification and compliance testing. As explained earlier, reasonably slower displacement rates will probably not make a significant difference in test results anyway. Therefore, NHTSA is granting part of STRICK's request and widening the specified displacement rate range to allow displacement rates as low as 0.33 mm/sec. Testing at this rate will allow a 125 mm (5 inch) test displacement to be achieved in a period of about six minutes.

The range of force displacement rate will now be specified in centimeters and minutes rather than in millimeters and seconds, i.e., as 2.0 cm/minute to 9.0 cm/minute. This range replaces the currently specified range of 1.0 to 1.5 mm/sec (6.0 to 9.0 cm/minute). The larger distance per time period is easier for most people to visualize. It is NHTSA's understanding that the displacement rate on most modern test equipment (and on all the equipment NHTSA would use for compliance testing) is controlled by a computer with a feedback system capable of quickly and automatically adjusting the displacement rate. However, for purposes of certification testing on non-computer controlled equipment, precise adjustment is impractical. Specifying the distance on a per-minute time scale will allow for practical adjustments of the rate of displacement within each minute. This change would result in a more practical test procedure and should not compromise the performance requirements of the rule. The language of section 6.6(a) of Standard No. 223 is changed accordingly.

The word ''constant'' has been eliminated from the test procedure as a modifier of the displacement rate. As Great Dane pointed out, the term ''constant'' is confusing because it is so absolute. The concept of tolerance, for purposes of compliance testing, has been introduced as explained below.

Normally, when NHTSA specifies a range in the test conditions of its standards, the equipment being tested is expected to meet the specified performance requirements when testing at any point within the range. In this case, the agency is allowing a broader range of displacement rates (with a significantly slower rate of displacement at the lower end of the range) than was allowed originally, to accommodate the manufacturers' desire to conduct certification testing with their existing equipment. Applying the usual procedure, NHTSA could test and expect compliance at any rate within the wider displacement rate range. However, this would have the effect of making it more, not less, difficult for manufacturers to certify compliance, because the same requirements would have to be met under a wider range of conditions. The agency notes again that tests within the new range of displacement rates should yield similar results to tests within the old range because the performance of most current guard materials is not rate sensitive even over this broader range of load application rates.

Because merely granting the petitioner's request would not achieve the petitioner's objective of making certification testing easier, NHTSA will allow the guard manufacturer to designate the displacement rate, within the range of 2.0 to 9.0 cm/minute, on which it based its certification. If compliance tests are conducted by the agency, the manufacturer's designated rate, plus or minus 10 percent, will be used. The practical effect of this is that the guard must comply at the designated rate as well as any rate within 10 percent above or below that rate. As noted above, having to maintain a ''constant'' designated displacement rate would make it practically impossible for the agency to conduct compliance testing. For the same reason, NHTSA will not attempt to duplicate during compliance testing the deflection/time curve that the manufacturer experienced during certification testing. As long as the agency stays within the 10 percent tolerance during the entire test, the compliance test will be valid. If the manufacturer, for whatever reason, does not designate a displacement rate, NHTSA may pick any rate within the specified range.

NHTSA denies Great Dane's request to amend the energy requirement to require twice as much displacement for the purpose of the energy absorption test. The petitioner stated that the ''current limit of 125 mm will require guards which are weaker (less stiffness) be installed merely to meet the energy absorption level of 5650 J.'' This amendment would have the effect of allowing stiffer guards by displacing the guard 250 mm (10 inches) instead of 125 mm (5 inches) before measuring to determine whether the guard absorbed the minimum 5,650 joules (4,170 ft-lbs) of energy. The greater displacement would make it easier for the required plastic deformation of the guard to occur. However, the point of the energy absorption requirement is to *prevent*

overly stiff guards. It would enhance crash safety if manufacturers weaken guards that are too stiff, because this will allow a softer ''crash pulse'' for the colliding passenger vehicle by ''riding down'' the speed over a short distance during the crash.

Moreover, NHTSA notes that the data that Great Dane submitted in support of this request does not indicate that any change is needed in the standard. The test data provided by Great Dane show that the guards they tested displayed more than twice the required energy absorption when tested according to the current requirement of 125 mm (5 inches) of displacement.

Finally, the agency denies King's request to amend the final rule to include requirements that rear underride guards protect conspicuity markings from damage. The Federal Highway Administration (FHWA) has jurisdiction over trailers after the first sale for purposes other than resale and regulates the maintenance of required safety equipment. Section 393.11 of the Federal Motor Carrier Safety Regulations (FMCSRs) requires that commercial motor vehicles meet the requirements of Standard No. 108 in effect at the time the vehicle was manufactured (49 CFR 393.11). Since December 1, 1993, Standard No. 108 has required new trailers to meet conspicuity requirements. Accordingly, motor carriers are currently required under FHWA regulations to maintain the conspicuity treatments on these trailers. This includes maintaining the conspicuity treatment on the horizontal member of the underride guard.

On April 14, 1997, FHWA issued an NPRM (62 FR 18170) that would amend the FMCSRs at 49 CFR 393.11, *Lighting Devices and Reflectors*, to make certain that all motor carriers operating trailers subject to the FMCSRs are aware of their responsibility to maintain the conspicuity treatments in all locations required by Standard No. 108. However, FHWA requested comment on whether an exemption from the maintenance requirement for the tape on the underride guard should be provided due to practicability problems.[4] NHTSA has forwarded King's comment to FHWA for consideration. Irrespective of whether FHWA continues to require motor carriers to maintain the conspicuity treatment on the guards, NHTSA encourages manufacturers to design the treatment to be as durable as practicable to ensure that the safety benefits of applying the treatment to that location are realized.

If FHWA requires the conspicuity treatment on the horizontal member of the guard to be maintained, and sufficiently durable conspicuity treatments are not available, NHTSA assumes that manufacturers would design guards with channels or other protective features for the conspicuity treatment. There is nothing in Standard No. 223 that would prevent such designs. NHTSA will consult with FHWA on whether NHTSA rulemaking to mandate physical protection for conspicuity treatment is needed after FHWA completes its rulemaking.

IV. Response to TTMA Petition on Extension of Effective Date

In an April 18, 1997 letter, TTMA petitioned NHTSA to commence rulemaking to extend the effective date from January 26, 1998 to a date at least nine months after this response to the petitions for reconsideration is issued. It stated only that trailer manufacturers were reluctant to complete the designs of their guards and test these guards until the petitions were answered.

TTMA's petition for an extension of the effective date is denied. NHTSA does not see any reason why manufacturers can not complete and test their guard designs in the allotted time. Except for a few of Rite Hite's requests, all the petitions dealt with relatively minor issues of testing and clarification. Manufacturers should have been planning to comply with the rule as it was published in January of 1996.

The guards that will be required on January 26, 1998 are very similar to guards currently being produced. NHTSA made no amendments requiring configuration changes in its responses to the petitions. The change to the regulatory text relating to vertical cross-sectional height is basically a clarification of the current requirements. There were only two minor changes to the test procedures (allowing a more flexible force application rate and allowing the manufacturer to designate the force application rate on which it based its certification). These changes will make it easier for manufacturers to test the guards and to comply with the requirements. The guards that manufacturers will be required to produce after this rule is issued will be essentially the same guards that NHTSA required in the January 1996 final rule. NHTSA notes that the TTMA's Recommended Practice, ''Rear Impact Guard and Protection'' is virtually identical to the NPRM, except for the energy absorption requirement of Standard No. 223. This Recommended Practice is designated RP No. 92–94, and was originally issued in April of 1994 and revised in November of 1994. Apparently it has been adopted as an industry standard, so little reengineering should be necessary to meet Standard No. 223. Therefore, NHTSA believes that the manufacturers have had sufficient time to complete their designs prior to the January 26, 1998 effective date. A general extension is not warranted.

However, the agency will consider petitions for temporary exemption from Standard No. 224. The agency has received a number of these petitions from small-volume trailer manufacturers within the past few months. Under 49 CFR 555.6(a), a manufacturer whose yearly production is not more than 10,000 units may ask for a temporary exemption from a Federal motor vehicle safety standard for up to three years on the basis that compliance would cause it substantial economic hardship and that it has attempted in good faith to comply with the standard from which it has asked to be excused. Part 555 requires the agency to publish a notice in the **Federal Register** seeking public comment on each exemption petition before a decision can be made on such a request, and then publish a second notice either granting or denying the petition. NHTSA expects to issue final decisions on these petitions approximately three to four months after the date of submission of the petition.

V. Technical Amendment on Logging Trailers

The Application section (S3) of Standard No. 224 currently excludes ''pole trailers'' from the application of the rule. Pole trailers are trailers with a single, longitudinal telescoping pole, rather than a normal trailer chassis, connecting the front wheels to the back wheels. Pole trailers are predominantly used by the logging industry to transport logs. They spend a great deal of their time off-road at logging sites and on rough logging roads. NHTSA proposed to exclude these vehicles in the January 8, 1981 NPRM (46 FR 2139), stating:

> the proposed rule does not apply to pole trailers. The agency believes that requiring underride guards on such vehicles would provide little benefit to car occupants. Since the poles carried by these trailers normally overhang the back end of the vehicles for a considerable distance, the danger of

[4] ''The [FHWA Notice of Proposed Rulemaking] does not, however, include an exemption to the requirement that motor carriers maintain the conspicuity material on the rear underride device. The agency requests comments from motor carriers on the durability of the conspicuity material located on the horizontal member of the rear underride protection devices. Commenters are asked to identify the specific types of trailers and operating conditions that they believe are associated with the durability problems cited in addition to providing color photographs of the damaged conspicuity materials.'' 62 FR 18172–73.

underride is due not to the structure of the trailer but to the structure of the cargo.

This was not a controversial exclusion and it was retained in the 1992 Supplemental Notice of Proposed Rulemaking (SNPRM) and the 1996 final rule without comment.

Changes in the trailer design and in the logging industry since 1981 have led to a decline in the popularity of pole trailers and the emergence of ''pulpwood trailers'' to take their place. Pulpwood trailers are similar in use and structure to pole trailers, but they have more structure (often two poles or beams) connecting the front wheels to the back wheels. NHTSA has recently become aware, through an April 25, 1997 letter from Mr. Buck Ford, that some manufacturers of pulpwood trailers are deciding how to install underride guards to comply with the January 1996 final rule, but that other manufacturers are completely unaware of the rule. Pulpwood trailers are not currently excluded because they are not technically pole trailers. According to Mr. Ford, there may be a shortage of pulpwood trailers in 1998 due to few manufacturers being able to meet the requirements.

NHTSA intended to exclude all trailers that, like pole trailers, lack structure for attaching guards and that would carry loads likely to overhang the rear of the trailer substantially when it published the January 1996 final rule. Pulpwood trailers do not differ significantly from pole trailers in their construction or use. They also carry overhanging logs that would negate the value of the underride guard and operate on rough logging roads on which an underride guard would be a serious impediment. Due to the lack of controversy regarding the exclusion of pole trailers, and due to the lack of comment from pulpwood trailer manufacturers, the agency assumed that the language of the exclusion covered all trailers of this type.

Because this appears to have been an incorrect assumption, NHTSA is adding pulpwood trailers to the list of excluded vehicle types. This is being done by technical amendment because the agency's intent to exclude vehicles that carry this kind of load was clear from the 1981 NPRM's rationale for the exclusion. This technical amendment will also avoid a shortage of pulpwood trailers needed by the logging industry in 1998. NHTSA is adopting the pertinent part of the language contained in Standard No. 121, *Air Brake Systems*, which defines ''pulpwood trailer'' as ''a trailer that is designed exclusively for harvesting logs or pulpwood and constructed with a skeletal frame with no means for attachment of a solid bed, body, or container * * *''.

VI. Effective Date

The agency finds that there is good cause to make this rule effective immediately. These amendments do not impose any new requirements. Instead, they relieve some of the testing burden imposed on the manufacturers by the January 24, 1996 final rule. It will be slightly easier for manufacturers to test using the new load application rates specified in these amendments. These amendments also make it clear that pulpwood trailers are an excluded category of vehicle, and that cargo tank motor vehicles built to RSPA's standards with a rear-end protection device or rear bumper in the area specified for NHTSA's underride guard do not have to meet the energy absorption requirements of Standard No. 223. A delayed effective date would impose a needless compliance burden on the trailer industry, including many small businesses that manufacture trailers.

VII. Rulemaking Analyses and Notices

A. Executive Order 12866 (Federal Regulation) and Regulatory Policies and Procedures

This rulemaking action was reviewed under Executive Order 12866. The action has been determined to be ''not significant'' under Executive Order 12866 and under the Department of Transportation regulatory policies and procedures. The Final Regulatory Evaluation (FRE) for the January 1996 final rule describes the economic and other effects of that rule in detail.

The responses to these petitions for reconsideration and this technical amendment do not alter the costs or benefits of that rule significantly. They merely clarify the intended application of the rule and provide more flexibility in the test procedures. They do not change the requirements enough to significantly alter the performance or the price of rear underride guards. Therefore, a regulatory analysis is not warranted.

B. Regulatory Flexibility Act

NHTSA analyzed the potential impacts of the January 1996 final rule on small entities under the Regulatory Flexibility Act and certified that it would have a significant economic impact on a substantial number of small entities. NHTSA has described those possible impacts in the FRE to the January 1996 final rule, which was, in part, a regulatory flexibility analysis.

The responses to these petitions for reconsideration and this technical amendment slightly increase manufacturer flexibility in testing, but NHTSA certifies that the changes made by today's rule do not have a significant economic impact on a substantial number of small entities. Most of the changes are interpretations and clarifications of the existing language, not changes in requirements that impose new burdens. The changes in requirements are designed to make the guards easier for manufacturers, especially small businesses, to test their guards, not to change the guard performance. As a result, some businesses that otherwise would have had to buy sophisticated testing equipment or change their guard designs unnecessarily will not need to do so. Therefore, there will be no new significant impact on small businesses.

C. Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

This rule makes only minor changes to the January 1996 final rule which had only minimal federalism implications. Nearly all States require underride protection guards for heavy trailers and semitrailers. Further, most states require that the guards meet certain configuration requirements, or that they be positioned in a certain location relative to the rear and sides of the vehicle. The January 1996 final rule will preempt State requirements for rear impact protection. However, the agency believes that federalism implications will be minor because the guards required by that final rule are not fundamentally different from those required by State law. Several States, including Michigan, North Carolina, New York, and New Jersey, already require trailers longer than 15 m (50 ft) to have guards with the configuration required by that rule. For practical purposes, the only effect that that rule will have in these States is to require the guards to be tested and certified for strength and energy absorption.

NHTSA believes that effective rear impact protection measures can be implemented only at the national level. Only vehicle manufacturers can produce trailers and semitrailers with improved rear impact protection. The improvements required by the January 1996 final rule will cause vehicle manufacturers and operators to incur costs that could affect their competitive

position if compliance were voluntary and attempted by some, but not all manufacturers. That rule applies uniformly to all manufacturers and will ensure that the competitive position of the manufacturers will not be significantly affected by the required safety improvements.

D. Preemptive Effect and Judicial Review

Under 49 U.S.C. § 30103(b), whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. 49 U.S.C. § 30161 sets forth a procedure for judicial review of final rulemaking establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceeding before parties may file suit in court. This final rule does not have any retroactive effect.

E. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no new requirements for information collection associated with this response to petitions for reconsideration and technical amendment.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50

2. Sections S5.1 and S6.6(a) of 49 CFR 571.223 are revised to read as follows:

§ 571.223 Standard No. 223; rear impact guards

* * * * *

S5.1 *Projected Vertical Height.* The horizontal member of each guard, when viewed from the rear as it would be installed on a trailer pursuant to the installation instructions or procedures required by S5.5 of this standard, shall have a vertical height of at least 100 mm at each point across the guard width, when projected horizontally on a transverse vertical plane. Those installation instructions or procedures shall specify that the guard is to be mounted so that all portions of the horizontal member necessary to achieve a 100 mm high projected vertical height are located not more than 305 mm forward of the vehicle's rear extremity, as defined in S4 of 49 CFR 571.224, Rear Impact Protection. See Figure 1 of this section.

* * * * *

S6.6 *Force Application.*

* * * * *

(a) Using the force application device, apply force to the guard in a forward direction such that the displacement rate of the force application device is the rate, plus or minus 10 percent, designated by the guard manufacturer within the range of 2.0 cm per minute to 9.0 cm per minute. If the guard manufacturer does not designate a rate, any rate within that range may be chosen.

* * * * *

3. In § 571.224 section S3 is revised and section S4 is amended by adding a definition of *pulpwood trailer* and revising the definition of *Special purpose vehicle* to read as follows:

§ 571.224 Standard No. 224; rear impact protection

* * * * *

S3. *Application.* This standard applies to trailers and semitrailers with a GVWR of 4,536 kg or more. The standard does not apply to pole trailers, pulpwood trailers, special purpose vehicles, wheels back vehicles, or temporary living quarters as defined in 49 CFR 529.2.

If a cargo tank motor vehicle, as defined in 49 CFR 171.8, is certified to carry hazardous materials and has a rear bumper or rear end protection device conforming with 49 CFR part 178 located in the area of the horizontal member of the rear underride guard required by this standard, the guard need not comply with the energy absorption requirement (S5.2.2) of 49 CFR 571.223.

S4. *Definitions.*

* * * * *

Pulpwood trailer means a trailer that is designed exclusively for harvesting logs or pulpwood and constructed with a skeletal frame with no means for attachment of a solid bed, body, or container.

* * * * *

Special purpose vehicle means a trailer or semitrailer having work-performing equipment that, while the vehicle is in transit, resides in or moves through the area that could be occupied by the horizontal member of the rear underride guard, as defined by S5.1.1 through S5.1.3.

* * * * *

Issued on: January 20, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–1783 Filed 1–21–98; 2:18 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–97–3191; Notice 2]

RIN 2127–AF66

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the requirements for seat belts at forward-facing rear outboard seating positions of police cars and other law enforcement vehicles to facilitate the transporting of prisoners. It does so by permitting those belts to be equipped with manual adjustment devices instead of emergency locking retractors, and excluding them from requirements for the accessibility of belt latch plates, the simultaneous release of the lap and shoulder belt portions of a lap and shoulder belt, and the release of the latch mechanism at a single point. This action was initiated in response to a petition for rulemaking submitted by Laguna Manufacturing, Inc.

DATES: Effective Date: The amendments made in this rule are effective February 25, 1998.

Any petitions for reconsideration must be received by NHTSA no later than March 12, 1998.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For technical information: Mr. John Lee, Light Duty Vehicle Division, Office of Crashworthiness Standards, NPS–11, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–4924. FAX number (202) 366–4329, Mr. Lee's e-mail address is: jlee@nhtsa.dot.gov, For legal information: Mr. Otto Matheke, Office of

Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–5263. FAX number (202) 366–3820, Mr. Matheke's e-mail address is: omatheke@nhtsa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Standard No. 208

Standard No. 208, Occupant Crash Protection, requires an integral Type 2 (lap and shoulder) safety belt assembly to be installed at all forward-facing rear outboard seating positions in passenger cars and other light vehicles. The standard also requires that each of these safety belt assemblies be equipped with an emergency locking retractor (ELR). The ELR allows the belt webbing to unwind from the spool when the belt user leans forward or to the side and rewinds it when the user leans back against the seat. However, in the event of a sudden stop or crash, the retractor locks up to prevent the spooling out of any more webbing.

This type of retractor serves several purposes. By providing a comfortable belt fit and allowing the belt user some freedom of movement, this type of retractor makes it more likely that the typical vehicle occupant will use safety belts. This is important because although almost all states require the use of seat belts, the decision to use a belt still depends on each person's willingness to buckle up. The ELR also reduces the likelihood of excessive slack in safety belts during use.

Standard No. 208 also requires that a seat belt must have a latch that is accessible in two different circumstances: (1) When the seat belt is not being worn and is stowed, and (2) when it is being worn. The latch must also release the lap belt and shoulder belt at a single point by a pushbutton action.

Law enforcement agencies in the United States typically use modified versions of conventional passenger cars and light trucks for patrol and other duties. These vehicles are certified by their original manufacturers as meeting the requirements of all applicable Federal motor vehicle safety standards. Although these vehicles are modified to meet the general needs of use in law enforcement, they are often subject to further modifications after they are purchased and before they are put into service. Typical modifications include the installation of a partition or barrier between the front and rear seats and replacement of the original rear seats with seats specifically designed for prisoner transport. Seats for prisoner transport must be resistant to damage by the occupant and should be designed so that they may be easily cleaned and disinfected if they become soiled with bodily fluids or other human effluents. As a result, standard rear seats in police vehicles may be removed and replaced with seats made from hard, damage resistant materials such as molded plastic or fiberglass. These seats are not only more damage resistant and easily disinfected, they also use less space inside the vehicle. Since the installation of a barrier between the front and rear seats may reduce space in the rear seat, the installation of specialized prisoner seating may provide greater room for rear seat occupants.

The installation of barriers and specialized seating systems may also require replacement of the safety belts originally supplied with the vehicle. The safety belts originally installed may be incompatible with the design of the prisoner transport seats. This may be because the prisoner transport seat places the occupant in a different position relative to the belts and belt anchorages installed during manufacture. The prisoner transport seat itself may, because of its geometry and design, change occupant dynamics in the event of a crash. In addition, barriers, which place an unyielding surface between the front and rear seats, may place a rear seat occupant in close proximity to a structure not in place when the original restraint system was designed. Under these circumstances, modification or replacement of the original belt system may be both necessary and desirable.

B. Petition for Rulemaking

Believing that the considerations governing the design of safety belts for use by prisoners being transported in police cars and other law enforcement vehicles are different from those applicable to safety belts for use by the general public, Laguna Manufacturing, Inc. submitted to NHTSA a petition for rulemaking requesting that Standard No. 208 be amended. Laguna sought an amendment that would provide greater flexibility to design safety belt systems that are better suited to limiting the movement of prisoners being transported in forward-facing rear outboard seating positions in these vehicles. That company argued that the requirement for an ELR is inappropriate for safety belt systems used by prisoners, since it allows too much slack, and thus too much freedom of movement, in non-emergency situations. This is because these retractors freely spool out webbing in those situations. Laguna stated that concerns about ELRs have led some police departments to refrain altogether from safety belting a prisoner and instead use a ''hog tie restraint'' and lay the prisoner down on the rear seat. As a result, the prisoner does not have any safety belt protection.

More specifically, Laguna requested that Standard No. 208 be amended to permit the use of a manual tightening system, instead of an ELR, for safety belts intended for use by prisoners. That company stated that such an amendment would afford the prisoner all of the crash protection provided by the standard for other occupants and only eliminate the necessity for providing a feature intended to provide comfort and convenience. Laguna argued that a prisoner who is handcuffed behind his/her back would be unable to fasten the safety belts. Therefore, in such a situation, a feature intended to provide comfort and convenience would not make the occupant more likely to fasten the safety belt. Laguna also noted that existing requirements in Standard No. 208 make the use of belts which fasten adjacent to the side of the vehicle, rather than near the center, difficult. Laguna argued that such belts would be desirable for police use. The company indicated that belts that fasten on the outside may be connected by an officer without requiring that the officer lean over or across a prisoner, thereby reducing the risk of injury to that officer by a violent prisoner.

In support of its petition, Laguna provided information about a special rear seat and safety belt system it has designed for police cars. The design includes two outboard integral lap and shoulder belt systems which use the same anchor point locations as conventional belt systems in the forward-facing rear outboard seats in current cars.

However, there are several significant differences between the Laguna belt system and a conventional safety belt system. First, the Laguna system includes a manual belt tightening system instead of an ELR. Second, the Laguna system uses two buckles instead of one. Third, the Laguna system reverses the permanent attachment points and the buckling points. The Laguna system is permanently attached at the anchorage where a conventional system is buckled and is buckled at the anchorages where the conventional system is permanently attached. The ends of the lap and shoulder belt portions of the conventional safety belt system are permanently attached to the outboard anchorages. The end of the lap

belt portion is permanently attached to the lower outboard anchorage and the end of shoulder belt portion is permanently attached to the upper outboard anchorage. The buckle is mounted at the anchorage near the center of the vehicle. As noted above, the permanent attachment points and buckling points are reversed for the Laguna system. The middle of the Laguna belt is permanently anchored at the anchorage near the center of the vehicle. The end of the lap belt portion buckles at the lower outboard anchorage and the end of the shoulder belt buckles at the upper outboard anchorage. When the belt is not in use, magnets attached to the lap and the shoulder belt portions of the Laguna belt are used to attach them to the steel safety cage used to separate the front and rear seats in police vehicles.

C. Notice of Proposed Rulemaking

After considering the issues raised by Laguna, NHTSA published a Notice of Proposed Rulemaking (NPRM) on June 13, 1995 (60 FR 31132) proposing that Standard No. 208 be amended to provide more flexibility with respect to the design and performance of safety belts installed at forward-facing rear outboard seating positions of law enforcement vehicles. The agency proposed two amendments: (1) That a manual tightening system, instead of an ELR, be permitted for those belts in law enforcement vehicles and (2) that safety belts installed at forward-facing rear outboard seating positions of these vehicles be excluded from a requirement that lap and shoulder belts must release at a single point. The agency also requested comments on requiring a warning label advising users of the rear seats that the belts must be tightened manually to provide a proper fit.

D. Public Comments

Comments were received in response to the June 13, 1995 NPRM from one prisoner seating manufacturer (AEDEC), fourteen law enforcement organizations, the Wisconsin Department of Transportation, the Chrysler Corporation and the Automotive Occupant Restraints Council (AORC). All but one of these commenters agreed with the agency's proposal to modify safety belt requirements for forward-facing rear outboard seating positions in law enforcement vehicles. In response to the agency's request for comments on labels, six commenters recommended that some type of label should be visible to non-prisoner occupants in the rear seating positions to remind them to manually tighten safety belts that are not equipped with retractors. The remaining commenters either opposed labeling or offered no comment.

The affirmative commenters generally agreed with the modifications presented in the NPRM. Three law enforcement organizations indicated that they transport prisoners in the front seat. One of these organizations recommended extending the applicability of the amendments to the front outboard passenger seating position. The Wisconsin Department of Transportation stated that the law enforcement agency should assume control of requiring re-installation of the original belts when a used law enforcement vehicle is sold to the general public. However, the Tennessee Department of Safety disagrees with requiring re-installation of the original belts. That Department claimed that re-installation could create a tremendous expense.

One commenter, AEDEC International Inc. (a prisoner safety seat manufacturer) strongly opposed the NPRM. AEDEC stated its concern that proposed changes in the requirements would inadvertently and unnecessarily diminish existing protection for prisoners found in Standard No. 208. AEDEC argued that the idea of the restraint belt originating from the center of the seat and extending to the outboard side of the seating position is old technology and had been long discarded for more workable arrangements similar to its own system, which uses a shoulder belt, but not a lap belt. As is the case with the system described by Laguna in its petition, the AEDEC system does not meet Standard No. 208. AEDEC also indicated that the proposals in the NPRM were narrow in scope and could be construed to be product specific, exclude competitive products and endorse outdated technology. AEDEC also stated that the proposed changes overlooked hazards to handcuffed prisoners seated in a conventional fashion. The company noted that seated prisoner restrained in the manner proposed by the amendments would have the handcuff of the prisoner's rearwardly cuffed hands exposed to the hard fiberglass seat. Prisoners seated in this fashion have, according to AEDEC, regularly sustained damage to the wrist. AEDEC recommended a two-year innovation period that would grant greater latitude to the law enforcement community in their use of rear seat prisoner restraints as well as an in-depth study of prisoner seating and restraints. If such a study is not undertaken, AEDEC urged that amendments be adopted allowing use of a retractor or a manual adjusting device or a combination of the two. In addition, AEDEC advocated allowance of a belt assembly consisting of a shoulder belt only and stated that consideration be given to measures to retard lateral movement of prisoners and provide relief for the pressure of the handcuff against the wrist.

II. Analysis of Public Comments

As noted above, AEDEC offered several comments voicing concern about the proposal contained in the NPRM. The company argued that the proposed amendments both endorsed outdated technology and were design specific. While AEDEC did not provide specific information on how adoption of the proposed rule embraced the use of outdated technology, NHTSA has concluded that the benefits of allowing greater design flexibility for prisoner safety belts outweigh any disadvantages. Elimination of the requirement that safety belts have retractors and allowing the use of manual adjusters could be said to be a technological step backward in the context of ordinary passenger cars. However, in the case of prisoner transport, a handcuffed occupant is unable to fasten a belt and would have to have a safety belt fastened and adjusted by another person. The handcuffed occupant is not going to be deterred from using a safety belt because it must be manually adjusted or must be fastened in two places. Similarly, accessibility of the latch mechanism is of lesser concern than is the case in other vehicles because the latch location is not as critical to the occupant's use of the safety belt. AEDEC also contended that the proposed rule was unduly design specific and would limit competing products and systems. NHTSA notes that the proposal and the final rule both allow the use of either manual adjustment or retractors on safety belts for police vehicles. In addition, the final rule also allows different latch designs to be used. NHTSA has concluded that this provides manufacturers with greater flexibility, not less, and is certainly less design specific than previous requirements.

AEDEC also contends that the proposed amendments, which retain existing requirements for Type 2 belts rather than allowing the use of a shoulder belt without a lap belt (a design used in AEDEC's product), are also design specific, favor the Laguna design, and increase the risk of handcuff induced injuries to seated prisoners. NHTSA has concluded that employment of a shoulder belt alone, rather than a lap and shoulder belt, might very well increase the risk of injury to seated

prisoners in the event of a crash. Prisoner transport seats are generally hard and unyielding. In comparison to upholstered seats, these seats increase the chance that an occupant may move both laterally and forward (i.e., submarining) in the event of a crash. Given the fact that an occupant moving forward is likely to contact the hard and stiff barrier between the front and rear seats, NHTSA concludes that elimination of the lap belt requirement would result in an increased risk of injury. While retention of the lap belt requirement may favor designs employing such belts, the agency concludes that such designs decrease the risk of injuries in the event of crash.

AEDEC also raised concerns regarding an injury mechanism known as handcuff neuropathy. Handcuff neuropathy apparently occurs when handcuffs are tightened to an extent that the peripheral nerves of the wrist are damaged. AEDEC argued that safety belts that hold a prisoner tightly against a rigid seatback when the prisoner's hands are secured behind his back by handcuffs may result in an increased risk of handcuff neuropathy. The agency has concluded, however, that the risk of handcuff neuropathy may not be properly addressed by safety belt design. Review of medical literature submitted by AEDEC indicates that handcuff neuropathy results from over-tightening of handcuffs rather than the use of safety belts to restrain a handcuffed prisoner in a vehicle. The agency also concludes that countermeasures for any such risk may be employed without requiring or allowing loose fitting safety belts. AEDEC itself has attempted to address this concern by molding the hard plastic seat of its prisoner transport system with recesses for the prisoner's arms.

AEDEC also urged the agency to conduct a two year study of prisoner restraints and transport and consider the adoption of a separate safety standard for prisoner restraints. NHTSA notes that such a study and the promulgation of an entirely new safety standard, are well beyond the scope of the proposal contained in the NPRM. The agency does, however, agree with AEDEC's suggestion that in lieu of conducting a study of prisoner transport restraint systems that manufacturers be given an opportunity to evaluate new designs. The amendments NHTSA is adopting in this final rule will provide manufacturers with an opportunity to innovate.

Six commenters, (Rhode Island State Police, Missouri State Highway Patrol, Pennsylvania State Police, Washington State Patrol, Tennessee Department of Safety, and the Illinois State Police), advocated that the agency require a warning label advising users of a rear outboard seat equipped with a manually adjusted belt that the belts must be tightened after they are fastened. The agency concurs with any reasonable measure that will promote belt use. NHTSA has concluded in this instance, however, that such warning labels would be superfluous. Prisoners being transported are regularly restrained for their own protection and the protection of the officers transporting them. In the case of non-prisoners who use the seating systems, NHTSA observes that one commenter indicated that such labels would not be necessary since proper operation of the belt systems could be addressed through internal policies and training. NHTSA has concluded that in those cases where belts used for prisoner transport are not equipped with retractors, the characteristics of these belts, which will differ markedly from standard safety belts, will be obvious to non-prisoner occupants. In view of these circumstances, the agency concludes that requiring a warning label for rear seat passengers, advising them to manually tighten belts equipped with manual adjusters, is unnecessary.

Two commenters, the Wisconsin Department of Transportation (DOT) and the Tennessee Department of Safety, took differing positions on whether law enforcement agencies should be required to re-install the original equipment belts prior to sale of a law enforcement vehicle. Wisconsin DOT argued that such re-installation should be required, while the Tennessee Department of Safety disagrees with requiring re-installation of the original belts. NHTSA strongly believes that any law enforcement vehicle should have its original restraint system re-installed prior to sale for civilian use. However, the agency does not have the authority to require law enforcement agencies to re-install the original restraint system.

III. Final Rule

As noted above, with the adoption of this final rule, NHTSA is amending Standard No. 208 as it applies to law enforcement vehicles to permit safety belts in such vehicles to be equipped with manual adjustment devices instead of emergency locking retractors, and excluding them from requirements for the accessibility of belt latch plates, the simultaneous release of the lap and shoulder belt portions of a lap and shoulder belt, and the release of the latch mechanism at a single point. The amendments will enhance safety for both law enforcement officers and prisoners. NHTSA believes that a restrained prisoner should be afforded the same or similar crash protection as non-prisoners. Modified seating and belt systems can increase law enforcement officer safety by reducing the need to reach across the prisoner to fasten the safety belt. These seating and belt systems will increase belt usage for prisoners.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be ''non-significant'' under the Department of Transportation's regulatory policies and procedures. The amendments will not impose any new requirements but simply remove a restriction. There would be slight cost savings, on the order of $5.00 or less per belt system, associated with not being required to provide an emergency locking retractor. For the Laguna system, these cost savings would be offset by the costs associated with some of the special features of its belt system, i.e., the extra buckle and the magnets. NHTSA notes, however, that these special features would not be required by the standard. Therefore, the impacts of the amendments will be so minor that a full regulatory evaluation is not required.

B. Regulatory Flexibility Act

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. The final rule primarily affects motor vehicle manufacturers, since the majority of NHTSA Federal Motor Vehicle Safety Standards apply to motor vehicles rather than to motor vehicle equipment. Almost all motor vehicle manufacturers do not qualify as small businesses.

The Small Business Administration's regulations define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)) SBA's size standards are organized according to Standard Industrial Classification Codes (SIC). SIC Code 3714 ''Motor Vehicle Parts and Accessories'' has a small business size standard of 750 employees or fewer.

The agency notes that there are several manufacturers of equipment for police and emergency vehicles with fewer than 750 employees. The principal impact of the amendments contained in this final rule is to allow the installation of specialized prisoner restraint systems in emergency vehicles prior to the sale of the vehicle to the first purchaser for purposes other than resale. This provides the opportunity for the manufacturers to sell these systems to vehicle manufacturers or dealers rather than directly to end users. As the rule does not impose any new burdens on manufacturers of prisoner restraint systems and allows greater opportunities, the economic effect for these small businesses would be beneficial.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this rule.

D. National Environmental Policy Act

NHTSA has also analyzed this rule under the National Environmental Policy Act and determined that it does not have a significant impact on the human environment.

E. Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that the rule does not have significant federalism implications to warrant the preparation of a Federalism Assessment.

F. Civil Justice Reform

This rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 of title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by revising sections S7, S7.1.1.2, S7.1.1.3 and S7.2 to read as follows:

§ 571.208 Standard No. 208, Occupant Crash Protection.

* * * * *

S7. Seat belt assembly requirements. As used in this section, a law enforcement vehicle means any vehicle manufactured primarily for use by the United States or by a State or local government for police or other law enforcement purposes.

* * * * *

S7.1.1.2 (a) A seat belt assembly installed in a motor vehicle other than a forward control vehicle at any designated seating position other than the outboard positions of the front and second seats shall adjust either by a retractor as specified in S7.1.1 or by a manual adjusting device that conforms to § 571.209.

(b) A seat belt assembly installed in a forward control vehicle at any designated seating position other than the front outboard seating positions shall adjust either by a retractor as specified in S7.1.1 or by a manual adjusting device that conforms to § 571.209.

(c) A seat belt assembly installed in a forward-facing rear outboard seating position in a law enforcement vehicle shall adjust either by a retractor as specified in S7.1.1 or by a manual adjusting device that conforms to § 571.209.

S7.1.1.3 A Type 1 lap belt or the lap belt portion of any Type 2 seat belt assembly installed at any forward-facing outboard designated seating position of a vehicle with a gross vehicle weight rating of 10,000 pounds or less to comply with a requirement of this standard, except walk-in van-type vehicles and school buses, and except in rear seating positions in law enforcement vehicles, shall meet the requirements of S7.1 by means of an emergency locking retractor that conforms to Standard No. 209 (49 CFR 571.209).

* * * * *

S7.2 Latch mechanism. Except as provided in S7.2(e), each seat belt assembly installed in any vehicle shall have a latch mechanism that complies with the requirements specified in S7.2(a) through (d).

(a) The components of the latch mechanism shall be accessible to a seated occupant in both the stowed and operational positions;

(b) The latch mechanism shall release both the upper torso restraint and the lap belt simultaneously, if the assembly has a lap belt and an upper torso restraint that require unlatching for release of the occupant;

(c) The latch mechanism shall release at a single point; and;

(d) The latch mechanism shall release by a pushbutton action.

(e) The requirements of S7.2 do not apply to any automatic belt assembly. The requirements specified in S7.2(a) through (c) do not apply to any safety belt assembly installed at a forward-facing rear outboard seating position in a law enforcement vehicle.

* * * * *

Issued on: January 29, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–1785 Filed 1–23–98; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 63, No. 16
Monday, January 26, 1998

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part(s) 1001, 1002, 1004, 1005, 1006, 1007, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1106, 1124, 1126, 1131, 1134, 1135, 1137, 1138, and 1139.

[Docket No. AO–14–A68, et al.; DA–98–01]

Milk in the New England and Other Marketing Areas; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR part	Marketing area	AO Nos.
1001	New England	AO–14–A68
1002	New York-New Jersey	AO–71–A83
1004	Middle Atlantic	AO–160–A72
1005	Carolina	AO–388–A10
1006	Upper Florida	AO–356–A33
1007	Southeast	AO–366–A39
1012	Tampa Bay	AO–347–A36
1013	Southeastern Florida	AO–286–A43
1030	Chicago Regional	AO–361–A33
1032	Southern Illinois-Eastern Missouri	AO–313–A42
1033	Ohio Valley	AO–166–A66
1036	Eastern Ohio-Western Pennsylvania	AO–179–A60
1040	Southern Michigan	AO–225–A47
1044	Michigan Upper Peninsula	AO–299–A30
1046	Louisville-Lexington-Evansville	AO–123-A68
1049	Indiana	AO–319–A43
1050	Central Illinois	AO–355–A30
1064	Greater Kansas City	AO–23–A63
1065	Nebraska-Western Iowa	AO–86–A52
1068	Upper Midwest	AO–178–A50
1076	Eastern South Dakota	AO–260–A34
1079	Iowa	AO–295–A46
1106	Southwest Plains	AO–210–A56
1124	Pacific Northwest	AO–368–A26
1126	Texas	AO–231–A64
1131	Central Arizona	AO–271–A34
1134	Western Colorado	AO–301–A25
1135	Southwestern Idaho-Eastern Oregon	AO–380–A16
1137	Eastern Colorado	AO–326–A29
1138	New Mexico-West Texas	AO–335–A40
1139	Great Basin	AO–309–A34

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: A public hearing is being held in response to industry requests to consider flooring the level of the basic formula price for the purpose of determining Class I and Class II prices through December 1998. Mid-America Dairymen, Inc., the proponent of the proposed amendment, has requested

that this issue be handled on an emergency basis.

DATES: The hearing will convene at 9:30 a.m. on February 17, 1998.

ADDRESSES: The hearing will be held at the Jefferson Auditorium, South Agriculture Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Order Formulation Branch, USDA/AMS/Dairy Division, Room 2971, South Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 720–2357, e-mail address Connie__M__Brenner@usda.gov.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

Notice is hereby given of a public hearing to be held at the Jefferson Auditorium, South Agriculture Building, 1400 Independence Avenue S.W., Washington, D.C. 20250, beginning at 9:30 a.m., on Tuesday, February 17, 1998, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the New England and other marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed flooring of the basic formula price, with the proposed amendments set forth hereinafter, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders. In addition to considering the specific proposal submitted by Mid-America Dairymen, Inc. (now part of Dairy Farmers of America), testimony should be addressed as to whether the $13.50 level proposed or some alternative level would be more appropriate.

The proposed amendment, if adopted through December 1998, should be considered an interim action because the entire pricing structure of the Federal milk order program is under consideration as part of the Federal order reform process required by the 1996 Farm Bill.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to the proposal. Since this proposal will be heard on an urgent basis, it is necessary to provide interested parties with less than 15 days notice of the public hearing to ensure that the proposed amendments, if found to be appropriate, will be effective as soon as possible.

Initial Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service (AMS) has considered the economic impact of the proposed amendment on small entities and has prepared this initial regulatory flexibility analysis. The RFA provides that when preparing such analysis an agency shall address: the reasons, objectives, and legal basis for the anticipated proposed rule; the kind and number of small entities which would be affected; the projected recordkeeping, reporting, and other requirements; and federal rules which may duplicate, overlap, or conflict with the proposed rule. Finally, any significant alternatives to the proposal should be addressed. This initial regulatory flexibility analysis considers these points and the impact of this proposed regulation on small entities.

The cooperative association requesting the hearing observes that per capita milk production is declining in many states with the greatest declines in areas with high Class I utilization, that the number of dairy farms continues to decline at a rapid rate, and the milk-feed price relationships have dropped dramatically. The cooperative states that the price floor is needed to maintain productive capacity sufficient to meet current and anticipated future needs of milk for Class I and Class II uses.

After receiving a hearing request and determining that the proposed amendment would not violate the provisions of the Act and that the issues raised for consideration warrant a public hearing, AMS is authorized to hold a public hearing to consider adoption of the proposed amendment.

This Act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Act, a dairy farm is a ''small business'' if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. For the purposes of determining which dairy farms are ''small businesses,'' the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

USDA has identified as small businesses approximately 80,000 of the 83,000 dairy producers (farmers) that have their milk pooled under a Federal order. Thus, small businesses represent approximately 96 percent of the dairy farmers in the United States. On the processing side, there are over 1,200 plants associated with Federal orders, and of these plants, approximately 700 qualify as ''small businesses,'' representing about 55 percent of the total.

During August 1997, there were 524 fully regulated handlers, 134 partially regulated handlers and 111 producer-handlers submitting reports under the Federal milk marketing order program. This volume of milk pooled under Federal orders represents 69 percent of all milk marketed in the U.S. and 72 percent of the milk of bottling quality (Grade A) sold in the country. Producer deliveries of milk used in Class I products (mainly fluid milk products) totaled 45.5 billion pounds—43.5 percent of total Federal order producer deliveries. More than 200 million Americans reside in Federal order marketing areas—77 percent of the total U.S. population.

In order to accomplish the goal of imposing no additional regulatory burdens on the industry, a review of the current reporting requirements was completed pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). In light of this review, it was determined that this proposed amendment would have little or no impact on reporting, recordkeeping, or other compliance requirements because these would remain identical to the current Federal order program. No new forms have been proposed, and no additional reporting would be necessary.

This notice does not require additional information collection that requires clearance by the OMB beyond the currently approved information collection. The primary sources of data used to complete the forms are routinely

used in most business transactions. Forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small. Requiring the same reports for all handlers does not significantly disadvantage any handler that is smaller than industry average.

No other burdens are expected to fall upon the dairy industry as a result of overlapping Federal rules. This proposed rulemaking does not duplicate, overlap or conflict with any existing Federal rules.

To ensure that small businesses are not unduly or disproportionately burdened based on this proposed amendment, consideration was given to mitigating negative impacts. Flooring the BFP should not have any special impact on small handler entities. Handlers similarly located would be subject to the same minimum Class I prices, regardless of the size of their operations, and all handlers would be subject to the same minimum prices for Class II milk. Such handlers would also be subject to the same minimum prices to be paid to producers. These features of minimum pricing should not raise barriers to the ability of small handlers to compete in the marketplace. It is similarly expected that small producers would not experience any particular disadvantage to larger producers as a result of this proposed amendment.

Interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Preliminary Cost-Benefit Analysis

To help fulfill the objectives of a Regulatory Impact Analysis, a preliminary cost-benefit analysis follows:

The BFP is used as the basis for establishing class prices paid by handlers for milk in all Federal order markets and varies month-to-month depending on market conditions for milk and milk products. The BFP is the average price paid for manufacturing grade (Grade B) milk in Minnesota and Wisconsin in the base month updated to the current month with a cheese-butter-nonfat dry milk product price formula. The Class I price is the BFP plus a Class I price differential that reflects the added value needed to attract milk to fluid milk processing plants, as well as the additional costs of producing and marketing milk for fluid use. As a result, Class I prices vary among markets, being generally higher in southern markets and lower in midwestern markets. The Class II price, like the Class I price, is based on the BFP with a differential of only thirty cents in all orders. The result of establishing a floor under the BFP for purposes of computing the Class I and II prices would be to maintain these prices at a level they otherwise might not reach.

Dairy producers are expected to fare about the same in 1998 as they did in 1997, according to recent estimates of the Dairy Interagency Commodity Estimates Committee (ICEC). The 1998 all-milk price was projected in November 1997 to be slightly lower than the 1997 all-milk price; $13.10 per hundredweight in 1998 compared with $13.35 in 1997. This preliminary analysis was based on the $13.10 estimate. However, the 1998 estimate was updated in January 1998 to $13.35. As a result, the actual impact of a floor under the BFP could be expected to be less than shown in this preliminary analysis. Further analysis will be based on more recent price estimates.

A BFP floor for computing Class I and II prices would apply only to the 70 percent of the milk marketed in the United States that is marketed under Federal milk orders. USDA's preliminary analysis indicated that flooring Class I and Class II prices with a $13.50 minimum BFP would increase the U.S. all-milk price by $0.40 to $0.50 per hundredweight. Prices to producers delivering to Federal order markets could increase by an average of $0.60 to $0.75 per hundredweight.

Producers delivering to markets with higher Class I use, such as the three Florida markets and the Southeast market, would benefit more (as much as $1.10–$1.30 per hundredweight) than those delivering to markets with lower Class I utilization. The attached table provides estimates of change in the all-milk prices for all Federal order markets, assuming BFP floors of $13.50 and $12.83 per hundredweight (the October 1997 BFP).

CHANGE IN THE ALL-MILK PRICE.—ALTERNATIVES FLOORING BFP AT $13.50 OR $12.83 FOR CLASS I AND CLASS II PRICING CALENDAR YEAR 1998

Marketing area	Change in all-milk price per hundredweight	
	$13.50 Floor	$12.83 Floor
New England	$0.20	$0.11
New York-New Jersey	.74	.40
Middle Atlantic	.81	.45
Carolina	1.28	.70
Louis.-Lex.-Evans	1.22	.67
Southeast	1.21	.66
Upper Florida	1.18	.64
Tampa Bay	1.28	.70
Southeastern Florida	1.30	.71
Michigan Upper Peninsula	1.13	.62
Southern Michigan	.90	.49
E. Ohio—W. Pennsylvania	.88	.48
Ohio Valley	1.14	.63
Indiana	1.20	.66
Chicago Regional	.29	.16
Upper Midwest	.26	.14
Iowa	.50	.27
Nebraska-Western Iowa	.64	.35
Eastern South Dakota	.93	.51
Central Illinois	1.09	.60
S. Illinois-E. Missouri	1.05	.57

CHANGE IN THE ALL-MILK PRICE.—ALTERNATIVES FLOORING BFP AT $13.50 OR $12.83 FOR CLASS I AND CLASS II PRICING CALENDAR YEAR 1998—Continued

Marketing area	Change in all-milk price per hundredweight	
	$13.50 Floor	$12.83 Floor
Southwest Plains	.75	.41
Eastern Colorado	.72	.39
Greater Kansas City	1.10	.60
Texas	.89	.48
New Mexico-West Texas	.42	.23
Southwestern Idaho-E. Oregon	.11	.06
Great Basin	.60	.33
Western Colorado	1.23	.67
Central Arizona	.65	.35
Pacific Northwest	.42	.23
Federal Order Average	.65–.75	.35–.45

In addition to increasing income to dairy producers, adoption of a BFP floor would also result in increased prices of fluid milk products to consumers. Increased Class I milk prices would be reflected in retail prices for fluid milk, which may result in reduced per capita consumption and an increase in total consumer expenditures for dairy products.

Legislative and Background Requirements

The amendments to the rules proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have a retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Request for Public Input

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with 6 copies of such exhibits for the Official Record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

List of Subjects in 7 CFR Parts 1001 through 1139

Milk marketing orders.

The authority citation for 7 CFR Parts 1001 through 1139 continues to read as follows:

Authority: 7 U.S.C. 601–674.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Mid-America Dairymen, Inc.:

Proposal No. 1: Through December 1998, amend the introductory text of § ____.51 of 7 CFR Parts 1001 through 1139 to read as follows:

§ ____.51 Basic formula price.

* * * For the purpose of computing the Class I and Class II prices, the resulting price shall be not less than $13.50.

* * * * *

Proposed by Dairy Programs, Agricultural Marketing Service:

Proposal No. 2: Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto, that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrator of each of the aforesaid marketing areas, or from the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisionmaking process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture

Office of the Administrator, Agricultural Marketing Service

Office of the General Counsel

Dairy Programs, Agricultural Marketing Service (Washington office) and the Offices of all Market Administrators.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Dated: January 21, 1998.

Enrique E. Figueroa,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 98–1813 Filed 1–23–98; 8:45 am]

BILLING CODE 3410–02–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 54 and 79

[Docket No. 97–093–1]

RIN 0579–AA90

Interstate Movement of Sheep and Goats From States That Do Not Quarantine Scrapie Infected and Source Flocks

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: We are soliciting public comment to help us develop options for potential changes to our regulations for the interstate movement of sheep and goats. We believe changes may be necessary to improve control and limit the spread of scrapie, a serious disease of sheep and goats. After evaluating public comment on the issues presented in this notice, we will determine whether proposing changes to our regulations is necessary.

DATES: Consideration will be given only to comments received on or before March 27, 1998.

ADDRESSES: Comments may be submitted as paper copies or through the World Wide Web. If you submit paper copies, please send an original and three copies of your comments to Docket No. 97–093–1, 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. 97–093–1. We encourage the submission of copies through the World Wide Web, since this both facilitates our analysis of the comments and allows us to make the text of comments available to the public via the Internet. The Web page address for comments on this proposed rule is http://www.aphis.usda.gov/ppd/scrapie. This Web page also contains copies of the proposed rule in several formats and links to related information. Please be sure to include your full name and organization in any comments you submit via the Web. If your Web comment is a duplicate of a paper copy you have submitted, please state this in the first line of your Web message. Both paper and Web comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph VanTiem, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737–1231, (301) 734–7716.

SUPPLEMENTARY INFORMATION:

Background

Scrapie is a degenerative and eventually fatal disease affecting the central nervous systems of sheep and goats. Its control is complicated because the disease often has an extremely long incubation period without clinical signs of disease, and because there is no validated live-animal test for the disease.

Scrapie is the prototype of the group of diseases known as the transmissible spongiform encephalopathies (TSEs). These diseases are caused by a transmissible agent which is yet to be fully characterized. TSEs share the following common characteristics:

- A prolonged incubation period of months or years;
- A progressive debilitating neurological illness that is always fatal;
- When examined by electron microscopy, detergent treated extracts of brain tissue from animals or humans affected by these diseases reveal the presence of scrapie associated fibrils;
- Pathological changes are confined to the central nervous system and include vacuolation, astrocytosis, and glyosis. Amyloid plaques may be seen, especially in mice and hamsters; and
- The transmissible agent elicits no detectable specific immune response in the host.

Several recent scientific findings are relevant to the understanding and control of scrapie. While there is still no validated live animal test for scrapie, a recent study conducted in The Netherlands (Schreuder *et al.*, 1996) indicates that immunohistochemical analysis of tonsil samples may be useful in detecting scrapie in sheep prior to the onset of clinical signs. The Animal and Plant Health Inspection Service (APHIS) is currently completing a pilot study to harvest various tissues (tonsil, head lymph nodes, and brain) from mature sheep at slaughter and then test them using immunohistochemistry to ascertain if the partially protease-resistant form of the prion protein (PrPsc—the protein associated with scrapie) may be routinely detected in the preclinical animal. If this proves to be an effective method of surveillance, it may prove useful as a screening tool and facilitate tracebacks to infected flocks.

In addition to the possibility that a validated live-animal test for scrapie may be developed, genetic studies have yielded a greater understanding of the role of specific genes in determining the incubation period of scrapie in sheep. However, there is still much to be determined about the role of genetics in scrapie susceptibility. A key question is whether certain genotypes fully prevent scrapie infection, or merely protect against clinical manifestation in an animal while possibly allowing the animal to serve as a carrier of scrapie.

While these advances may come to significantly affect the control of scrapie, current control programs rely largely on postmortem diagnosis of scrapie, traceback of animal movements, and certification of flocks' scrapie status based on monitoring the flock for scrapie over a period of years.

Current APHIS initiatives concerning scrapie include interstate movement regulations in 9 CFR part 79, which restrict the interstate movement of certain sheep and goats in order to help control the spread of scrapie, and the Voluntary Scrapie Flock Certification Program (the Voluntary Program), described in regulations in 9 CFR part 54 and in a program standards document entitled ''Uniform Methods and Rules—Voluntary Scrapie Flock Certification'' (UM&R), which is available at http://www.aphis.usda.gov/vs/scrapie/umr. A hard-copy of the UM&R may be obtained by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**.

APHIS worked with industry to develop the Voluntary Program, under which participating flocks follow strict identification, recordkeeping and other requirements and may eventually be certified free from scrapie. If a flock that is participating in the Voluntary Program is identified as an infected flock or source flock, it is removed from the program until the flock completes a flock plan. The flock plan calls for an epidemiologic investigation to remove high-risk animals from the flock and includes other conditions, such as cleaning and disinfection of flock premises, educating flock personnel in techniques to recognize clinical signs of scrapie and control its spread, and maintaining records of animals in the flock.

The regulations in part 79 also restrict the interstate movement of scrapie-positive sheep and goats, and sheep and goats from scrapie infected and source flocks. The regulations impose minimal restrictions on the interstate movement

of animals [1] under 1 year of age destined for slaughter and animals marked on the jaw with a 1-inch letter ''S.'' Other animals from scrapie infected and source flocks may be moved interstate under requirements that limit the further spread of scrapie and make it feasible to trace back the movements of animals that are later diagnosed with scrapie. These requirements include:

- The owner of the flock or his or her agent has signed an agreement with the Administrator in which the owner of the flock or his or her agent agrees to comply with the requirements of 9 CFR 79.2 until the time the flock is no longer an infected flock or source flock.
- The owner of the flock or his or her agent shall immediately report to a State representative, APHIS representative, or an accredited veterinarian any animals in the flock exhibiting the following: weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high stepping gait of forelimbs, bunny hop movement of rear legs, swaying of back end; increased sensitivity to noise and sudden movement; tremor, ''star gazing,'' head pressing, recumbency, or other signs of neurological disease or chronic wasting illness. Such animals must not be removed from the flock without written permission of an APHIS representative or State representative.
- The owner of the flock or his or her agent shall identify all animals 1 year of age or over within the flock. All animals less than 1 year of age will be identified when a change of ownership occurs, with the exception of those moving within slaughter channels. The form of identification shall be an electronic implant, flank tattoo, or ear tattoo, providing a unique identification number that may be applied by the owner of the flock or his or her agent in accordance with instructions by an APHIS representative, State representative, or an accredited veterinarian.
- The owner of the flock or his or her agent shall maintain, and keep for a minimum of 5 years after an animal dies or is otherwise removed from a flock, the following records for each animal in the flock: The animal's individual identification number from its electronic implant, flank tattoo, or ear tattoo, and any secondary form of identification the owner of the flock may choose to maintain; sex; breed; date of acquisition and source (previous flock), if the animal was not born in the flock; and disposition, including the date and cause of death, if known, or date of removal from the flock.
- The owner of the flock or his or her agent shall allow breed associations and registries, livestock markets, and packers to disclose records to APHIS representatives or State representatives, to be used to trace source flocks and expose animals.
- The owner of the flock or his or her agent shall make animals in the flock and records required to be kept under paragraph (a)(2)(iv) of 9 CFR 79.2 available for inspection by APHIS representatives and State representatives, given reasonable prior notice.
- Upon request of an APHIS representative, the owner of the flock or his or her agent will have an accredited veterinarian collect and submit tissues from animals reported in accordance with paragraph (a)(2)(ii) of 9 CFR 79.2 to a laboratory designated by an APHIS representative.

However, part 79 applies only when flock owners wish to move sheep interstate. Part 79 does not restrict the *intrastate* movement of animals from infected and source flocks, and such movement may spread scrapie to other animals in a State. If these other animals, which are not subject to the restrictions in part 79, then move interstate, scrapie could be spread interstate.

Therefore, there is a risk that scrapie infection that originated in an infected or source flock could spread interstate despite part 79. This risk is very low where State authorities have imposed quarantines on infected and source flocks that keep animals in these flocks from contact with other animals. The risk is higher in States that do not quarantine scrapie infected and source flocks.

APHIS does not have statutory authority to require intrastate movement restrictions for sheep and goats (unless the Secretary has declared an extraordinary emergency). However, APHIS does have statutory authority to restrict the interstate movement of animals from a State if intrastate movement practices result in a threat of spreading disease interstate. We are seeking public input on whether and how APHIS should restrict the interstate movement of animals from States that do not quarantine infected and source flocks.

We are examining current interstate movement restrictions both to ensure effective domestic control of scrapie and to ensure that our domestic interstate restrictions are consistent with our requirements for importing sheep and goats. The World Trade Organization principles of ''national treatment'' and ''transparency'' state that regulations shall be applied without discrimination between domestic and imported consignments, and that countries shall make available to trading partners the rationale of their requirements. Our current regulations for importing sheep and goats use equivalency with the Voluntary Program to qualify certain animals for import (see 9 CFR 93.435), and we wish to ensure consistency between our import requirements and our interstate movement requirements.

We believe the interstate movement restrictions and the definition of ''flock plan'' in part 79 provide a good model for how an infected or source flock may be effectively quarantined and managed until release from quarantine is justified. One possible approach to controlling the intrastate contact risks described above would be to amend part 79 to prohibit or restrict movement of animals from a State unless the State quarantines infected and source flocks in a manner that is equivalent to the methods employed by part 79. However, commenters may well suggest other approaches to revising part 79 to address the risks of intrastate movements from infected and source flocks.

In particular, we ask commenters to address the following areas that apply to possible State quarantine standards, the alignment of Federal interstate movement restrictions with State standards, and Voluntary Program standards:

- Should APHIS further restrict interstate movement of animals from States that do not consider scrapie a reportable disease or do not quarantine infected flocks or source flocks? If so, should restrictions focus on high-risk animals or on broader classes of animals? (A high-risk animal is defined in 9 CFR 79.1. In short, a high-risk animal is: (1) An animal that is the progeny of a scrapie-positive dam; (2) an animal born in the same flock during the same lambing season as progeny of a scrapie-positive dam, with certain exceptions outlined in the definition; or (3) an animal born during the same lambing season as a scrapie-positive ewe or ram in a source flock or trace flock.)
- Currently, part 79 does not restrict interstate movement of high-risk animals from flocks that are not infected flocks or are not source flocks. Should APHIS restrict such movements, and if so, how?
- Should APHIS define how a State must conduct a quarantine in order to avoid further restrictions on interstate movement of animals from that State? If so, how should APHIS describe the necessary quarantine conditions (*e.g.*, imposition of the quarantine; movement of animals into and from quarantined flocks; duration of the quarantine; identification requirements for quarantined animals, development and use of a flock plan; procedures for release from quarantine and follow-up monitoring)?
- Should any of the definitions in the interstate movement regulations in part 79 or the Voluntary Program in part 54 be revised to better address this problem (*e.g.*, the definitions of source flock, trace flock, and high-risk animal)?
- Should there be additional permit or official identification requirements for the interstate movement of any classes of sheep and goats to allow for a more effective national program for surveillance for scrapie and traceback of scrapie-positive animals?
- Currently APHIS makes the following information available on its World Wide Web

[1] Throughout this document, when the term ''animals'' is used, it refers only to sheep and goats.

site: The identity of scrapie infected flocks and source flocks designated under part 79, and the identity and certification status of flocks participating in the Voluntary Program. Should APHIS continue to provide this information on the Web?

• To assess the impacts of options regarding the interstate movement of sheep and goats, baseline estimates of costs and benefits are needed. What are the costs and benefits of the current system of part 79, State quarantine standards, and the Voluntary Program? For example, what costs are involved in complying with State quarantine programs and how large are these costs? Similarly, what are the costs to a flock owner who participates in the Voluntary Program?

We invite comments on these topics. We also welcome ideas as to different approaches we might take to improve our scrapie programs. In responding to the questions posed in this notice, commenters are urged to include economic reasons and data supporting their positions.

Whenever possible, please refer to specific terms, definitions, or procedures contained in the current regulations in 9 CFR parts 54 and 79, and in the program standards UM&R (available at http://www.aphis.usda.gov/vs/scrapie/umr). A hard-copy of the program standards UM&R may be obtained by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**. These resources should provide a common context for discussing suggested changes. You may also wish to refer to the Scrapie Flock Status Report on the APHIS Web, which lists the certification status of flocks in the Voluntary Program and identifies known infected and source flocks nationwide. This report is at http://www.aphis.usda.gov/vs/scrapie/status.html.

Authority: 21 U.S.C. 111–114, 114a, 115, 117, 120, 121, 123–126, 134a–134h; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 21st day of January 1998.

Thomas E. Walton,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–1810 Filed 1–21–98; 4:40 pm]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AE26

Industry Codes and Standards: Amended Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of public comment period on proposed rule.

SUMMARY: On December 3, 1997, (62 FR 63892) the NRC published for public comment a proposed rule to amend its regulations to incorporate by reference later editions and addenda of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code. The comment period for this proposed rule was to have expired on March 3, 1998. The Nuclear Energy Institute (NEI), on behalf of the nuclear energy industry, requested an extension of the comment period for the proposed revision. NEI stated that the comprehensive nature of this proposed rule will require a significant effort to collect and review comments from members of the industry. The NRC agrees that the proposed rule constitutes a significant revision to 10 CFR 50.55a. In order to ensure that the NRC receives comments from the parties most likely to be affected by the revision, the NRC has decided to extend the public comment period for an additional 30 days. The extended comment period now expires on April 3, 1998.

DATES: The comment period has been extended and now expires April 3, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. ATTN: Rulemaking and Adjudications Staff. Hand deliver comments to 11545 Rockville Pike, Rockville, Maryland, 20852, between 7:30 am and 4:15 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format), if your web browser supports that function. For information about the interactive website, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

Single copies of this proposed rulemaking may be obtained by written request or telefax to 301–415–2260 or from Frank C. Cherny, Division of Engineering Technology, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: 301–415–6786, or Wallace E. Norris, Division of Engineering Technology, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: 301–415–6796.

Certain documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents may also be viewed and downloaded via the interactive rulemaking website as established by NRC for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Frank C. Cherny, 301–415–6786.

Dated at Rockville, Maryland, this 14th day of January, 1998.

For the Nuclear Regulatory Commission.

L. Joseph Callan,

Executive Director for Operations.

[FR Doc. 98–1750 Filed 1–23–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–31]

Proposed Amendment to Class E Airspace; Daytona Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at Daytona beach, FL. A Global Positioning System (GPS) Runway (RWY) 6 (Special) Standard Instrument Approach Procedure (SIAP) has been developed for Spruce Creek Airport. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Spruce Creek Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

DATES: Comments must be received on or before February 25, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 97–ASO–31, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337; telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Airspace Branch, Air

Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTATRY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–ASO–31.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to amend Class E airspace at Daytona Beach, FL. A GPS RWY 6 (Special) SIAP has been developed for Spruce Creek Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at Spruce Creek Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with the publication of the SIAP. This amendment would also reflect the current name of the Daytona Beach Airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS, AIRWAYS, ROUTES, AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ASO FL E5 Daytona Beach, FL [Revised]

Daytona Beach International Airport, FL
(Lat. 29°10′52″ N, long. 81°03′21″ W)
Spruce Creek Airport, FL
(Lat. 29°04′49″ N, long. 81°02′48″ W)
Ormond Beach Municipal Airport, FL
(Lat. 29°18′04″ N, long. 81°06′50″ W)
Ormond Beach VORTAC
(Lat. 29°18′12″ N, long. 81°06′46″ W)

That airspace extending upward from 700 feet or more above the surface of the earth within a 10-mile radius of Daytona Beach International Airport, and within a 6.4-mile radius of Spruce Creek Airport, and within a 6.4-mile radius of Ormond Beach Municipal Airport, and within 3.2 miles each side of the Ormond Beach VORTAC 256° radial extending from the 6.4-mile radius to 7 miles west of the VORTAC.

* * * * *

Issued in College Park, Georgia, on December 18, 1997.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 98–1746 Filed 1–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–16]

Proposed Amendment to Class E Airspace; McCall, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the McCall, ID, Class E airspace. If amended, the proposal would provide the additional airspace necessary to fully encompass two new Standard Instrument Approach Procedures (SIAP) at McCall Airport, McCall, ID.

DATES: Comments must be received on or before March 12, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 97–ANM–16, 1601 Lind Avenue S.W., Renton, Washington 98055–4056.

The official docket may be examined in the Office of the Regional Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch at the address listed above.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 97–ANM–16, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–ANM–16.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue S.W., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) to amend Class E airspace at McCAll, ID. This amendment is necessary in order to fully contain a Global Positioning System (GPS) and a Non-directional Radio Beacon (NDB) SIAP within controlled airspace. The existing Class E airspace requires modification to fully incorporate the holding procedures for the new SIAP's. The modifications will add Class E airspace of approximately a 45 mile extension to the west, a 17 mile extension to the south, and smaller extensions to the north and east.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ANM ID E5 McCall, ID [Revised]

McCall Airport, ID
(Lat. 44°53′20″ N, long. 116°06′05″ W)
McCall NDB
(Lat. 44°48′20″ N, long. 116°06′08″ W)

That airspace extending upward from 700 feet above the surface within 4 miles west and 8 miles east of the 169° and 349° bearings from the McCall NDB extending from 16 miles south to 11 miles north of the NDB; that airspace extending upward from 1,200 feet above the surface within a line from lat. 44°12′00″ N, long. 116°06′00″ W; to lat. 45°05′00″ N, long. 117°28′00″ W; to lat. 45°15′00″ N, long. 117°19′00″ W; to lat. 45°05′30″ N, long. 115°52′00″ W; to lat. 44°16′00″ N, long. 115°40′00″ W; thence to the point of beginning, excluding Federal airways, La Grande and Baker City, OR, and Boise, ID, Class E airspace areas.

* * * * *

Issued in Seattle, Washington, on December 17, 1997.

Glenn A. Adams III,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 98–1745 Filed 1–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ANM–15]

Proposed Revocation of Class E Airspace; Blue Mesa, CO; and Establishment of Class E Airspace; Gunnison, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revoke the Class E airspace area at Blue Mesa, CO, and to establish a larger Class E airspace area in its place which would be designated the Gunnison, CO, Class E airspace area. A recent airspace review disclosed that the Blue Mesa Class E airspace area is incorrectly named for a navigational aid rather than for the airport served by the airspace. This is contrary to FAA policy. This proposal would, in effect, rename the Class E airspace area. This proposal, if adopted, would also increase the size of the Class E airspace area. The additional controlled airspace is necessary to accommodate a new Global Positioning System (GPS) standard instrument approach procedure (SIAP) serving the Gunnison County Airport, Gunnison, CO.

DATES: Comments must be received on or before March 12, 1998.

ADDRESSES: Send comments on the proposal to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 97–ANM–15, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The official docket may be examined in the office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 97–ANM–15, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–ANM–15.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW, Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations, part 71 (14 CFR part 71) to establish Class E airspace at Gunnison, CO. This amendment proposes to remove the existing Blue Mesa, CO, Class E airspace while establishing a larger and correctly named Gunnison, CO, Class E airspace. The establishment of the Gunnison, CO, airspace would add a 2 nautical mile 700-foot Class E area extension to the northeast, and modify 1200-foot Class E airspace to the south and the east of the existing Blue Mesa, CO, airspace. The extensions are necessary to meet the airspace criteria for aircraft transitioning between the terminal and en route environments, and to fully encompass a new GPS–B SIAP to the Gunnison County Airport. The FAA establishes Class E airspace extending upward from 700 feet above ground level (AGL) where necessary to contain aircraft transitioning between the terminal and en route environments. The intended effect of this proposal is to provide safe and efficient use of the navigable airspace and to promote safe flight operations under IFR at the Gunnison County Airport, and between the terminal and en route transition stages.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS, AIRWAYS, ROUTES, AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

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

* * * * *

ANM CO E5 Blue Mesa, CO [Removed]

* * * * *

ANM CO E5 Gunnison, CO [New]

Gunnison County Airport, CO
(Lat. 38°32′02″ N, long. 106°55′59″ W)

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at lat. 38°11′25″ N, long. 107°12′30″ W; to lat. 38°21′25″ N, long. 107°25′00″ W; to lat. 38°24′30″ N, long. 107°21′00″ W; to lat. 38°33′30″ N, long. 107°20′00″ W; to lat. 38°31′25″ N, long. 107°12′30″ W; to lat. 38°42′00″ N, long. 106°59′00″ W; to lat. 38°32′10″ N, long, 106°46′00″ W; thence to point of beginning; that airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 37°59′30″ N, long. 107°16′00″ W; to lat. 38°17′45″ N, long. 107°39′00″ W; to lat. 38°45′40″ N, long. 106°54′00″ W; to lat. 38°16′40″ N, long. 106°08′00″ W; to lat. 38°09′00″ N, long. 106°16′00″ W; to lat. 38°18′30″ N, long. 106°47′00″ W; thence to point of beginning.

* * * * *

Issued in Seattle, Washington, on November 24, 1997.

Glenn A. Adams III,

Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 98–1744 Filed 1–23–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–209322–82]

RIN 1545–AU99

Return of Partnership Income

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal of notice of proposed rulemaking; notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document withdraws the notice of proposed rulemaking relating to partnership returns. The proposed regulations were published in the **Federal Register** on January 23, 1986. These regulations revise the partnership filing requirement to reflect changes to the law made by the Taxpayer Relief Act of 1997 (TRA). All partnerships required to file partnership returns, including certain foreign partnerships, are affected by these regulations. This document also contains a notice of a public hearing on the proposed regulations.

DATES: Written comments must be received by April 27, 1998. Requests to speak and outlines of oral comments to be discussed at the public hearing scheduled for May 19, 1998, at 10 a.m. must be received by April 28, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–209322–82), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–209322–82), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option of the IRS Home Page, or by submitting comments directly to the IRS Internet site at: http://www.irs.ustreas.gov/prod/tax__regs/comments.html. The public hearing will be held in the IRS Auditorium, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Martin Schaffer or Christopher Kelley, 202–622–3080; concerning foreign partnerships, Ronald Gootzeit, 202–622–3860; concerning submissions and the hearing, Michael Slaughter, 202–622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC, 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224. Comments on the collection of information must be received by March 27, 1998. Comments are specifically requested on:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of the capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this proposed regulation is in § 1.6031(a)–1. This information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of income or gain or claiming the correct amount of losses, deductions, or credits from that taxpayer's interest in the partnership. The collection of information is mandatory. The likely respondents are businesses and other for-profit institutions.

The burden is reflected in the burden of Form 1065.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 6031 and 6063 of the Internal Revenue Code of 1986 (Code). These amendments are designed, in part, to reflect changes made to section 6031 by section 1141 of TRA, Public Law 105–34, 111 Stat. 788 (1997). Section 6031 contains rules regarding the filing of returns of partnership income (partnership returns).

On January 23, 1986, the IRS published in the **Federal Register** (51 FR 3075) proposed regulations under section 6031 of the Internal Revenue Code (existing proposed regulations). Section 1.6031–1 of the existing proposed regulations provides rules that, if finalized, would implement the partnership filing requirements of section 404 of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Public Law 97–248, 96 Stat. 669 (1982). Because section 1141 of TRA supersedes the partnership filing requirements of

section 404 of TEFRA, the IRS and Treasury consider it appropriate to reissue proposed regulations reflecting recent changes to the law, while giving taxpayers another opportunity to comment. Accordingly, this document withdraws § 1.6031–1 of the existing proposed regulations published in the **Federal Register** on January 23, 1986 (51 FR 3075). A partnership that has followed the rules contained in § 1.6031–1 of the existing final regulations for all taxable years prior to the taxable year for which these new regulations will become effective will be treated as fully complying with the partnership filing requirements with respect to such taxable years.

Section 6063 provides that a partnership return shall be signed by any one of the partners. The proposed regulations clarify who must sign a partnership return filed solely for the purpose of making certain partnership-level elections.

Explanation of Provisions

Filing Requirement

Section 6031(a) requires every partnership to file a partnership return. New section 6031(e), as added by section 1141 of TRA, exempts certain foreign partnerships from the filing requirement of section 6031(a). Section 6031(e) provides that a foreign partnership is not required to file a return for a tax year unless during that year it derives gross income from sources within the United States or has gross income that is effectively connected with the conduct of a trade or business within the United States. Further exceptions to the filing requirement for foreign partnerships may be provided by regulation.

The proposed regulations separately describe the filing requirements for domestic and foreign partnerships. In accordance with section 6031(a), the proposed regulations provide that, except in certain limited circumstances, every domestic partnership must file a partnership return.

Under section 6031 and the proposed regulations, a foreign partnership generally must file a partnership return only if it has either United States source income or income effectively connected (or treated as effectively connected) with the conduct of a trade or business within the United States. However, under the proposed regulations, a foreign partnership that has no gross income that is effectively connected with the conduct of a trade or business within the United States, and that would be required to file a partnership return only because it has gross income derived from sources within the United States, will be exempt from the requirement to file a partnership return if (i) no United States person has a direct or indirect interest in the partnership; (ii) the gross income derived from sources within the United States is either fixed or determinable annual or periodical income described in § 1.1441–2(b) or other amounts subject to withholding described in § 1.1441–2(c); (iii) Forms 1042 and 1042–S are filed with respect to all such gross income in accordance with § 1.1461–1 (b) and (c); and (iv) the tax liability of the partners with respect to such gross income has been fully satisfied by the withholding of tax at the source, if applicable, under chapter 3. The foreign partnership's obligation to file Forms 1042 and 1042–S is generally eliminated by the regulations under section 1461 published in the **Federal Register** on October 14, 1997 (62 FR 53387) if those returns are filed by the withholding agent (or agents) making the payments of United States source income to the partnership and the partners' tax liability with respect to United States source income has been fully satisfied by withholding. See § 1.1461–1 (b)(2) and (c)(4). The IRS and Treasury invite comments addressing other ways to reduce duplicative information filing.

Any domestic or foreign partnership that elects to be excluded from subchapter K of Chapter 1 of the Code under section 761(a) will not be required to file a partnership return, except that where a partnership makes an election under § 1.761–2(b)(2)(i), the partnership must timely file a partnership return that contains the information required by § 1.761–2(b)(2)(i) for the taxable year for which the election is made.

Failure to Meet Filing Requirement

If a partnership that is not a small partnership under section 6231(a)(1)(B) is required to file a partnership return under section 6031 but fails to do so, the period of limitations on assessment of tax attributable to items of that partnership remains open indefinitely under section 6229(a). The failure of a partnership to file a return required by section 6031 might also result in disallowance under section 6231(f) of the deductions, losses, and credits flowing through to the partners and could subject the partnership to penalties under section 6698 and/or section 7203.

Information To Be Furnished to Partners

Under section 6031(b), every partnership that is required by section 6031(a) to file a partnership return must furnish information to its partners as required by regulations. The rules governing partnership statements to partners and nominees are in § 1.6031(b)–1T.

Partnership Elections

A foreign partnership otherwise exempt from the filing requirement that wants to make a partnership-level election under section 703(b) must file a partnership return for the year of the election. The proposed regulations provide rules similar to those contained in § 1.7701–3(c)(2) of the entity classification regulations with respect to who has the authority to file such returns. Generally, the return must be signed by all partners or by an authorized partner.

Proposed Effective Dates

These regulations are proposed to be applicable to partnership tax years ending on or after the 90th day after final regulations on this subject are published in the **Federal Register**. However, the exceptions for certain foreign partnerships contained in § 1.6031(a)–1(b)(2) will not be applicable to any partnership taxable years beginning before January 1, 1999.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these proposed regulations. It is hereby certified that the collection of information contained in these proposed regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the regulations would reduce (rather than increase) the number of small entities that are required to file a partnership return. Specifically, the proposed regulations would eliminate the filing requirements for certain foreign partnerships that are fully subject to withholding in order to prevent duplicative filing requirements. In addition to eliminating the filing requirements in these circumstances, for ease of reference the proposed regulations update and restate the general requirements to file a partnership return as set forth in existing regulations. Because the proposed regulations would not impose any new reporting requirements that are not imposed by the existing regulations,

and the only significant modification of the existing regulations is to eliminate the filing requirement for certain foreign partnerships, the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Tuesday, May 19, 998, at 10 a.m., in the IRS Auditorium, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments by April 27, 1998 and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by April 28, 1998.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Martin Schäffer and Christopher Kelley, Office of Assistant Chief Counsel (Passthroughs and Special Industries), and Ronald Gootzeit, Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Proposed Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking that was published in the **Federal Register** on January 23, 1986 (51 FR 3075) is withdrawn.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.6031(a)–1 also issued under 26 U.S.C. 6031. * * *

§ 1.6031–1 [Removed]

Par. 1a. Section 1.6031–1 is removed.

Par. 2. Section 1.6031(a)–1 is added to read as follows:

§ 1.6031(a)–1 Return of partnership income.

(a) *Domestic partnerships*—(1) *Return required.* Except as provided in paragraphs (a)(3) and (c) of this section, every domestic organization that is a partnership must file a return of partnership income under section 6031 (partnership return) for each taxable year on the form prescribed for the partnership return. The partnership return must be filed for the taxable year of the partnership regardless of the taxable years of the partners. For taxable years of a partnership and of a partner, see section 706 and § 1.706–1. For the rules governing partnership statements to partners and nominees, see § 1.6031(b)–1T.

(2) *Content of return.* The partnership return must contain the information required by the prescribed form and the accompanying instructions.

(3) *Special rule.* A partnership that has no income, deductions, or credits for federal income tax purposes for a taxable year is not required to file a partnership return for that year.

(4) *Failure to file.* For the consequences of a failure to comply with the requirements of section 6031(a) and this paragraph (a), see sections 6229(a), 6231(f), 6698, and 7203.

(b) *Foreign partnerships*—(1) *Return required.* A foreign partnership must file a partnership return for a partnership taxable year only if it has gross income derived from sources within the United States or it has gross income that is (or is treated as) effectively connected with the conduct of a trade or business within the United States for the taxable year. Certain exceptions to this requirement are provided in paragraphs (b)(2) and (c) of this section. A foreign partnership that is required to file a partnership return must file the partnership return in accordance with the rules provided for domestic partnerships in paragraph (a) of this section.

(2) *Exception to partnership return requirement for certain foreign partnerships investing in the United States.* A foreign partnership that has no gross income that is effectively connected with the conduct of a trade or business within the United States, and that would be required to file a partnership return only because it has gross income derived from sources within the United States, is not required to file a partnership return under section 6031 if—

(i) No United States person has a direct or indirect interest in the partnership;

(ii) The gross income derived from sources within the United States is either fixed or determinable annual or periodical income described in § 1.1441–2(b) or other amounts subject to withholding described in § 1.1441–2(c);

(iii) Forms 1042 and 1042–S are filed with respect to all such gross income in accordance with § 1.1461–1 (b) and (c). In order to satisfy this requirement, Forms 1042 and 1042–S must be filed by the partnership unless the partnership is not required to file such returns under § 1.1461–1 (b)(2) and (c)(4), in which case, Forms 1042 and 1042–S must be filed by another withholding agent (or agents); and

(iv) The tax liability of the partners with respect to such gross income has been fully satisfied by the withholding of tax at the source, if applicable, under chapter 3 of the Internal Revenue Code.

(3) *Partnership information or returns required of partners who are United States persons*—(i) *In general.* If a United States person is a partner in a partnership that is not required to file a partnership return, the district director or director of the service center may require that person to render the statements or provide the information necessary to verify the accuracy of the reporting by that person of any items of partnership income, gain, loss, deduction, or credit.

(ii) *Certain partnership elections.* For a partnership that is not otherwise required to file a partnership return, if an election that can only be made by the partnership under section 703 (affecting the computation of taxable income derived from a partnership) is to be made by or for the partnership, a return

on the form prescribed for the partnership return must be filed for the partnership. The return must be signed by—

(A) Each partner that is a partner in the partnership at the time the election is made; or

(B) Any partner of the partnership who is authorized (under local law or the partnership's organizational documents) to make the election and who represents to having such authorization under penalties of perjury.

(iii) *Controlled foreign partnerships.* Certain United States persons who are partners in a foreign partnership controlled (within the meaning of section 6038(e)(1)) by United States persons may be required to provide information with respect to the partnership under section 6038.

(4) *Exclusion for certain organizations.* The return requirement of section 6031 and this section does not apply to the International Telecommunications Satellite Organization, the International Maritime Satellite Organization, or any organization that is a successor of either.

(c) *Partnerships excluded from the application of subchapter K—(1) Wholly excluded*—(i) *Year of election.* An eligible partnership as described in § 1.761–2(a) that elects to be excluded from all the provisions of subchapter K of chapter 1 of the Internal Revenue Code in the manner specified by § 1.761–2(b)(2)(i) must timely file the form prescribed for the partnership return for the taxable year for which the election is made. In lieu of the information otherwise required, the return must contain or be accompanied by the information required by § 1.761–2(b)(2)(i).

(ii) *Subsequent years.* Except as otherwise provided in paragraph (c)(1)(i) of this section, an eligible partnership that elects to be wholly excluded from the application of subchapter K is not required to file a partnership return.

(2) *Deemed excluded.* An eligible partnership that is deemed to have elected exclusion from the application of subchapter K beginning with its first taxable year, as specified in § 1.761–2(b)(2)(ii), is not required to file a partnership return.

(d) *Definitions*—(1) *Partnership.* For the meaning of the term *partnership*, see § 1.761–1(a).

(2) *United States person.* In applying this section, *United States person* means a person described in section 7701(a)(30); the government of the United States, a State, or the District of Columbia (including an agency or instrumentality thereof); or a corporation created or organized in Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, and American Samoa, if the requirements of sections 881(b)(1)(A), (B), and (C) are met for such corporation. The term does not include an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa, as determined under § 301.7701(b)–1(d) of this chapter.

(e) *Procedural requirements*—(1) *Place for filing*—(i) *Domestic partnerships.* The return of a domestic partnership that is required to file under paragraph (a) of this section must be filed with the service center for the internal revenue district in which the partnership has its principal office or principal place of business in the United States.

(ii) *Foreign partnerships with United States business or income.* The return of a foreign partnership that is required to file under paragraph (b)(1) of this section must be filed—

(A) With the service center for the internal revenue district in which the partnership has its principal office or principal place of business in the United States; or

(B) With the Internal Revenue Service Center, Philadelphia, PA 19255–0011 if the partnership has no office or place of business in the United States.

(iii) *Foreign partnerships without United States business or income.* The return of a foreign partnership filed under paragraph (b)(3)(ii) of this section (regarding partnerships for which an election under section 703 is made) must be filed with the Internal Revenue Service Center, Philadelphia, PA 19255–0011. A statement must be attached to the partnership return indicating that the return is being filed pursuant to paragraph (b)(3)(ii) of this section solely to make one or more elections under section 703.

(2) *Time for filing.* The return of a partnership must be filed on or before the fifteenth day of the fourth month following the close of the taxable year of the partnership.

(3) *Magnetic media filing.* For magnetic media filing requirements with respect to partnerships, see section 6011(e)(2) and the regulations thereunder.

(f) *Effective date.* This section applies to taxable years of a partnership ending on or after the 90th day after the date final regulations on this subject are published in the **Federal Register.** However, in no event will paragraph (b)(2) of this section apply to taxable years of a partnership that begin before January 1, 1999.

Par. 3. Section 1.6063–1 is amended by adding paragraph (c) to read as follows:

§ 1.6063–1 Signing of returns, statements, and other documents made by partnerships.

* * * * *

(c) *Certain partnership elections*—(1) *In general.* For rules regarding the authority of a partner to sign a partnership return filed solely for the purpose of making certain partnership-level elections, see § 1.6031(a)–1(b)(3)(ii).

(2) *Effective date.* The provisions of paragraph (c) of this section apply to taxable years of a partnership ending on or after the 90th day after the date final regulations on this subject are published in the **Federal Register**.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–1529 Filed 1–23–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[REG–104691–97]

RIN 1545–AV28

Electronic Tip Reports

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the regulations dealing with the requirement that tipped employees report their tips to their employer. The proposed regulations permit employers to establish electronic systems for use by their tipped employees in reporting tips to the employer. The proposed regulations also address substantiation requirements for employees using the electronic system.

DATES: Written comments and requests for a public hearing must be received by April 27, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–104691–97), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–104691–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively,

taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax__regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Karin Loverud, 202–622–6060; concerning submissions, Evangelista Lee, 202–622–8452 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224. Comments on the collection of information should be received by March 27, 1998. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collections of information in this proposed regulation are in § 31.6053–1 and § 31.6053–4. This information is required to conform with the statute and to assist employers and employees in fulfilling their responsibilities. This information will be used by employers to establish the amount of income and FICA (or RRTA) taxes to withhold from the employee reporting the tips. This information will be used by employees in meeting the substantiation requirements. The collections of information are mandatory. The likely respondents are individuals.

Estimated total annual reporting burden: 600,000 hours.

Estimated average annual burden hours per respondent: 2 hours.

Estimated number of respondents: 300,000.

Estimated annual frequency of responses: varies.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains proposed amendments to the Employment Tax Regulations (26 CFR part 31) under section 6053(a) of the Internal Revenue Code (Code). The proposed regulations provide rules permitting employers to establish electronic systems for use by their tipped employees in reporting tips to the employer.

In general, under section 6053(a) of the Code, every employee who receives tips must report the tips to the employer. The tips that must be reported are those that are wages for purposes of federal income tax withholding and the Federal Insurance Contributions Act (FICA) and compensation for purposes of the Railroad Retirement Tax Act (RRTA). The tips must be reported in a written statement or statements furnished to the employer on or before the 10th day following the month in which the tips are received. The Secretary is authorized to prescribe rules necessary to implement this provision, including the form and manner of furnishing the statements.

Generally, all cash tips (which include tips that are charged) are wages (or compensation), with one exception. If the amount of cash tips received in a calendar month by an employee in the course of any one employment is less than $20, the cash tips received in that employment during that month are not wages subject to income tax withholding, FICA taxes, or RRTA taxes.

For example, A is a full-time tipped employee of X and a part-time tipped employee of Y. During the month, A received $1,000 in tips in A's employment with X and $10 in tips in A's employment with Y. The $1,000 in tips received in the course of employment with X are wages for income tax withholding and FICA (or RRTA) tax purposes. A must report the $1,000 in tips to X no later than the 10th day of the following month. The $10 in tips received in the course of employment with Y are not wages for those purposes. The $10 are, however, subject to federal income tax and must be reported as wages by the employee on Form 4137, *Social Security and Medicare Tax on Unreported Tip Income*, which the employee must file with Form 1040, *U.S. Individual Income Tax Return*.

Section 31.6053–1(b)(1) prescribes rules for tip statements. The statement furnished by the employee to the employer must be in writing and must be signed by the employee. The statement must disclose (1) the employee's name, address, and social security number; (2) the employer's name and address; (3) the period for which and the date on which the statement is furnished; and (4) the total amount of tips received by the employee during the period that are required to be reported to the employer.

Under § 31.6053–1(b)(2), no particular form is prescribed for use in furnishing the tip statement. If the employer does not provide a form for use by the employee in reporting tips received by the employee, the employee may use Form 4070, *Employee's Report of Tips to Employer.* Twelve blank Forms 4070 and 12 blank Forms 4070A, *Employee's Daily Record of Tips* are reproduced in Publication 1244, *Employee's Daily Record of Tips and Report to Employer.* (Daily completion of Form 4070A constitutes sufficient evidence of tip income under the substantiation requirements of § 31.6053–4.) Pub. 1244 is a convenient pocket-sized document that also includes the basic rules for reporting tips. Copies of Pub. 1244 are available from the IRS by calling 1–800–829–3676.

The regulations specifically permit employers to design their own forms for use by employees in reporting tips. A form used solely to report tips must include (1) The employee's name, address, and social security number; (2) the employer's name and address; (3) the period for which and the date on which the statement is furnished; and (4) the total amount of tips received by the employee during the period that are required to be reported to the employer.

In lieu of a special tip reporting form that is used solely for the purpose of reporting tips, employers may provide for reporting of tips on regularly used

forms, such as time cards. The regularly used forms need not include the employer information, but they must accurately identify the employee, identify the reporting period, and specify the amount of tips received. If a regularly used form is used to report tips, the employer must furnish the employee a statement showing the amount of tips reported by the employee for the period. This statement must be furnished no later than shortly after the first wage payment following the employee's tip report. A payroll check stub or other similar payroll document may be used for this purpose.

The period covered by a tip statement may not exceed one calendar month. An employer may require tip statements more frequently, such as daily, weekly or every pay period, but not less frequently than monthly. In no event, however, may an employer permit tips received in one month to be reported after the 10th of the following month. See section 6053(a). For example, X has a weekly payroll period, beginning on Sunday and ending on Saturday. X requires that all tip statements be submitted to X no later than the Monday following each payroll period. For the payroll period beginning on Sunday, March 30, and ending on Saturday, April 5, the statements must be furnished on or before Monday, April 7. If this occurs, the 10th-of-the-month requirement for March is met. If X's payroll period were biweekly and began on March 30 and ended on April 16 and if X required that all tip statements be submitted to X no later than the Monday following each payroll period, the 10th-of-the-month requirement for March would not be met.

A tip statement furnished after this deadline does not meet the requirements of section 6053(a). The employer is not required to withhold income, FICA, or RRTA taxes on tips reported after the 10th of the following month and is not responsible for reporting those tips to the IRS. The responsibility for reporting and paying the employee portion of the FICA tax shifts to the employee. The employee must complete and attach Form 4137, *Social Security and Medicare Tax on Unreported Tip Income,* to the employee's federal income tax return. Moreover, an employee who fails to report tips as required by section 6053(a) is subject to an addition to the FICA tax or the RRTA tax, whichever is applicable, equal to 50 percent of the employee portion of the FICA or RRTA tax on those tips.

Section 31.6053–4(a)(1) provides that an employee must maintain sufficient evidence to establish the amount of tip income received during a taxable year. Sufficient evidence consists of either a daily record or, if the employee does not maintain a daily record, other evidence (such as documentary evidence) that is as credible and as reliable as a daily record. Nevertheless, if the facts or circumstances indicate that the employee received a larger amount of tip income, a daily record or other evidence may not be sufficient evidence.

Section 31.6053–4(a)(2) describes the requirements for a daily record. In general, the daily record must show the amount of cash and charge tips received directly from customers or other employees and the amount of tips, if any, that the employee paid out to other employees through tip sharing, tip pooling, or other arrangements and the names of the employees. The daily record must show the date on which each entry is made. Each entry must be made on or near the date the tip income is received. An entry made when the employee has full present knowledge of those receipts and payments satisfies this requirement.

Section 31.6053–4(a)(3) describes documentary evidence. Documentary evidence consists of copies of any documents that contain amounts added as a tip to a check by a customer or amounts paid by a customer for food or beverages with respect to which tips generally would be received. Examples of documentary evidence are copies of restaurant bills, credit card charges, or charges under any other arrangement containing amounts added by the customer as a tip.

Explanation of Provisions

Electronic Tip Statements

No provision currently exists for employees to furnish tip statements to employers in a form other than on paper. The proposed regulations would permit an employer to adopt a system under which some or all of the tipped employees of the employer would furnish their tip statements electronically. Therefore, the employer could include in its electronic system any tipped employee or employees working in any location or locations.

The proposed regulations set forth requirements for employers who wish to establish electronic systems for employees to use to furnish tip statements to their employers. The proposed regulations apply only to tip statements required by section 6053(a) and not with respect to any other Code sections.

An employer that chooses to establish an electronic tip reporting system may select the type or types of electronic systems (such as telephone or computer) to be used by its employees. The system must, however, ensure that the information received is the information transmitted by the employee and must document all occasions of access that result in the transmission of a tip statement. The design and operation of the electronic system, including access procedures, must make it reasonably certain that the person accessing the system and transmitting the tip statement is the employee identified in the transmission. In the event of an examination, the employer must supply a hard copy of the electronic statement to the IRS upon request.

The electronic tip statement must contain exactly the same information that is required to be reported on a paper tip statement and must contain the employee's electronic signature. The electronic signature must identify the employee furnishing the electronic tip statement and authenticate and verify the transmission. An electronic signature can be in any form that satisfies the foregoing requirements. An electronic signature has the same effect as a signature written on a paper tip statement. See sections 6061, 6064, and 6065 of the Code.

Pursuant to Rev. Rul. 71–20 (1971–1 C.B. 392), all machine-sensible data media used for recording, consolidating, and summarizing accounting transactions and records within a taxpayer's ADP system are records within the meaning of section 6001 and § 1.6001–1. The record retention requirements contained in Rev. Proc. 91–59 (1991–2 C.B. 841) (or any revenue procedure updating Rev. Proc. 91–59), dealing with automatic data processing systems, apply to electronic tip reporting systems.

The proposed regulations provide that an employee maintains sufficient evidence to establish the amount of tip income received by the employee during a calendar month through a daily record (as described in § 31.6053–4(a)(2)) if the employee both reports tips on a daily basis through an electronic system that otherwise meets the substantiation requirements of the regulations and receives from the employer a hard copy of a daily record based on those entries for the period.

Employee Substantiation Requirements

Because the proposed regulations expand the permissible array of employer-designed reporting systems to include electronic methods, employers will be providing a statement to employees of the tips reported consistent with the existing requirements of § 31.6053–1(b). The

Treasury and the IRS recognize that many of these systems may capture tip reporting on a very current basis (e.g., point-of-sale or end-of-shift). Thus, the information in these systems offers a reasonable substitute for a daily record maintained by the employee if the employer's system provides the employee with a printout that would satisfy the current substantiation requirements of § 31.6053–4.

Thus, these proposed regulations provide that, if the employer, at its option, provides employees with a copy of the daily record based on entries made by the employee in the system and otherwise satisfying the substantiation requirement of § 31.6053–4, the entry in the electronic system on a daily (or more frequent) basis by the employee, together with the daily record based on these entries provided by the employer, will satisfy the substantiation requirements of § 31.6053–4. For example, assume an employee enters tips in the employer's electronic system at the end of each shift, but does not provide the employer with a signed paper record of these tips. After the end of each weekly payroll period, the employer provides the employee with a paper record that includes all the information specified in § 31.6053–4(a)(2) and that shows the total amount of tips reported for each day during the period based on the employee's entries. If the employee maintains this employer generated paper record, the substantiation requirements of § 31.6053–4 are satisfied.

The Treasury and the IRS particularly invite comment on whether the proposed regulations should be modified to reflect ways in which these systems may permit further reduction in paper reporting for either the employer or employee while retaining provisions for appropriate and timely substantiation of income.

Railroad Retirement Tax Act Provisions

The tip reporting provisions of section 6053(a) apply to tips that are either wages for income tax withholding and Federal Insurance Contributions Act (FICA) purposes or compensation for Railroad Retirement Tax Act (RRTA) purposes. The proposed regulations would clarify that the regulations under section 6053(a) apply to tips that are compensation as well as to tips that are wages.

Proposed Effective Date

The revisions and additions in the proposed regulations apply to tips required to be reported to the employer after these regulations are published as final regulations in the **Federal Register**. However, taxpayers may rely on the guidance in these proposed regulations for prior periods.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified that the collections of information in these regulations will not have a significant economic impact on a substantial number of small entities. The collection of information in § 31.6053–1 is imposed solely on individuals, not on any small entities, and the regulations provide flexibility to employees who must provide the information required by statute, thereby reducing burden. With respect to the collection of information in § 31.6053–4, the certification is based on the expectation of the IRS that most businesses that choose to implement the electronic tip reporting provisions will be larger businesses with many employees and sophisticated computer systems. Moreover, because the provision is wholly elective, any small business that would be adversely impacted may choose not to use electronic tip reporting. Finally, the Service expects that for those small entities that choose to implement the provision, the use of electronic tip reporting will reduce overall burden by reducing paper collections. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight copies) that are submitted timely (in the manner described in the **ADDRESSES** portion of this preamble) to the IRS. All comments will be available for public inspection and copying.

A public hearing may be scheduled if requested in writing by any person that timely submits written comments. The IRS will also consider requests for remote teleconference sites as part of the public hearing. If a public hearing is scheduled, notice of the date, time, and place (including teleconference, if any) for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Karin Loverud, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), IRS. However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 31 is proposed to be amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority citation for part 31 continues to read in part as follows:

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

Par. 2. Section 31.6053–1 is amended as follows:

1. Paragraph (a) is revised.
2. The introductory text of paragraph (b)(1) is revised.
3. The last sentence of paragraph (b)(1)(iii) is revised.
4. Paragraph (b)(2) is revised.
5. Paragraph (c) is revised.
6. Paragraph (d) is added.

The revisions and additions read as follows:

§ 31.6053–1 Report of tips by employee to employer.

(a) *Requirement that tips be reported*—(1) *In general.* An employee who receives, in the course of employment by an employer, tips that constitute wages as defined in section 3121(a) or section 3401, or compensation as defined in section 3231(e), must furnish to the employer a statement, or statements, disclosing the total amount of the tips received by the employee in the course of employment by the employer. Tips received by an employee in a calendar month in the course of employment by an employer that are required to be reported to the employer must be reported on or before the 10th day of the following month.

Thus, for example, tips received by an employee in January 1998 are required to be reported by the employee to the employer on or before February 10, 1998.

(2) *Cross references.* For provisions relating to the treatment of tips as wages for purposes of the Federal Insurance Contributions Act (FICA) tax under sections 3101 and 3111, see sections 3102(c), 3121(a)(12), and 3121(q) and §§ 31.3102–3 and 31.3121(a)(12)–1. For provisions relating to the treatment of tips as wages for purposes of the tax under section 3402 (income tax withholding), see sections 3401(a)(16), 3401(f), and 3402(k) and §§ 31.3401(a)(16)–1, 31.3401(f)–1, and 31.3402(k)–1. For provisions relating to the treatment of tips as compensation for purposes of the Railroad Retirement Tax Act (RRTA) tax under sections 3201 and 3221, see section 3231(e) and § 31.3231(e)–1(a).

(b) * * * (1) *In general.* The statement described in paragraph (a) of this section can be provided on paper or transmitted electronically. The statement must be signed by the employee and must disclose:

* * * * *

(iii) * * * If the statement is for a period of less than 1 calendar month, the beginning and ending dates of the period must be included (for example, January 1 through January 8, 1998).

* * * * *

(2) *Form of statement*—(i) *In general.* No particular form is prescribed for use in furnishing the statement required by this section. The statement may be furnished on paper or transmitted electronically. An electronic system and all tip statements generated by that system must meet the requirements of paragraph (d) of this section. If the employer does not provide any other means for the employee to report tips, the employee may use Form 4070, *Employee's Report of Tips to Employer.*

(ii) *Single-purpose forms.* A statement may be furnished on an employer-provided form. The form may be on paper or in electronic form. An employer that provides a paper form must make blank copies of the form readily available to all tipped employees. Any form, whether paper or electronic, provided by an employer for use by its tipped employees solely to report tips must meet all the requirements of paragraph (b)(1) of this section.

(iii) *Regularly used forms.* Instead of requiring that tips be reported as described in paragraph (b)(2)(ii) of this section on a special form used solely for tip reporting, an employer may prescribe regularly used forms for use by employees in reporting tips. A regularly used form may be on paper (such as a time card or report) or in electronic form, must meet the requirements of paragraph (b)(1)(iii) and (iv) of this section, must contain identifying information that will ensure accurate identification of the employee by the employer, and is permitted to be used only if the employer furnishes the employee a statement suitable for retention showing the amount of tips reported by the employee for the period. The employer statement may be furnished when the employee reports the tips, when wages are first paid following the reporting of tips by the employee, or within a short time after the wages are paid. The employer may meet this requirement, for example, through the use of a payroll check stub or other payroll document regularly furnished by the employer to the employee showing gross pay and deductions. In the case of electronic tip reports, the employer statement may be furnished on a daily, weekly, monthly or on a regular payroll basis (if not less frequent than monthly).

(c) *Period covered by, and due date of, tip statement*—(1) *In general.* A tip statement furnished by an employee to an employer may not cover a period greater than 1 calendar month. An employer may, however, require the submission of a statement in respect of a specified period of time, for example, on a weekly or biweekly basis, regular payroll period, etc. An employer may specify, subject to the limitation in paragraph (a) of this section, the time within which, or the date on which, the statement for a specified period of time should be submitted by the employee. For example, a statement covering a payroll period may be required to be submitted on the first (or second) day following the close of the payroll period. A statement submitted by an employee after the date specified by the employer for its submission nevertheless will be considered as a statement furnished pursuant to section 6053(a) and this section if it is submitted to the employer on or before the 10th day following the month in which the tips were received.

(2) *Termination of employment.* If an employee's employment is terminating, the employee must furnish a tip statement to the employer when the employee ceases to perform services for the employer. A statement submitted by an employee after the date on which the employee ceases to perform services for the employer will be considered as a statement furnished pursuant to section 6053(a) and this section if the statement is submitted to the employer on or before the earlier of the day on which the final wage payment is made by the employer to the employee or the 10th day following the month in which the tips were received.

(d) *Requirements for electronic systems*—(1) *In general.* The electronic system must ensure that the information received is the information transmitted by the employee and must document all occasions of access that result in the transmission of a tip statement. In addition, the design and operation of the electronic system, including access procedures, must make it reasonably certain that the person accessing the system and transmitting the statement is the employee identified in the statement transmitted.

(2) *Same information as on paper statement.* The electronic tip statement must provide the employer with all the information required by paragraph (b)(1) of this section.

(3) *Signature.* The electronic tip statement must be signed by the employee. The electronic signature must identify the employee transmitting the electronic tip statement and must authenticate and verify the transmission. For this purpose, the terms ''authenticate'' and ''verify'' have the same meanings as they do when applied to a written signature on a paper tip statement. An electronic signature can be in any form that satisfies the foregoing requirements.

(4) *Copies of electronic tip statements.* Upon request by the Internal Revenue Service (IRS), the employer must supply the IRS with a hard copy of the electronic tip statement and a statement that, to the best of the employer's knowledge, the electronic tip statement was filed by the named employee. The hard copy of the electronic tip statement must provide the information required by paragraph (b)(1) of this section, but need not be a facsimile of Form 4070 or any employer-designed form.

(5) *Record retention.* The record retention requirements dealing with automatic data processing systems apply to electronic tip reporting systems.

Par. 3. Section 31.6053–4 is amended as follows:

1. A sentence is added to paragraph (a)(1) after the third sentence.

2. A sentence is added to paragraph (a)(2) after the fourth sentence. The additions read as follows:

§ 31.6053–4 Substantiation requirements for tipped employees.

(a) * * *

(1) * * * The Commissioner may by revenue ruling, procedure or other

guidance of general applicability provide for other methods of demonstrating evidence of tip income. * * *

(2) * * * In addition, an electronic system maintained by the employer that collects substantially similar information as Form 4070A may be used to maintain such daily record, provided the employee receives and maintains a paper copy of the daily record. * * *

* * * * *

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–1548 Filed 1–23–98; 8:45 am]

BILLING CODE 4830–01–U

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 98–1]

Satellite Carrier Compulsory License; Definition of Unserved Household

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of inquiry.

SUMMARY: The Copyright Office of the Library of Congress is opening a rulemaking proceeding to determine the permissibility, under the satellite compulsory license, of satellite carriers retransmitting over-the-air broadcast network stations to subscribers who reside within the local markets of those stations.

DATES: Initial comments should be received no later than February 25, 1998. Reply comments are due March 27, 1998.

ADDRESSES: If sent by mail, an original and ten copies of comments and reply comments should be addressed to: David O. Carson, General Counsel, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, an original and ten copies of comments and reply comments should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM–403, First and Independence Avenue, SE., Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or William Roberts, Senior Attorney, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Fax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: On December 23, 1997, the Copyright Office received a petition for rulemaking from EchoStar Communications Corporation (''EchoStar'') requesting that the Office confirm that a satellite carrier's local retransmission of network stations to subscribers who reside in those station's local markets is permissible under the compulsory license granted by 17 U.S.C. 119. Three organizations, the Association of Local Television Stations (''ALTV''), Network Affiliated Stations Alliance (''NASA''), and the National Association of Broadcasters (''NAB''), filed oppositions to EchoStar's request for a rulemaking. The petition and oppositions are available for inspection and copying at the Copyright Office in Room LM 458, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC.

Opening of This Proceeding

EchoStar's petition is not the first time that the Copyright Office has been called upon to decide whether it is permissible under section 119 for satellite carriers to retransmit network stations to subscribers who reside within the local markets of those stations. In the summer of 1996, the Office received a letter from American Sky Broadcasting (''ASkyB'') requesting the Office issue a declaratory ruling that such local-into-local retransmissions were permissible under section 119. By letter dated August 15, 1996, the Office informed ASkyB that it would not issue a declaratory ruling or formally resolve the matter. The Office did state that if ASkyB filed a Statement of Account and royalty fee for local-into-local retransmissions of network signals, the Office would not question the sufficiency of the filing or return it. See Letter of the Acting General Counsel to William Reyner, August 15, 1996. ASkyB did not petition the Office for a rulemaking proceeding.

One year later, the issue of local-into-local retransmissions of network signals arose again in the context of the adjustment of the section 119 royalty rates. In Docket No. 96–3 CARP SRA, ASkyB argued to the Copyright Arbitration Royalty Panel (CARP) charged with the task of adjusting the section 119 rates that local-into-local retransmissions were permissible under the terms of the statute, and that the royalty rate for such retransmissions should be zero. The CARP declined to adopt ASkyB's zero royalty request because it determined that it lacked subject matter jurisdiction to do so. Report of the CARP at 48 (August 29, 1997). The CARP considered section 119(a)(2)(B), which provides that the satellite compulsory license is ''limited to secondary transmissions to persons who reside in unserved households,'' and examined the section 119(d)(10) definition of an ''unserved household.'' The CARP concluded that:

> [N]etwork signals generally may not be retransmitted to the local coverage area of local network signals. The separate rate request of ASkyB is explicitly intended to apply to retransmission of network signals to served households. Section 119 does not provide a compulsory license for those retransmissions. Hence, we lack subject matter jurisdiction to set a rate for local retransmissions of local network signals.

CARP Report at 48. The CARP did acknowledge, however, that there could be subscribers who resided within a network station's local market that fell within the CARP's interpretation of an ''unserved household,'' but the CARP identified these as being ''rare instances.'' *Id.*

The Librarian of Congress, reviewing the CARP's decision under an arbitrary or contrary to the Copyright Act standard, accepted the CARP's determination stating that he could not ''unequivocally say that the Panel's decision is arbitrary or contrary to law.'' 62 FR 55742, 55753 (October 28, 1997). The Librarian reached this decision because he found the statute to be silent on the issue of local-into-local retransmissions. *Id.* The Librarian did state, however, that although the statute was silent, the Copyright Office ''retain[ed] the authority to conduct a rulemaking proceeding to determine the permissibility of local retransmission of network signals to served households, regardless of the Panel's determination in this proceeding.'' *Id.*[1]

Authority for a Rulemaking Proceeding

As stated in the Librarian's review of the CARP decision, the Copyright Office believes that it has the authority to gather information and conduct a rulemaking to resolve whether local-into-local retransmission of network signals is permissible under section 119. The Office has determined in the past, in the context of the section 111 cable compulsory license, whether certain retransmissions were subject to statutory licensing. See 57 FR 3284 (January 29, 1992) (determining that retransmissions of broadcast signals by satellite carriers and Multichannel Multipoint Distribution Services were not eligible for the section 111 license); 62 FR 18705 (April 17, 1997) (determining that retransmissions of

[1] The Librarian did adopt a zero rate for retransmission of network signals to unserved households located within the local markets of network stations. *Id.*

broadcast signals by Satellite Master Antenna Television systems were eligible for section 111 licensing). The authority to issue a determination in this proceeding is derived from the Office's rulemaking authority under 17 U.S.C. 702.

The objections to EchoStar's petition filed by ALTV, NASA and NAB all counsel against the Copyright Office opening a rulemaking proceeding at this time, preferring instead to resolve the matter through legislation. There is no question that legislative resolution of the issue of local-into-local retransmissions of network stations under section 119 is the best solution. The Office has recommended to Congress that section 119 be clarified to allow local-into-local retransmission. Library of Congress, U.S. Copyright Office, A Review of the Copyright Licensing Regimes Covering Retransmission of Broadcast Signals 119–120 (August 1, 1997). In the meantime, however, the Office believes that it should exercise its duties and responsibilities under section 702 of the Copyright Act and open this rulemaking.

Issues for Public Comment

As presented by Echostar's petition, the question of whether local-into-local retransmissions of network signals is permissible turns on the interpretation to be afforded the definition of an ''unserved household.'' Section 119(a)(2)(B) provides that the satellite compulsory license for retransmission of network signals is ''limited to secondary transmissions to persons who reside in unserved households.'' Section 119(d)(10) defines an ''unserved household'' as:

> a household that—
>
> (A) cannot receive through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity (as defined by the Federal Communications Commission) of a primary network station affiliated with that network, and
>
> (B) has not, within 90 days before the date on which that household subscribes, either initially or on renewal, to receive secondary transmissions by a satellite carrier of a network station affiliated with that network, subscribed to a cable system that provides the signal of a primary network station affiliated with that network.

17 U.S.C. 119(d)(10).

In interpreting the ''unserved household'' definition, the primary question is: Was it the intention of Congress to prevent all satellite retransmissions of a network station when a subscriber can receive an off-the-air grade B intensity signal of the local network station, or was Congress attempting to exclude only distant network stations of the same network that might be imported by a satellite carrier into the local affiliate's market? Is there anything in the legislative history that offers guidance on this question? If not, does subsection (B)'s prevention of satellite retransmission when a subscriber is receiving the local network station via cable have any bearing on this issue?

If local-into-local retransmissions of network stations are permissible under section 119, how should a network station's local market be defined? Is the local market definition in section 119(d)(11) appropriate, or should some other measure be used?

In addition, the Copyright office is interested in receiving comment as to what impact, if any, local-into-local retransmissions of network stations by satellite would have on retransmission consent and other provisions and requirements of the Communications Act, 47 U.S.C. ch. 5.

The Copyright Office welcomes and encourages comments as to these questions, and well as any other matters that commenting parties may deem relevant.

Dated: January 21, 1998.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 98–1795 Filed 1–23–98; 8:45 am]

BILLING CODE 1410–31–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[OPP–00473C; FRL–5767–3]

Antimicrobial Rule Development; Stakeholder Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Meetings.

SUMMARY: The Antimicrobials Division (AD) of the Office of Pesticide Programs of EPA is continuing its series of stakeholder meetings to obtain views about the antimicrobial rule that is being developed. The rule is being revised in accordance with principles set forth in the Food Quality Protection Act of 1996 (Pub. L. 104–170). To ensure that all interested parties can obtain information about activities related to developing this rule, EPA, in its discretion, has opened a docket in advance of the rule's proposal. This docket includes, but is not limited to, a summary of major discussions at stakeholder meetings, as well as copies of any documents distributed at these meetings.

DATES: The next stakeholder meetings will take place on Tuesday, February 3, 1998, from 2 p.m. to 5 p.m.; and Thursday, March 26, 1998, from 2 p.m. to 5 p.m.

ADDRESSES: The meetings will be held at 1921 Jefferson Davis Highway (Crystal Mall #2) in Room 1126 (''Fishbowl''), Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Mandula (7510W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Crystal Drive, Arlington, VA, (703) 308–7378, fax: (703) 308–8481; e-mail: mandula.barbara@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice announces a series of public meetings to ensure that all parties interested in policies, issues, and regulatory actions affecting antimicrobial pesticides can obtain information about ongoing activities. Additionally, a public record has been established for these meetings under docket number ''OPP–00473.'' The docket is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Copies of EPA documents may be obtained by contacting: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

List of Subjects

Environmental protection, Antimicrobial pesticides.

Dated: January 15, 1998.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 98–1767 Filed 1–23–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ–005–ROP FRL–5953–4]

Approval and Promulgation of Implementation Plans; Phoenix, Arizona Ozone Nonattainment Area, 15 Percent Rate of Progress Plan and 1990 Base Year Emission Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to determine that the Phoenix, Arizona ozone nonattainment area has in place sufficient control measures to meet the 15 percent rate of progress (ROP) requirement in Clean Air Act section 182(b)(2). This proposal is based on EPA's reanalysis of Arizona's 15 percent plan submitted for the Phoenix area. This reanalysis takes into account current information on the implementation of the State's vehicle inspection and maintenance program, additional controls recently adopted by the State, and national rules either proposed or promulgated by EPA that affect emissions in the Phoenix area. EPA is also proposing to approve the area's 1990 base year emissions inventory.

DATES: Comments on this proposal must be received in writing by March 27, 1998. Commenters may also request the opportunity to submit oral comments pursuant to Clean Air Act section 307(d)(5). Requests for a public hearing must be received by February 5, 1998.

ADDRESSES: Written comments should be addressed to Frances Wicher at the Region 9 address.

Copies of the State's submittals, EPA's draft technical support document (TSD) for this rulemaking, EPA's policies governing 15 percent plan approvals and emission inventories, and other supporting documentation are contained in the docket for this rulemaking. Copies of this document and the TSD are also available in the air programs section of EPA Region 9's website, http://www.epa.gov/region09. The docket is available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 9, Office of Air Planning, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105. (415) 744–1248.

Arizona Department of Environmental Quality, Library, 3033 N. Central Avenue, Phoenix, Arizona 85012. (602) 207–2217.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105. (415) 744–1248.

SUPPLEMENTARY INFORMATION:

I. Background

A. Clean Air Act Requirements

1. Base Year Emission Inventories

The Phoenix metropolitan area was originally classified as a moderate ozone nonattainment on November 6, 1991.[1] Section 182(b) of the Clean Air Act (CAA or Act) requires that each state in which all or part of a moderate ozone nonattainment area is located submit, by November 15, 1992, an inventory of actual emissions from all sources, as described in sections 172(c)(3) and 182(a)(1), in accordance with guidance provided by the Administrator. EPA provided preliminary guidance on this base year inventory in the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, April 16, 1992, 57 FR 13498, 13502, indicating that the inventory should be for calendar year 1990 and should include both anthropogenic and biogenic sources of volatile organic compounds (VOCs), nitrogen oxides (NOX), and carbon monoxide (CO). The inventory should address actual emissions of these pollutants during the peak ozone season in the nonattainment area as well as emissions from sources emitting greater than 100 tons per year in a 25-mile buffer zone around the nonattainment area. The inventory should include all point and area sources, as well as all highway and non-highway (non-road) mobile sources.

2. 15 Percent ROP Plans

Section 182(b)(1)(A) of the CAA requires State's with ozone nonattainment areas classified as moderate and above to develop plans to reduce VOC emissions by 15 percent, net of growth, from the 1990 baseline. The 15 percent rate of progress (ROP) plans were to be submitted by November 15, 1993, and the reductions were required to be achieved by November 15, 1996.

For the 15 percent ROP plans, the CAA sets limitations on the creditability of certain types of reductions. Specifically, a state cannot take credit for reductions achieved by Federal Motor Vehicle Control Program (FMVCP) measures promulgated prior to 1990, or for reductions resulting from requirements to lower the volatility (Reid Vapor Pressure (RVP)) of gasoline promulgated prior to 1990 or required under section 211(h) of the CAA, which restricts gasoline RVP. Furthermore, the CAA does not allow credit for corrections to vehicle inspection and maintenance (I/M) programs or corrections to Reasonably Available Control Technology (RACT) rules as these programs were required prior to 1990.

Although the November 15, 1996 deadline has now passed, the 15 percent ROP requirement remains. Once a statutory deadline has passed and has not been replaced by a later one, the deadline then becomes as soon as possible. *Delaney* v. *EPA*, 898 F.2d 687, 691 (9th Cir. 1990). EPA has interpreted this requirement to be ''as soon as practicable'' (55 FR 36458, 36505 (September 9, 1990)); therefore, to demonstrate that the Phoenix area has met the CAA section 182(b)(1) requirement, it must be demonstrated that the 15 percent reduction will be achieved as soon as practicable by showing that the applicable implementation plan contains all VOC control measures that are practicable for the Phoenix area and that meaningfully accelerate the date by which the 15 percent level is achieved.

EPA has developed guidance that specifically addresses the crediting of post-1996 emission reductions in 15 percent ROP demonstrations. Under EPA policy, reliance on post-1996 emission reductions in the 15 percent plan necessitates that the 1996 target level of emission reductions be revised to remove the additional emission reductions from the FMVCP and federal RVP regulations between 1996 and the year 15 percent is actually to be demonstrated. References 2, 3 and 4.

EPA's policy regarding 15 percent ROP plans can be found in the General Preamble (57 FR 13498, 13507) and other EPA guidance documents referenced in this document and found in the docket for this rulemaking.

B. Phoenix's 15 Percent ROP Plan

The State of Arizona submitted the initial 15 percent rate of progress plan for the metropolitan Phoenix area (The Maricopa Association of Governments 1993 Ozone Plan for the Maricopa County Area, November 1993 (1993 MAG Plan)) on November 15, 1993 and an Addendum (March 1994) to that plan on April 8, 1994. On April 13, 1994 EPA found the initial plan incomplete because it failed to include, in fully

[1] The Phoenix metropolitan area was recently reclassified from moderate to serious for ozone. 62 FR 60001 (November 6, 1997). This reclassification does not affect the requirement for a 1990 base year inventory or a 15 percent ROP demonstration.

adopted and enforceable form, all of the measures relied upon in the 15 percent demonstration. This incompleteness finding started the 18-month sanction ''clock'' in CAA section 179 and the two-year clock under section 110(c) for EPA to promulgate a federal implementation plan (FIP) covering the 15 percent ROP requirement. Subsequently in November 1994 and April 1995, Arizona submitted an attainment plan for the Phoenix area which updated the 15 percent ROP demonstrations.[2] On May 12, 1995, EPA found the revised 15 percent plan and the attainment plan complete, turning off the sanctions clock; however, under section 110(c), the FIP clock continues until EPA approves the 15 percent plan. Since 1995, EPA has acted to approve many of the control measures contained in these plans but has not yet acted on the overall 15 percent plan.

The 15 percent ROP demonstration in the MAG 1993 Plan relied primarily on improvements to the State's vehicle emissions inspection and maintenance program (I/M), a summertime gasoline volatility (RVP) limitation of 7.00 pounds per square inch (psi), numerous stationary and area source control measures, and a number of transportation control measures.

Improvements to the State's I/M program (known as the Vehicle Emissions Inspection Program (VEIP)) included biennial IM240 transient testing for model year 1981 and newer vehicles, more stringent testing cut points (the tailpipe emissions levels at which cars are failed), pressure and purge testing, increased waiver limits, improvements to the anti-tampering program, and a remote sensing program. These I/M improvements accounted for 50 percent of the emission reductions necessary to show the required ROP. See 1993 Ozone Plan Addendum, page 3–6. In designing its enhanced VEIP, Arizona relied in good faith on the technical specifications and associated emission reductions in EPA's enhanced I/M regulations, 40 CFR part 51, subpart S as promulgated on November 5, 1992 (57 FR 52950).

Arizona began to implement the improvements to its I/M program in early 1995 and quickly determined that EPA's pressure and purge test could not be implemented in practice in I/M testing lanes, and consequently suspended the tests. The State subsequently redesigned the pressure test and began implementing it in 1996. No effective purge test, however, is currently available. EPA continues to work to develop such a test and Arizona remains committed to implementing a test when it becomes available.

Early testing of the final cut points assumed in the State's 15 percent plan also indicated that they would not work in practice because of unacceptably high false failure rates (i.e., failing cars that should have passed) of up to 50 percent. Arizona is currently working to develop alternatives to the final cut points and intends to begin implementing those alternatives as early as 1999.

The purge test and the final cut points accounted for roughly 60 percent of the total emission reductions expected from the VEIP and 30 percent of the emission reductions necessary to show 15 percent ROP. In part to replace these lost emission reductions and in part to ensure continued progress toward attainment of the ozone standard in the Phoenix area, the State opted into EPA's federal reformulated gasoline program in 1997 (60 FR 30260 (June 3, 1997)) and has recently adopted its own, more stringent Cleaner Burning Gasoline (CBG) program as well as other control measures. EPA proposed to approve the State's CBG program on November 20, 1997. 62 FR 61942.

C. EPA's 15 Percent ROP Plan Obligation

In August 1996, EPA was sued by the American Lung Association of Arizona, *ALAA* v. *Browner,* No. CIV 96–1856 PHX ROS (D.Ariz.). This case sought to enforce EPA's obligation under CAA section 110(c) to promulgate a federal plan for the 15 percent ROP requirement. On July 8, 1997 a consent decree was filed with the U.S. District Court for the District of Arizona establishing a schedule of January 20, 1998 for proposing and May 18, 1998 for promulgating a 15 percent ROP plan. Under the consent decree, EPA's obligation to promulgate a plan is relieved to the extent that it has approved State measures.

The State's 15 percent plan as revised and submitted in 1993 through 1995 does not reflect the changes to the control strategy necessitated by the problems with enhanced I/M and the implementation of the federal RFG program. In addition, EPA guidance requires a recalculation of the 15 percent target emission level if post-1996 emissions reductions (such as those from the RFG program) are to be credited to the 15 percent plan. As a result, EPA does not have in front of it a complete state submittal containing a revised 15 percent ROP demonstration that it could act on without additional analysis, public hearing and adoption by the State. Consequently in this document, EPA is proposing to find, based on its own analysis of the available emission reductions, that the State has sufficient measures to provide for the 15 percent reduction.

II. EPA's Evaluation

A. 1990 Base Year Emission Inventory

EPA is proposing to approve the State's 1990 base year emissions inventory for the Phoenix metropolitan area and to use it, with minor modifications, as the basis for the 15 percent ROP demonstration.

As specified in EPA guidance (Reference 1, p. 13502), the 1990 base year inventory is composed of annual and seasonal inventories of actual (as opposed to permitted or potential) VOC, NO_X, and CO emissions in the Phoenix ozone nonattainment area as well as actual emissions from all large point sources within a 25-mile buffer zone around the nonattainment area.

EPA proposes to approve the base year inventory because it is (1) accurate in that it uses established estimation and measurement methods approved by EPA; (2) comprehensive in that it estimates emissions from all categories of sources for the three ozone precursors; and (3) current in that it provides estimates of actual emissions for the 1990 base year as required.

Table 1 provides a summary of the baseline emissions inventory.

TABLE 1.—METROPOLITAN PHOENIX 1990 BASELINE EMISSIONS INVENTORY

(Metric tons per day)

Source type	VOC	NO_X	CO
Point Sources	25.6	70.9	13.8
Area Sources	111.8	7.4	3.9
On-Road Mobile	136.2	130.1	911.5
Non-Road Mobile	57.9	85.2	521.1
Biogenic	37.3	.....	.....
Total	368.8	293.6	1450.3

Source: 1993 Ozone Plan, Appendix B, Exhibit 1.

For use in its 15 percent ROP analysis, EPA has slightly modified the State's 1990 base year inventory to reflect the Agency's delisting of perchloroethylene (used primarily as a drycleaning solvent) as a VOC (61 FR 4588 (February 7, 1996)), a revised version of EPA's MOBILE5a on-road motor vehicle emission estimation model, and slightly revised inputs to that model to be consistent with base

[2] The State also submitted its Voluntary Early Ozone Plan for the Metropolitan Phoenix Area (VEOP) on April 21, 1997. This plan contains several additional VOC control measures but does not include any revisions to the demonstration in the previously submitted 15 percent plan.

year and future year analyses.[3] These modifications decreased the submitted base year area source inventory by 1.2 metric tons per day and the on-road mobile source inventory by 0.6 metric tons per day for a total decrease of 1.8 metric tons per day.

B. Calculation of the 15 Percent ROP Target

A number of steps are necessary to calculate the 15 percent ROP VOC target emission level. First, the 1990 base year inventory must be revised to exclude sources outside the nonattainment area, biogenic emissions, and any VOC emission reductions that will accrue from the FMVCP and federal RVP standards during the 1990–1996 period. The resulting inventory is referred to as the ''adjusted base year inventory.'' For 15 percent ROP plans that rely on post-1996 emissions reductions, the adjusted base year inventory must also exclude any VOC emission reductions resulting from the FMVCP and federal RVP standards from 1996 until the projected date by which the 15 percent ROP will be demonstrated (henceforth referred to as the demonstration year). See Reference 4. Procedures for calculating emission reductions from the FMVCP and federal RVP standards are discussed in Reference 1 (page 13507) and Reference 6. Table 2 presents the adjusted base year inventory.

TABLE 2.—ADJUSTED BASE YEAR INVENTORIES

	Adjustment (mt VOC/d)	Adjusted base year inventory (mt VOC/d)
1990 Base year inventory	.....	367.0
Stationary sources outside of the nonattainment area	−1.8	.....
Biogenic emissions	−37.3	.....
1990 nonattainment area base year anthropogenic inventory	.....	327.9
FMVCP/RVP 1990–1996	−47.4	.....
Adjusted base year inventory (1996)	.....	280.5

The target level of VOC emissions for demonstrating 15 percent ROP is then calculated by multiplying the adjusted base year inventory by 0.15, adding the VOC reductions from any RACT and/or I/M corrections and from the FMVCP and federal RVP regulations, then subtracting this total from the 1990 nonattainment area base year anthropogenic inventory.

TABLE 3.—15 Percent Rate of Progress Target Levels

(Metric tons of VOC/day)

July 1, year	(A) 1990 ROP base year EI	(B) Red. from FMVCP/RVP (90–96)	(C) 1990 adj. base year EI (A–B)	(D) 15% target (0.15 x C)	(E) Red. from FMVCP/RVP (96–99)	(F) RACT & I/M corrections	(G) Needed Red (B + D + E + F)	(H) 1996 target emission level (A–G)
1996	327.9	47.4	280.5	42.1	.....	2.3	91.8	236.1
1998	327.9	47.4	280.5	42.1	3.4	2.3	95.2	232.7
1/1/1999	327.9	47.4	280.5	42.1	4.2	2.3	96.0	231.9
4/1/1999	327.9	47.2	280.5	42.1	4.6	2.3	96.4	231.5
1999	327.9	47.4	280.5	42.1	5.0	2.3	96.8	231.1

NOTE: January 1, 1999 and April 1, 1999 values are interpolated between 1998 and 1999 values.

To demonstrate a 15 percent rate of progress, projected 1996 emissions, accounting for growth after 1990 and including any adjustments for FMVCP/RVP emission reduction occurring after 1996, must be at or below the target emission level.

C. 15 Percent Demonstration

EPA proposes to determine that the Phoenix area will have sufficient controls in place by no later than April 1, 1999 to meet the 15 percent rate of progress requirement and that this date is the most expeditious date practicable for achieving the 15 percent target based on the set of controls EPA has proposed for crediting in the 15 percent demonstration and the unavailability of any other practicable controls that could advance the date.

Table 4 presents the projected controlled 1996 inventory and Table 5 lists the control measures that make up the 15 percent demonstration. EPA notes that the State included a number of adopted and implemented control measures in its 15 percent plan and Voluntary Early Ozone Plan that have not been credited in this 15 percent demonstration because they are not yet in the SIP. These measures remain creditable in future ROP demonstrations to the extent they are SIP approvable.

TABLE 4.—1996 PROJECTED INVENTORY FOR APRIL 1, 1999 DEMONSTRATION

Source Category	Emissions (mt VOC/day)
On-Road	76.7
Non-Road	43.0
Point	18.2
Area	93.3
Total	231.2
Target Level	231.5
Surplus emission reductions	0.3

[3] The modifications that EPA used in its analysis do not affect the approvability of the State's 1990 base year emissions inventory. The delisting of perchloroethylene occurred after the statutory due date for the inventory. In addition, states were not required to upgrade to the later version of MOBILE5a for their base year inventories. Reference 5. Finally, the principle MOBILE5a modification was to use minimum and maximum daily temperatures to calculate temperature corrections to VOC exhaust emissions, hot soak evaporative emissions, and resting loss and running loss emissions instead of a single ambient temperature as was done by Arizona. Although EPA does not recommend the use of a single ambient temperature to calculate these emissions, the impact on the base year inventory in this case is so slight (less than 0.6 metric tons per day out of an inventory of 136 metric tons per day or less than 0.5 percent) as to not constitute grounds for disapproval.

TABLE 5.—CONTROL MEASURES MAKING UP THE 15 PERCENT DEMONSTRATION

Category	Approval status	Adjusted 1996 reduction (mt VOC/d)
Arizona Vehicle Emissions Inspection Program	Approved 60 FR 22518 (May 8, 1995)	3.3
Arizona Summertime Gasoline Volatility Limitation (7.00 psi RVP) (on-road and nonroad).	Approved 62 FR 31734 (June 11, 1997)	13.0
Federal RFG—Phase I (on-road and nonroad)	Approved June 3, 1997 (62 FR 30260)	6.0
National Phase I Non-Road Engines Standards	Promulgated July 3, 1995 (60 FR 34582)	9.1
MCESD Rules 331, 336, 337, 342, 346, and 351	Approval signed 1/20/97	11.3
Stage II vapor recovery	Approved 11/1/94 (59 FR 54521)	9.8
MCESD Rule 335 architectural coatings	Approved 1/6/92 (57 FR 354)	2.9
Autobody refinishing (national rule)	National rule proposed April 30, 1996 (61 FR 19005) and December 30, 1997 (62 FR 67784).	1.4
Consumer products (national rule)	National rule proposed April 2, 1996 (61 FR 14531).	2.4
Architectural and industrial coatings (national rule)	National rule proposed June 25, 1996 (61 FR 32729).	0.6
Total		59.8

Arizona Vehicle Emissions Inspection Program

Enhancements to Arizona's vehicle emission inspection program were approved by EPA in 1995 and included IM240 testing for 1981 and newer vehicles, pressure and purge testing, and tighter cut points. Enhancements to the program were implemented beginning in January, 1995. Emission reductions credited in the 15 percent demonstration reflect the program as actually implemented in 1996 (that is, without the final cut points or the purge test) and assume no further improvements.

Arizona's enhanced I/M program also includes a remote sensing program (RSP). The EPA's proposed 15 percent ROP demonstration, however, does not currently include any reductions from this program. The State has estimated reductions from the RSP of 3.7 metric tons of VOC per day in 1996 based on the analysis in the 1993 MAG plan [4] (Reference 7); however, EPA does not currently have sufficient information to determine an appropriate credit for use in its own analysis. EPA proposes to credit the non-enhanced RSP with up to 3.7 metric tons per day if it obtains sufficient information to determine the appropriate credit.

Summertime Gasoline Volatility Limit (7 psi RVP)

The State's 7 psi summertime gasoline volatility limit was fully implemented in 1996. Emission reduction credit proposed for the 15 percent plan assumes a decrease in the RVP limit from the federally-required 7.8 psi to 7 psi and is calculated for both on-road motor vehicles and non-road gasoline-powered vehicles.

Federal Reformulated Gasoline Program—Phase I

The Federal reformulated gasoline program became effective in the Phoenix area at the retail level on August 4, 1997. 62 FR 30260 (June 3, 1997). As with RVP, the program affects both on-road motor vehicle emissions and non-road gasoline-powered engine emissions. The proposed emission reduction credit for RFG includes emission reductions from both categories.

Arizona has adopted its own Clean Burning Gasoline (CBG) Program to replace the federal RFG program beginning in June, 1998. EPA has recently proposed to approve that program and Arizona has requested to opt-out of the Federal RFG program should EPA grant final approval to its CBG program. Since the State's program has been designed to achieve more emission reductions than available under EPA's RFG regulations, there will be no loss of emission reductions as the Phoenix area transitions from the federal to the state program; therefore, for the purposes of this 15 percent demonstration, EPA proposes to grant emission reductions equivalent to those proposed above for the federal RFG program. If EPA approves the CBG program, the Agency will give it the same credit as federal RFG for the purposes of the 15 percent demonstration. Emissions reductions from the CBG program, if approved by EPA, that are in excess of those proposed for credit above may be used by the State in any future rate-of-progress demonstrations.

Phase I Non-road Engine Standards

On July 3, 1995, EPA promulgated Phase I emission standards for new spark-ignition (gasoline) engines of 25 horsepower or less. These engines include those typically used in lawnmowers and other residential gardening equipment, commercial lawn and garden equipment, and small pumps and compressors, and some other industrial/construction equipment. The Phase I standards were effective with model year 1997 engines and are expected to reduce VOC emissions from the impacted equipment types by 22.9 percent in 1999. See Reference 8.

Stage II Vapor Recovery

EPA approved Arizona's Stage II Vapor Recovery rules (Arizona Revised Statutes §§ 41–2131 through 2133 and Arizona Administrative Code R4–31–901 through R4–31–910) in 1994. This program required the installation of California Air Resources Board (CARB) certified stage II vapor recovery equipment at service stations by November 15, 1994.[5]

[4] Since EPA's approval of the State's VEIP, the State has enhanced the implementation of the RSP. This measure is not currently in the SIP. The State's reduction estimate is for the non-enhanced program.

[5] In its 15 percent plan, the State did not explicitly identify several measures that had been implemented after 1990 but prior to the development of the plan even though these measures are fully creditable in 15 percent plans. These measures include the Stage II vapor recovery program and the final limits in Maricopa County's architectural coating rule. The State, however, did incorporate reductions from these measures into the projected 1996 inventory. For the purposes of EPA's analysis, these measures and their associated reductions (which are identical to the ones calculated by the State) have been explicitly identified.

MCESD Rules

Concurrently with this proposal, EPA has approved MCESD Rules 331, 336, 337, 342, 346, and 351 into the SIP. Rule 331 limits the emissions of VOCs from surface cleaning and degreasing operations. Rule 336 limits emissions from surface coating operations. Rule 337 limits emissions of VOCs from screen, gravure, letterpress, flexographic and lithographic printing processes, including related coating and laminating processes. Rule 342 controls the emissions of VOCs emanating from applying coatings of finishing materials to furniture or fixtures made of wood or wood derived materials. Rule 346 limits VOC emissions from the surface preparation and coating of wood millwork such as shutters, doors, windows and their associated woodwork, and Rule 351 controls emissions of VOCs from organic liquid loading operations at bulk plants and bulk terminals. These rules, which affect emissions from both point and area sources, result in a total reduction of 9.2 metric tons per day from point sources and 2.1 metric ton per day from area sources.

Architectural Coatings

EPA approved MCESD's Rule 335 Architectural Coatings in 1992. This rule had a number of compliance deadlines in 1991 and reductions from these final deadlines are fully creditable to the 15 percent plan. See also Footnote 5.

Consumer Products

On April 2, 1996, EPA proposed national VOC emission standards for 24 categories of consumer products requiring compliance with the standards by 1997. Under EPA policy, 15 percent demonstrations may credit an overall 20 percent reduction in emissions from the consumer products categories covered by this rule. Reference 9. For Maricopa County, this rule will reduce VOC emissions from consumer products by an estimated 2.4 metric tons per day.

This measure, as well as the national autobody refinishing rule and the national architectural and industrial maintenance coating rule discussed in the following sections are statutorily required. See CAA section 183(e) and ''Consumer and Commercial Products: Schedule for Regulation,'' 60 FR 15264 (March 23, 1995). The Agency anticipates at this time that rules will be finalized by mid-1998. EPA has recently been sued to enforce the requirement to promulgate these rules and is currently discussing a schedule for their promulgation. *Sierra Club* v. *Browner,* CIV No. 97–984 PLF (D.D.C.).

The fact that these rules are required federal rules, and will likely soon have court-ordered deadlines, creates circumstances that allow EPA to consider them as part of 15 percent plans. Taking credit for reductions from proposed required federal measures is consistent with the overall scheme of the Clean Air Act ozone nonattainment provisions, as well as the relevant provisions by their terms. Congress anticipated that these federal measures would contribute to both progress toward attainment and attainment of the ozone standard and thus these measures are an integral part of Congress' blueprint for ozone attainment. Therefore, EPA concludes that implementation plans should be allowed to account for those reductions in both attainment and rate-of-progress plans. See Reference 10 and 61 FR 10920, 10936 (March 18, 1996).

Among the categories covered by the national rule for consumer products is windshield wiper fluids. MCESD has also adopted Rule 344 to control emissions from windshield wiper fluids. EPA is currently discussing the enforceability of the rule with the County and has not approved the measure into the SIP, hence the emission reductions from this category are based on the national rule and not Rule 344.

Autobody Refinishing

On April 30, 1996 and December 30, 1997, EPA proposed a national rule governing emissions from autobody refinishing coatings. Under EPA policy (Reference 11), a 37 percent reduction in emissions from autobody refinishing may be credited to this national rule. For Maricopa County, this rule will reduce VOC emissions from autobody refinishing by an estimated 1.4 metric tons per day.

MCESD has also adopted Rule 345 to control emissions from autobody refinishing. EPA is currently discussing the enforceability of this rule with the County and has not approved the measures into the SIP, hence the emission reductions from this category are based on the national rule and not Rule 345.

Architectural and Industrial Maintenance Coatings

On June 25, 1996 EPA proposed a national rule limiting the VOC content of numerous categories of architectural and industrial maintenance (AIM) coatings. Under EPA policy (Reference 12), a 20 percent reduction in emissions from the AIM coatings rule may be credited to this national rule for areas without architectural coating rules. As discussed above, Maricopa County already has in place Rule 335 that limits VOC content of architectural coatings. The national rule, as proposed, includes new or tighter limits than are currently in Rule 335 for a number of coating categories (e.g., traffic marking); therefore, the Phoenix area will realize additional emission reductions from the national rule of 0.6 metric tons per day by mid-1999.

D. ''As Soon As Practicable'' Demonstration

As discussed above, CAA section 182(b)(1) requires that all moderate and above ozone nonattainment areas prepare plans that provide for a 15 percent VOC emission reduction by November 15, 1996. Since this deadline has passed, in order to demonstrate that the Phoenix area has met the CAA section 182(b)(1) requirement, it must be demonstrated that the 15 percent reduction will be achieved as soon as practicable by showing that the applicable implementation plan contains all VOC control measures that are practicable for the Phoenix area and that meaningfully accelerate the date by which the 15 percent level is achieved. Measures that provide only an insignificant additional amount of reductions or could not be implemented soon enough to meaningfully advance the date by which the 15 percent is demonstrated are not required to be implemented to meet this test.

For the purposes of this 15 percent demonstration only, EPA is proposing to interpret ''significant emission reduction'' to be equal to or more than one-half of one percent (0.5 percent) of the total emission reduction needed to meet the 15 percent ROP requirement in 1999 for the Phoenix nonattainment area. One-half of one percent is 0.5 metric tons per day.

For the purposes of this 15 percent demonstration only, EPA is also proposing to interpret ''to meaningfully accelerate the date by which the 15 percent is demonstrated'' to mean three or more months. Because April 1 is before the June 1 start of the Phoenix ozone season, the ambient air quality benefit that would be gained by advancing the demonstration date by less than three months in advance of April 1 would not justify the implementation of additional federal measures in the Phoenix area for the purposes of demonstrating 15 percent. On the other hand, to advance the benchmark demonstration date for the ''as soon as practicable'' test much more than three months (that is, before

January 1, 1999) would leave so little time between the projected effective date of this action (July 1, 1998) and the benchmark demonstration date that no measure could be reasonably implemented in that short time period. Based on this reasoning, EPA believes that three months is an appropriate benchmark for this ''as soon as practicable'' test in this case.

Based on its analysis and the set of SIP-approved and federal measures proposed for credit above, EPA is projecting that the Phoenix area will meet the required 15 percent reduction no later than April 1, 1999. An additional emission reduction totaling at least 0.6 metric tons per day would be needed by January 1, 1999 to advance the demonstration date to January 1, 1999. See TSD, Section III.D. Therefore, to show that April 1, 1999 is the ''as soon as practicable date'' to demonstrate a 15 percent ROP for the Phoenix area, it must be shown that there are no measures that achieve a 0.6 metric tons per day reduction by January 1, 1999.

EPA analyzed a number of control measures that could potentially advance the date by which the 15 percent reduction is demonstrated in the Phoenix area and has found that there are no measures or combination of measures that would advance the date by more than a de minimis amount. These measures included ones recommended by EPA (see ''Sample City Analysis Comparison of Enhanced I/M Reductions Versus Other 15 Percent ROP Plan Measures,'' which is an attachment to Reference 2), by the State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials (see ''Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act: A Menu of Options,'' STAPPA/ALAPCO, September 1993), and in the Report of the Governor's Air Quality Strategies Task Force (December 2, 1996), and the ''Reanalysis of the Metropolitan Voluntary Early Ozone Plan,'' ADEQ *et al*, October 1997.

Most of the measures EPA analyzed generated very small additional emission reductions by January 1, 1999 (e.g., a complete ban on open burning) or could not be implemented to achieve emission reduction before January 1, 1999 (e.g., I/M improvements). In many cases, the State is already developing (e.g., industrial cleaning solvents) or had already adopted a similar measure (e.g., graphic arts) so that little, if any, additional reductions would be achieved by a federal measure. The complete analysis of potential measures is contained in the TSD for this proposal.

Based on this analysis, EPA has concluded that there are no reasonable measures or combination of reasonable measures that could meaningfully advance the demonstration date; therefore, the Agency proposes to find that April 1, 1999 is the most expeditious date practicable to demonstrate the 15 percent reduction.

III. Conclusion

Pursuant to its authority under CAA section 110(c) and for the reasons discussed above, EPA is proposing to determine that the Phoenix metropolitan area has in place or will have in place sufficient control measures to meet the 15 percent ROP requirement for VOCs in CAA section 182(b)(1)(A) as soon as practicable. This proposed determination is predicated on EPA's reanalysis of the State's 15 percent ROP plan to reflect the realities of the VEIP, reductions from additional controls adopted by the State, and additional federal regulations.

EPA is also proposing to approve the State's 1990 base year inventory under CAA sections 110(k)(2) and 182(a)(1).

IV. Administrative Requirements

A. Executive Order (E.O.) 12866

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This proposal simply presents the analysis of the emission impacts on the Phoenix metropolitan area of already adopted or proposed State and federal rules. This action neither proposes the promulgation of additional measures nor requires Arizona or its local jurisdictions to adopt or implement additional measures beyond those that they currently have adopted and implemented or have been proposed or implemented at the federal level. As such, it does not propose to regulate any entities. Therefore, pursuant to 5 U.S.C. 605(b), EPA certifies that today's proposed action does not have a significant impact on a substantial number of small entities within the meaning of those terms for RFA purposes.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, when EPA promulgates ''any general notice of proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more'' in any one year. A ''Federal mandate'' is defined, under section 101 of UMRA, as a provision that ''would impose an enforceable duty'' upon the private sector or State, local, or tribal governments'', with certain exceptions not here relevant. Under section 203 of UMRA, EPA must develop a small government agency plan before EPA ''establish[es] any regulatory requirements that might significantly or uniquely affect small governments''. Under section 204 of UMRA, EPA is required to develop a process to facilitate input by elected officers of State, local, and tribal governments for EPA's ''regulatory proposals'' that contain significant Federal intergovernmental mandates. Under section 205 of UMRA, before EPA promulgates ''any rule for which a written statement is required under [UMRA section] 202'', EPA must identify and consider a reasonable number of regulatory alternatives and either adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, or explain why a different alternative was selected.

As explained above, sections 202, 203, 204, and 205 of UMRA do not apply to today's action because it does not impose an enforceable duty on or otherwise affect any entity. Therefore, EPA is not required and has not taken any actions under UMRA.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone.

Dated: January 20, 1998.

Carol M. Browner,

Administrator.

References

1. General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, April 16, 1992, 57 FR 13498.

2. *Memorandum*, John S. Seitz, Director of the Office of Air Quality Planning and Standards, and Richard B. Ossias, Deputy Associate General Counsel to Regional Air Division Directors; ''15 Percent VOC SIP Approvals and the 'As Soon As Practicable' Test;'' February 12, 1997 including the attachment ''Sample City Analysis Comparison of Enhanced I/M Reductions Versus Other 15 Percent ROP Plan Measures,'' E.H. Pechan and Associates, December 12, 1996.

3. *Note*, Margo Oge, Director Office of Mobile Sources and John Seitz, Director of OAPQS to Regional Division Directors; re: Date by which States Need to Achieve all the Reductions Needed for the 15% Plan from I/M and Guidance for Recalculation, August 13, 1996.

4. *Memorandum*, Gay MacGregor, Director Regional and State Programs Division, OMS and Sally Shaver, Director, Air Quality Strategies and Standards Division, OAQPS to Regional Air Division Directors; ''Modeling 15% VOC Reduction(s) from I/M in 1999—Supplemental Guidance;'' December 23, 1996.

5. *Memorandum*, Philip A. Lorang, Director, Emission Planning and Strategies Division, OMS to Regional Air Division Directors; ''Release of MOBILE5a Emission Factor Model,'' March 29, 1993.

6. OAQPS, U.S. EPA. Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for the 15 Percent Rate of Progress Plans. EPA–452/R–92–005. October 1992.

7. Letter, Nancy Wrona, Director, Air Quality Division, ADEQ; to David Howekamp, Director, Air and Toxics Division, EPA-Region 9; ''Submittal of Additional Information in Support of Approval of 15% Rate of Progress Ozone Plan for Maricopa County;'' September 11, 1997.

8. *Memorandum*, Philip A. Lorang, Director, Emission Planning and Strategies Division, OMS to Regional Air Division Directors; ''Future Nonroad Emission Reduction Credits for Court-Ordered Nonroad Standards;'' November 29, 1994.

9. *Memorandum*, John S. Seitz, Director, OAQPS to Regional Air Division Directors; ''Regulatory Schedule for Consumer and Commercial Products under Section 182(e) of the Clean Air Act;'' June 22, 1995.

10. *Memoranda*, Mary Nichols, Assistant Administrator for Air and Radiation, U.S. EPA to Regional Administrators, Regions 1–10; ''SIP Credits for Federal Nonroad Engine Emissions Standards and Certain Other Mobile Source Programs;'' November 23, 1994 and January 30, 1996.

11. *Memorandum*, John S. Seitz, Director, OAQPS to Regional Air Division Directors; ''Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance Coating Rule and the Autobody Refinishing Rule;'' November 29, 1994.

12. *Memorandum*, John S. Seitz, Director, OAQPS to Regional Air Division Directors; ''Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule;'' March 22, 1995.

[FR Doc. 98–1765 Filed 1–23–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL160–1b; AD–FRL–5951–7]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve a variance allowing a temporary increase in particulate matter emissions from the Marathon Oil refinery in Robinson, Illinois, to allow deferral of repairs of control equipment until the time of a scheduled maintenance period. In the Final Rules section of this **Federal Register**, USEPA is fully approving the State Implementation Plan revision as a direct final rule without prior proposal, because the USEPA views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse written comments are received in response to these actions, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse written comments, the direct final rule will be withdrawn and all public comments will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before February 25, 1998.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the State submittal is available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, at (312) 886–6067.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

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

Dated: January 8, 1998.

Michelle D. Jordan,

Acting Regional Administrator, Region V.

[FR Doc. 98–1764 Filed 1–23–98; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 980113012–8012–01; 121197B]

RIN 0648–AK57

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Proposed changes to catch sharing plan and sport fishing management; availability of draft environmental assessment and regulatory impact review.

SUMMARY: NMFS proposes to approve and implement changes to the Area 2A Pacific halibut Catch Sharing Plan (Plan): (1) To adjust the Washington sport allocation; (2) to provide for an incidental catch of halibut in the commercial sablefish fishery off Washington under certain circumstances; and (3) to adjust management of the sport fisheries off Oregon and Washington under authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). NMFS also proposes

sport fishery regulations to implement the Plan in 1998. A draft environmental assessment and regulatory impact review (EA/RIR) on this action also is available for public comment.

DATES: Comments must be received by February 17, 1998.

ADDRESSES: Send comments or requests for a copy of the Plan to William Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115.

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

SUPPLEMENTARY INFORMATION: The Halibut Act of 1982 at 16 U.S.C. 773c provides that the Secretary of Commerce (Secretary) shall have general responsibility to carry out the Halibut Convention between the United States and Canada and that the Secretary shall adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. Section 773c(c) also authorizes the Regional Fishery Management Council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. Convention waters that are in addition to, but not in conflict with, regulations of the International Pacific Halibut Commission (IPHC). Accordingly, catch sharing plans to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-Indian harvesters, and among non-Indian commercial and sport fisheries in IPHC statistical Area 2A (off Washington, Oregon, and California) have been developed each year since 1988 by the Pacific Fishery Management Council (Council) in accordance with the Halibut Act. In 1995, NMFS implemented a Council-recommended long-term Plan (60 FR 14651, March 20, 1995) which was revised in 1996 (61 FR 11337, March 20, 1996) and 1997 (62 FR 12759, March 16, 1997). The Plan allocates 35 percent of the Area 2A TAC to Washington treaty Indian tribes in Subarea 2A–1 and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into two sectors; a directed commercial fishery that is allocated 85 percent, and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53'18'' N. lat.), Oregon and California. The Plan also divides the sport fisheries into seven geographic areas each with separate allocations, seasons, and bag limits.

Council Recommended Changes to the Plan

At its September 1997 public meeting, the Council adopted proposing for public comment, the following changes to the Plan: (1) Modifying the Washington sport subarea allocations and seasons at TACs in excess of recent years TACs and providing an allocation to an incidental catch commercial fishery off Washington at TACs greater than 900,000 lb (408.2 mt); and, (2) re-structuring the Oregon sport fisheries to framework the opening dates for the May and August all-depth seasons, and modifying the management of the south coast subarea to provide a fixed season or to combine the central and south coast subareas into one subarea.

At its November 1997 public meeting, the Council considered the results of State sponsored workshops on the proposed changes to the Plan and public comment, and made final recommendations for eight modifications to the Plan as follows:

(1) Revise the distribution of the Washington sport allocation among the Washington sport fishery subareas when the Area 2A TAC is above 550,000 lb (249.5 mt) to facilitate expanded season lengths. When the Washington sport allocation is between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt), 32 percent of the amount between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt) is distributed each to the Washington Inside Waters (Puget Sound) subarea, the Washington North Coast subarea, and the Washington South Coast subarea. The Columbia River subarea receives the remaining 4 percent of the Washington sport allocation between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt). When the Washington sport allocation is above 224,110 lb (101.7 mt), 32 percent of the amount between 130,845 lb (59.4 mt) and 214,110 lb (97.1 mt) is distributed to each of the 3 Washington sport subareas described above and the remaining 4 percent is allocated to the Columbia River subarea.

(2) Revise the distribution of the Washington sport allocation when the Area 2A TAC is above 942,040 lb (427.3 mt) to provide for retention of incidentally caught halibut in the primary directed sablefish fishery north of Point Chehalis, WA. When the Washington sport allocation is above 224,110 lb (101.7 mt), any amount of that allocation above 214,110 lb (97.1 mt) is allocated to this fishery. The area north of Point Chehalis has been closed to the directed commercial fishery in recent years and this revision allows commercial sablefish fishers operating in this area an opportunity to retain incidentally caught halibut in years when the Area 2A TAC is high.

(3) Revise the sport season structure priorities for the Washington north coast subarea to extend the season for 5 days per week through June after achieving priorities for a 5 day per week season in May and a July 1–4 opening.

(4) Revise the sport season structure for the Washington south coast subarea to have a 5 day per week season with closures on Friday and Saturday to extend the season and increase fishing opportunity.

(5) Establish a framework opening date for the May and August sport fisheries in Oregon south of Cape Falcon, OR to allow fishers to know in advance what day the fishery will open each year and allow fishers to better plan and schedule fishing trips.

(6) Establish a fixed season for the Oregon south coast subarea sport fishery in May (similar to the fixed season in the Oregon central coast sport fishery) to allow fishers to better plan and schedule fishing trips. Fixed season open dates would be established preseason based on projected catch per day and number of days to achievement of each subarea season subquota for the May and August fisheries in Oregon south of Cape Falcon.

(7) Revise the structuring of the August sport fishery off Oregon (Cape Falcon, OR to the Oregon/California border) to provide for a restricted fishery inside 30 fathoms if the remaining quota is insufficient to allow for one day of an all-depth fishery.

(8) Revise the inseason management measures to allow the transfer of allocations between sport fishery subareas north of Cape Falcon, OR that are projected to be unused as of September 30 of each year. This would allow unused allocations to be utilized by Washington sport subareas with short seasons.

NMFS is proposing to implement the eight changes to the Plan recommended by the Council as well as one addition to the Plan to better implement the Council's intent and several minor corrections to the Plan. The implementation provisions for the incidental catch of halibut in the salmon troll fishery would be clarified, as proposed below, to stipulate that the August season is closed unless notice of an opening is provided on the NMFS hotline. The term ''Regional Director''

would be changed to ''Regional Administrator'' in several places in the Plan. The word ''approximately'' would be added to references to the percentages of the Area 2A TAC in the Plan where the percentage is rounded to the nearest tenth.

In addition, NMFS is proposing several changes to the Plan to eliminate reference to IPHC charterboat licenses because the IPHC is proposing to eliminate its license requirements for charterboats. The proposed changes to the Plan on charterboat licenses would not change the effect of the Plan of preventing commercial fishers from accessing the sport allocation (i.e., operating in the sport fisheries) and conversely preventing sport fishers from participating in the commercial fishery because the remaining commercial license requirements provide an adequate regulatory mechanism.

Proposed Changes to the Catch Sharing Plan

Accordingly, NMFS is proposing to approve the Council recommendations and proposes the following changes to the Plan:

Section (b) of the Plan would be modified to read as follows:

This Plan allocates 35 percent of the Area 2A TAC to U.S. treaty Indian tribes in the State of Washington in subarea 2A–1, and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. Allocations within the non-Indian commercial and sport fisheries are described in sections (e) and (f) of this Plan. These allocations may be changed if new information becomes available that indicates a change is necessary and/or the Pacific Fishery Management Council takes action to reconsider its allocation recommendations. Such changes will be made after appropriate rulemaking is completed and published in the **Federal Register**.

In section (e) Non-Indian Commercial Fisheries, the first paragraph would be revised to read as follows:

The non-Indian commercial fishery is allocated 31.7 percent of the non-Indian allocation for a directed halibut fishery and an incidental catch fishery during the salmon troll fishery. The non-Indian commercial allocation is approximately 20.6 percent of the Area 2A TAC. Incidental catch of halibut in the primary directed sablefish fishery north of Point Chehalis, WA will be authorized if the Washington sport allocation exceeds 224,110 lb (101.7 mt) as described in section (e)(3) of this Plan. The structuring and management of these three fisheries is as follows.''

In section (e) Non-Indian Commercial Fisheries, paragraph (3) would be renumbered (4), and would be revised to read as follows:

Commercial license restrictions/declarations. Commercial fishers must choose either (1) to operate in the directed halibut commercial fishery in Area 2A and/or retain halibut caught incidentally in the primary directed sablefish fishery north of Point Chehalis, WA or (2) to retain halibut caught incidentally during the salmon troll fishery. Commercial fishers operating in the directed halibut fishery and/or retaining halibut incidentally caught in the primary directed sablefish fishery must send their license application to the IPHC postmarked no later than April 30, or the first weekday in May, if April 30 falls on a weekend, in order to obtain a license to fish for halibut in Area 2A. Commercial fishers operating in the salmon troll fishery who seek to retain incidentally caught halibut must send their application for a license to the IPHC for the incidental catch of halibut in Area 2A postmarked no later than March 31, or the first weekday in April, if March 31 falls on a weekend. Fishing vessels licensed by IPHC to fish commercially in Area 2A are prohibited from operating in the sport fisheries in Area 2A.

In section (e) Non-Indian Commercial Fisheries, a new paragraph (3) would be added to read as follows:

Incidental catch in the sablefish fishery north of Point Chehalis. If the Area 2A TAC is greater than 900,000 lb (408.2 mt), the primary directed sablefish fishery north of Point Chehalis will be allocated the Washington sport allocation that is in excess of 214,110 lb (97.1 mt), provided a minimum of 10,000 lb (4.5 mt) is available (i.e., the Washington sport allocation is 224,110 lb (101.7 mt) or greater). If the amount above 214,110 lb (97.1 mt) is less than 10,000 lb (4.5 mt), then the excess will be allocated to the Washington sport subareas according to section (f) of this Plan. The Council will recommend landing restrictions at its spring public meeting each year to control the amount of halibut caught incidentally in this fishery. The landing restrictions will be based on the amount of the allocation and other pertinent factors, and may include catch or landing ratios, landing limits, or other means to control the rate of halibut landings. NMFS will publish the landing restrictions annually in the **Federal Register**.

In section (f) Sport Fisheries, the first paragraph would be revised to read as follows:

The non-Indian sport fisheries are allocated 68.3 percent of the non-Indian share, which is approximately 44.4 percent of the Area 2A TAC. The allocation is further divided as subquotas among seven geographic subareas.

In section (f) Sport Fisheries, paragraphs (1)(i) through (vi) for each sport fishery subarea would be revised as follows:

The first sentence of paragraph (i) would be revised to read as follows:

Washington inside waters (Puget Sound) subarea. This sport fishery subarea is allocated 28.0 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 32 percent of the Washington sport allocation between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt) (except as provided in section (e)(3) of this Plan).

The first sentence of paragraph (ii) would be revised to read as follows:

Washington north coast subarea. This sport fishery subarea is allocated 57.7 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 32 percent of the Washington sport allocation between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt) (except as provided in section (e)(3) of this Plan).'' Also, the third priority for the structuring of the season would be revised to read as follows:

If the preseason prediction indicates that these two goals can be met without utilizing the quota for this subarea, then the next priority is to extend the fishery into June and continue for 5 days per week (Tuesday through Saturday) for as long a period as possible.

The first sentence of paragraph (iii) would be revised to read as follows:

Washington south coast subarea. This sport fishery is allocated 12.3 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 32 percent of the Washington sport allocation between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt) (except as provided in section (e)(3) of this Plan).'' Also, the opening of the fishery would be revised to read as follows: ''The fishery will open on May 1 and continue five days per week (Sunday through Thursday) until 1,000 lb (0.45 mt) are projected to remain in the subarea quota. If May 1 falls on a Friday or Saturday, the fishery will open on the following Sunday.

The first sentence of paragraph (iv) would be revised to read as follows:

Columbia River subarea. This sport fishery subarea is allocated 2.0 percent

of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 4 percent of the Washington sport allocation between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt) (except as provided in section (e)(3) of this Plan). This subarea also is allocated 2.0 percent of the Oregon/California sport allocation.

Paragraphs (v), (v)(A), (v)(B) and (v)(C) of the Plan for the Oregon central coast subarea are revised to read as follows:

Oregon central coast subarea. If the Area 2A TAC is 388,350 lb (176.2 mt) and above, this subarea extends from Cape Falcon to the Siuslaw River at the Florence north jetty (44°01'08'' N. lat.) and is allocated 88.4 percent of the Oregon/California sport allocation, which is approximately 18.21 percent of the Area 2A TAC. If the Area 2A TAC is less than 388,350 lb (176.2 mt), this subarea extends from Cape Falcon to the California border and is allocated 95.4 percent of the Oregon/California sport allocation. The structuring objectives for this subarea are to provide two periods of fishing opportunity in May and in August in productive deeper water areas along the coast, principally for charterboat and larger private boat anglers, and provide a period of fishing opportunity in the summer for nearshore waters for small boat anglers. Fixed season dates will be established preseason for the May and August openings and will not be modified inseason except that the August openings may be modified inseason if the combined Oregon subarea quota is estimated to be achieved. Recent year catch rates will be used as a guideline for estimating the catch rate for the May and August fishery each year. The number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea season subquotas. ODFW will monitor landings and provide a post-season estimate of catch within 2 weeks of the end of the fixed season. If sufficient catch remains for an additional day of fishing after the May season or the August season, openings will be provided if possible in May and August respectively. Potential additional open dates for both the May and August seasons will be announced preseason. If a decision is made inseason to allow fishing on one or more of these additional dates, notice of the opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No all-depth halibut fishing will be allowed on the additional dates unless the opening date has been announced on the NMFS hotline. Any poundage remaining unharvested in the subquotas from earlier seasons will be added to the next season. The daily bag limit for all seasons is two halibut per person, one with a minimum 32–inch (81.3–cm) size limit and the second with a minimum 50–inch (127.0 cm) size limit. ODFW will sponsor a public workshop shortly after the IPHC annual meeting to develop recommendations to NMFS on the open dates for each season each year. The three seasons for this subarea are as follows.

(A) The first season is an all-depth fishery that begins on the second Thursday in May and is allocated 68 percent of the subarea quota. Fixed season dates will be established preseason based on projected catch per day and number of days to achievement of the subquota for this first season. No inseason adjustments will be made, except that additional opening days (established preseason) may be allowed if any quota for this season remains unharvested. The fishery will be structured for 2 days per week (Friday and Saturday) if the season is for 4 or fewer fishing days. The fishery will be structured for 3 days per week (Thursday through Saturday) if the season is for 5 or more fishing days.

(B) The second season opens the day following closure of the first season, only in waters inside the 30–fathom (55 m) curve, and continues daily until 7 percent of the subarea quota is taken, or until the day before the first Friday in August, whichever is earlier.

(C) The last season is a coastwide (Cape Falcon, OR to Oregon/California border) all-depth fishery that begins on the first Friday in August and is allocated 25 percent of the subarea quota. Fixed season dates will be established preseason based on projected catch per day and number of days to achievement of the combined Oregon subarea quotas south of Cape Falcon, OR. The all-depth fishery will be structured for 2 days per week (Friday and Saturday). No inseason adjustments will be made unless the combined Oregon subarea quota is estimated to be achieved. Additional openings of the all-depth fishery (established preseason) may be allowed if quota remains unharvested. If quota remains unharvested, but is insufficient for one day of an all-depth fishery, the sport fishery from Cape Falcon, OR to the Oregon/California border will be reopened in the area inside the 30–fathom (55 m) curve and will continue each day until the combined Oregon subarea quotas (south of Cape Falcon) are estimated to have been taken, or September 30, whichever is earlier.

Paragraphs (vi), (vi)(A), (vi)(B) and (vi)(C) of the Plan for the Oregon south coast subarea would be revised to read as follows:

Oregon south coast subarea. If the Area 2A TAC is 388,350 lb (176.2 mt) and greater, this subarea extends from the Siuslaw River at the Florence north jetty (44°01'08'' N. lat.) to the California border (42°00'00'' N. lat.) and is allocated 7.0 percent of the Oregon/California sport allocation, which is approximately 1.44 percent of the Area 2A TAC. If the Area 2A TAC is less than 388,350 lb (176.2 mt), this subarea will be included in the Oregon central coast subarea. The structuring objective for this subarea is to create a south coast management zone that has the same objectives as the Oregon central coast subarea and is designed to accommodate the needs of both charterboat and private boat anglers in the south coast subarea where weather and bar crossing conditions very often do not allow scheduled fishing trips. Fixed season dates will be established preseason for the May and August openings and will not be modified inseason except that the August openings may be modified inseason if the combined Oregon subarea quota is estimated to be achieved. Recent year catch rates will be used as a guideline for estimating the catch rate for the May and August fishery each year. The number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea season subquotas. ODFW will monitor landings and provide a post-season estimate of catch within 2 weeks of the end of the fixed season. If sufficient quota remains for an additional day of fishing after the May season or the August season, openings will be provided in May and August respectively. Potential additional open dates for both the May and August seasons will be announced preseason. If a decision is made inseason to allow fishing on one or more of these additional dates, notice of the opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No all-depth halibut fishing will be allowed on the additional dates unless the opening date has been announced on the NMFS hotline. Any poundage remaining unharvested in the subquotas from earlier seasons will be added to the next season. The daily bag limit for all seasons is two halibut per person, one with a minimum 32–inch (81.3–cm) size limit and the second with a minimum 50–inch (127.0 cm) size limit. ODFW will sponsor a public workshop shortly after the IPHC annual meeting to develop recommendations to NMFS on the open dates for each season each

year. The three seasons for this subarea are as follows.

(A) The first season is an all-depth fishery that begins on the second Thursday in May and is allocated 80 percent of the subarea quota. Fixed season dates will be established preseason based on projected catch per day and number of days to achievement of the subquota for this first season. No inseason adjustments will be made, except that additional opening days (established preseason) may be allowed if any quota for this season remains unharvested. The fishery will be structured for 2 days per week (Friday and Saturday) if the season is for 4 or fewer fishing days. The fishery will be structured for 3 days per week (Thursday through Saturday) if the season is for 5 or more fishing days.

(B) The second season is a restricted area fishery that is allocated 20 percent of the subarea quota. The restricted season opens the day following closure of the first season, only in waters inside the 30–fathom (55 m) curve, and continues daily until the subarea quota is estimated to have been taken, or until the day before the first Friday in August, whichever is earlier.

(C) The last season is a coastwide (Cape Falcon, OR to Oregon/California border) all-depth fishery that begins on the first Friday in August. Fixed season dates will be established preseason based on projected catch per day and number of days to achievement of the combined Oregon subarea quotas south of Cape Falcon, OR. The all-depth fishery will be structured for 2 days per week (Friday and Saturday). No inseason adjustments will be made unless the combined Oregon subarea quota is estimated to be achieved. Additional openings of the all-depth fishery (established preseason) may be allowed if quota remains unharvested. If quota remains unharvested, but is insufficient for one day of an all-depth fishery, the sport fishery from Cape Falcon, OR to the Oregon/California border will be reopened in the area inside the 30–fathom (55 m) curve and will continue each day until the combined Oregon subarea quotas is estimated to have been taken, or September 30, whichever is earlier.

Paragraph (f)(5)(i) on flexible inseason management provisions would be revised to read as follows:

The Regional Administrator, NMFS Northwest Region, after consultation with the Chairman of the Pacific Fishery Management Council, the IPHC Executive Director, and the Fisheries Director(s) of the affected state(s), is authorized to modify regulations during the season after making the following determinations: (A) The action is necessary to allow allocation objectives to be met. (B) The action will not result in exceeding the catch limit for the area. (C) If any of the sport fishery subareas north of Cape Falcon, OR are not projected to utilize their respective quotas by September 30, NMFS may take inseason action to transfer any projected unused quota to a Washington sport subarea projected to have the fewest number of sport fishing days in the calendar year.

In section (f)(5)(ii) on flexible inseason management, a new paragraph (E) is added to read as follows:

Modification of subarea quotas north of Cape Falcon, OR consistent with the standards in section (f)(5)(i)(C) of this Plan.

Proposed 1998 Sport Fishery Management Measures

NMFS also proposes sport fishery management measures necessary to implement the Plan in 1998. It is unknown at this time what the 1998 TAC will be, but information available from the IPHC indicates the TAC may be similar to 1997. The final TAC will be determined by the IPHC at its annual meeting in January 1998. The proposed 1998 sport fishery regulations based on the 1997 Area 2A TAC of 700,000 lb (317.5 mt) are as follows:

Washington Inside Waters Subarea (Puget Sound and Straits)

This subarea would be allocated 48,056 lb (21.8 mt) at an Area 2A TAC of 700,000 lb (317.5 mt) in accordance with the revised Plan. Although the allocation is 3 percent greater than 1997, the season length would be reduced from 59 days open in 1997 because of increased catch per day open (1,470 lb (0.7 mt) per day in 1997 compared to 844 lb (0.4 mt) per day in 1996). In accordance with the procedure developed with IPHC to project the catch in this subarea based on past catch per ''fishing day equivalent'' (FED), where a weekday is equal to 1 FED and a weekend/holiday is equal to 2.5 FEDs, a total of 76 FEDs were calculated (for a subarea quota of 48,056 lb (21.8 mt)) based on an average catch of 626 lb (0.3 mt) per FED in the past 3 years. The proposed number of open days for 1998 was then based on setting a season that opens in May and continues at least through July 4 in accordance with the Plan. If the season structuring is similar to 1997, then there would be a 47 day season that would open on May 21 (Thursday) and continue for 5 days per week (Thursday through Monday) through July 24 (Friday) when the season would close. The final determination of the season dates that will be open would be based on the allowable harvest level, projected 1998 catch rates, and recommendations developed in a public workshop sponsored by Washington Department of Fish and Wildlife after the 1998 TAC is set by the IPHC. The daily bag limit would be one halibut of any size per day per person.

Washington North Coast Subarea (north of the Queets River)

This subarea would be allocated 86,917 lb (39.4 mt) at an Area 2A TAC of 700,000 lb (317.5 mt) in accordance with the revised Plan. The season would open on May 1 and continue for 5 days per week (Tuesday through Saturday) until the quota is taken. Based on the 1997 catch of 1,468 lb (0.7 mt) per day, it is anticipated that the season would extend past July 4 thereby achieving the three priorities for this subarea in the Plan. The daily bag limit would be one halibut of any size per day per person. A portion of this subarea located about 19 nm (35 km) southwest of Cape Flattery would be closed to sport fishing for halibut. The size of this closed area is described in the Plan, but may be modified preseason by NMFS to maximize the season length.

Washington South Coast Subarea

This subarea would be allocated 27,513 lb (12.5 mt) at an Area 2A TAC of 700,000 lb (317.5 mt) in accordance with the revised Plan. The fishery would open on May 3 (Sunday) and continue 5 days per week (Sunday through Thursday) until 1,000 lb (0.45 mt) remain in the quota, and then would reopen as a nearshore fishery for 7 days per week until the remaining subarea quota is taken, or September 30, whichever occurs first. The daily bag limit would be one halibut of any size per day per person. The northern offshore portion of this area west of 124°40'00'' W. long. and north of 47°10'00'' N. lat. would be closed to sport fishing for halibut.

Columbia River Subarea

This subarea would be allocated 6,929 lb (3.1 mt) at an Area 2A TAC of 700,000 lb (317.5 mt) in accordance with the revised Plan. The fishery would open on May 1 and continue 7-days per week until the quota is reached or September 30, whichever occurs first. The daily bag limit would be one halibut with a minimum overall size limit of 32 inches (81.3 cm).

Oregon Central Coast Subarea

This subarea would be allocated 127,504 lb (57.8 mt) at an Area 2A TAC

of 700,000 lb (317.5 mt) in accordance with the revised Plan. The May all-depth season would be allocated 86,703 lb (39.3 mt) and based on an observed increasing catch per day trend in this fishery, an estimated 15,600 lb to 18,400 lb (7.1 - 8.3 mt) would be caught per day in 1998 resulting in a 5 day fixed season. In accordance with the Plan, the season dates would be May 14, 15, 16, 21, and 22. Additional fishing days, if the quota is not taken, would be scheduled for early June. The restricted depth fishery inside 30–fathoms would be allocated 8,925 lb (4.1 mt) and would open on May 23 and continue until August 6 or attainment of quota for this season. The August coastwide all-depth fishery (Cape Falcon to Oregon/California border) would be allocated 31,876 lb (14.5 mt) which is only sufficient for a 1-day opening on August 7 based on past catch rates observed in this fishery. If sufficient quota remains after this season for additional days fishing, the dates for an all-depth fishery would be mid-August. The restricted depth fishery inside 30–fathoms would then re-open on August 8 and continue until September 30 or attainment of the quota. The final determination of the season dates will be based on the allowable harvest level, projected catch rates, and recommendations developed in a public workshop sponsored by ODFW after the 1998 TAC is set by the IPHC. The daily bag limit would be two halibut, one with a minimum overall size limit of 32 inches (81.3 cm) and the second with a minimum overall size limit of 50 inches (127.0 cm).

Oregon South Coast Subarea

This subarea would be allocated 10,096 lb (4.6 mt) at an Area 2A TAC of 700,000 lb (317.5 mt) in accordance with the revised Plan. The May all-depth season would be allocated 8,077 lb (3.7 mt) and based on an observed increasing catch per day trend in this fishery, an estimated 1,630 lb (0.7 mt) would be caught per day in 1998 resulting in a 5 day fixed season. In accordance with the Plan, the season dates would be May 14, 15, 16, 21, and 22. Additional fishing days, if the quota is not taken, would be scheduled for early June. The restricted depth fishery inside 30–fathoms would be allocated 2,019 lb (0.9 mt) and would open on May 23 and continue until August 6 or attainment of quota for this season. The August coastwide all-depth fishery (Cape Falcon to Oregon/California border) would be open for 1-day on August 7. If sufficient quota remains after this season for additional days fishing, the dates for an all-depth fishery would be mid-August. The restricted depth fishery inside 30–fathoms would open on August 8 and continue until September 30 or attainment of the quota. The final determination of the season dates would be based on the allowable harvest level, projected catch rates, and recommendations developed in a public workshop sponsored by ODFW after the 1998 TAC is set by the IPHC. The daily bag limit would be two halibut, one with a minimum overall size limit of 32 inches (81.3 cm) and the second with a minimum overall size limit of 50 inches (127.0 cm).

California Subarea

The proposed sport regulations for this subarea are the same as 1997 with a May 1 opening and continuing 7 days per week until September 30. The daily bag limit would be one halibut with a minimum overall size limit of 32 inches (81.3 cm).

NMFS requests public comments on the Council's recommended modifications to the Plan and the proposed sport fishing regulations. The Area 2A TAC will be set by the IPHC at its annual meeting on January 26–29, 1998 in Anchorage, AK. Comments are requested by February 17, 1998, after the IPHC annual meeting, so that the public will have the opportunity to consider the final Area 2A TAC before submitting comments on the proposed sport fishing regulations. The States of Washington and Oregon will conduct public workshops shortly after the IPHC meeting to obtain input on the sport season dates. After the Area 2A TAC is known, and after NMFS reviews public comments and comments from the States, NMFS will issue final rules for the Area 2A Pacific halibut sport fishery concurrent with the IPHC regulations for the 1998 Pacific halibut fisheries.

NMFS and the Council have prepared a draft environmental assessment and regulatory impact review on the proposed changes to the Plan. Copies of the ''Draft Environmental Assessment and Regulatory Impact Review of Changes to the Catch Sharing Plan for Pacific Halibut in Area 2A'' are available from NMFS (see **ADDRESSES**). Comments on the EA/RIR are requested by February 17, 1998.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the changes to the Plan would not have a significant economic impact on a substantial number of small entities.

In accordance with the Regulatory Flexibility Act, an assessment of the economic impacts of proposed changes to the Plan on small entities is presented in the EA/RIR. The Regulatory Flexibility Act (RFA), 5 U.S.C. 603 *et seq.*, requires agencies to assess impacts of proposed regulatory actions on small entities and determine whether there will be a significant economic impact on a substantial number of small entities. There are various criteria used to determine whether a proposed action would have a significant economic impact on a substantial number of small entities, the only one that may be relevant here is whether the proposed action would result in a reduction in annual gross revenues of more than 5 percent, for 20 percent or more of the affected small entities. For the purposes of the RFA, NMFS has adopted a standard that a ''substantial number'' of small entities is more than 20 percent of those small entities affected by the proposed action. In determining the scope or universe of the entities to be considered in making the significance determination, the general approach used is to consider only those entities that can reasonably be expected to be directly or indirectly impacted by the proposed action. For the fishing industry, a small entity is a small business with receipts of up to $3 million annually. Charterboats operating in Washington sport fisheries are viewed as small entities affected by the proposed changes to the Plan.

The proposed action involves three changes to the Plan that affect small businesses:

(1) establishment of fixed opening dates and fixed seasons for Oregon sport fisheries;

(2) a provision that at Area 2A TACs above 942,040 lbs (427.3 mt), the Washington sport fishery is capped at an allocation of 214,110 lb (97.1 mt) with the excess allocated to Washington commercial sablefish fishers to retain and sell incidentally caught halibut; and

(3) a revision of the distribution of the Washington sport allocation among the Washington sport fishery subareas when the Area 2A TAC is above 550,000 lb (249.5 mt) to facilitate expanded season lengths. At TACs below 550,000 lb (249.5 mt), the proposed Plan does not differ from the Plan currently in place.

The first two changes yield, if anything, only positive economic impacts; and therefore, they are not a source of significant economic impacts on small entities. The establishment of fixed opening dates and fixed seasons in the Oregon sport fisheries will allow anglers and businesses to better plan for halibut fishery seasons with resulting benefits from more orderly fisheries, but otherwise does not change the allocations or conduct of the sport fishery. The reallocation of Washington sport allocation at high Area 2A TAC levels to commercial fishers in the Washington sablefish fishery provides direct benefits in allowing incidentally caught halibut, which otherwise must be discarded, to be retained and sold by commercial fishers. This measure will also have the effect of limiting future growth in the sports fishery. However, this impact is not considered significant because it will not result in losses as compared to the status quo (i.e., sport fishers will not suffer any reduction in their annual gross revenue as a result of this measure).

The third change to the Plan, revising the distribution of sport allocation among

subareas when TAC reaches a certain level, may yield negative impacts upon some small entities. The proposed changes to the Plan on the distribution by subarea of the Washington sport allocation at Area 2A TACs at or above 550,000 lb (249.5 mt) will directly affect charterboats that operate in Washington and indirectly affect small businesses, such as motels, restaurants, and tackle shops in the ports and nearby areas utilized by halibut anglers. In regard to direct effects of the proposed action, a total of 177 charterboats have been licensed by the International Pacific Halibut Commission over the past 3 years for halibut fishing, and only 13 to 15 of them (less than 9 percent) have operated out of ports affected by the proposed reduced allocation at higher Area 2A TAC levels.

Data on the actual number and type of small businesses utilized by halibut anglers (thereby indirectly affected by the proposed action) is not available. However, there are about 15 ports/access sites that are used by halibut anglers to access the halibut sport fishery subareas in Washington and most, if not all, of the affected small businesses are located in the ports from which halibut anglers depart for sport fishing trips. Therefore any reduction in halibut fishing opportunity in a given ''halibut access'' port, would be expected to affect small businesses that provide services to halibut anglers in those ports. NMFS considers the effects on ports used by halibut anglers as a proxy for determining whether the proposed action will have significant economic impacts on a substantial number of small entities. Of the 15 ports used by halibut anglers, 13 (87 percent) will have an increase or no changes in halibut sport fishing opportunity as a result of the proposed action. Only 2 ports (13 percent of affected ports and small entities supporting sport angling) would have a reduced allocation at higher Area 2A TACs. At a TAC of 700,000 lb (317.5 mt), the proposed change would result in a reduction of halibut fishing opportunity of 6 days (9 percent reduction in halibut fishing days), but would not affect sport fishing opportunity for bottomfish, salmon and other species that account for a much greater proportion of the sport fishing opportunity in Washington (for example, bottomfish sport fishing opportunity is available year-round from most ports). The proposed action has no effect on subarea sport allocations when the Area 2A TAC is 550,000 lb (249.5 mt) or less - the average TAC in recent past years (i.e., no effect on the status quo through 1996).

Overall, the net change in the reallocation of halibut quotas among the subareas at greater Area 2A TACs results in a small net increase in the number of sport halibut fishing days in Washington ports. At an Area 2A TAC of 700,000 lb (317.5 mt), which is the assumed TAC for 1998, the net increase based on 1997 catches would be 3 days overall (0.5 percent increase in all Washington subareas) with the WA Inside Waters and WA South Coast subareas increasing by 3 days (5 percent increase) and 6 days (26 percent increase) respectively, and the WA North Coast subarea decreasing by 6 days (9 percent decrease); the number of fishing days in the other subareas is not affected. In summary, the proposed changes to the Washington sport halibut fishery will provide positive benefits to most charterboat operators in Washington and the sport fishery support businesses in most of the Washington ports used to access the halibut sport fishery, and should not cause a reduction in revenues for 20 percent or more of the small entities affected directly (charterboats) or indirectly (sport fishery support services in halibut access ports) by this action.

The proposed changes to the Plan will not have a significant economic impact on a substantial number of small entities because they will not result in a reduction in annual gross revenues of more than 5 percent, for 20 percent or more of the affected small entities. The proposed sport management measures for 1998 merely implement the Plan at the appropriate level of TAC; their impacts are within the scope of the impacts analyzed for the Plan. Therefore, a regulatory flexibility analysis was not prepared.

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

Dated: January 20, 1998.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–1803 Filed 1–23–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 16
Monday, January 26, 1998

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

Rural Utilities Service

Distance Learning and Telemedicine Loan and Grant Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of application filing deadline.

SUMMARY: The Rural Utilities Service (RUS) announces the deadline for submitting applications for the Distance Learning and Telemedicine Loan and Grant program for fiscal year (FY) 1998 funding.

DATES: Applications for loans to be considered for FY 1998 funding must be postmarked no later than August 14, 1998, and applications for grants and combination loans and grants to be considered for FY 1998 funding must be postmarked no later than June 1, 1998.

ADDRESSES: Applications are to be submitted to the Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1590, Washington, DC 20250–1590. Applications should be marked ''Attention: Assistant Administrator, Telecommunications Program''.

FOR FURTHER INFORMATION CONTACT: Ken B. Chandler, Acting Assistant Administrator-Telecommunications Program, Rural Utilities Service, STOP 1590, Room 4056, South Building, 1400 Independence Avenue, SW., Washington, DC 20250–1590. Telephone (202) 720–9554, Facsimile (202) 720–0810.

SUPPLEMENTARY INFORMATION: For FY 1998, $12.5 million in grants and $150 million in loans will be made available for distance learning and telemedicine projects. Notice is hereby given that under 7 CFR 1703.108, RUS has determined the maximum amount of an application for a grant that will be considered for funding in FY 1998 as $350,000, and the maximum amount for a loan that will be considered for funding in FY 1998 as $6,000,000.

Further, in accordance with 7 CFR 1703.113, RUS has determined that for FY 1998 the minimum number of points required for a loan application to be immediately processed is 94 points. Only completed loan applications meeting the minimum points requirement and determined by RUS to be feasible will be immediately processed.

Applications for financial assistance must be submitted in accordance with 7 CFR 1703, Subpart D, which establishes the policies and procedures for submitting an application for financial assistance. This document is available on the Internet at the following address: http://www.usda.gov/rus/dlt/dlml.htm.

In addition, a new Application Guide to assist applicants in the preparation of applications for financing will be available shortly, at the same Internet address as above. Application guides may also be requested from RUS by contacting one of the following Area Offices:

Northeast Area, USDA–RUS, Phone: (202) 720–0715

Southeast Area, USDA–RUS, Phone: (202) 690–4673

Northwest Area, USDA–RUS, Phone: (202) 720–1025

Southwest Area, USDA–RUS, Phone: (202) 720–0800

Applications for loans to be considered for FY 1998 funding must be postmarked no later than August 14, 1998, and applications for grants and combination loans and grants to be considered for FY 1998 funding must be postmarked no later than June 1, 1998. RUS will review each application for completeness in accordance with 7 CFR 1703.109, and notify the applicant, within 15 working days of the results of this review, citing any information which is incomplete. It is suggested that applications be submitted prior to the above deadline to ensure they can be reviewed and considered complete by the deadline.

Authority: 7 U.S.C. et seq. and 950aaa *et seq.*; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*).

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 98–1659 Filed 1–23–98; 8:45 am]

BILLING CODE 3410–15–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Oklahoma Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Oklahoma Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on Thursday, February 19, 1998, at the Clarion Hotel/Comfort Inn Conference Center, 4345 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 16, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–1667 Filed 1–23–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

National Employers Survey (NES)—Follow-up

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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before March 27, 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 Michael Hartz, U.S. Bureau of the Census, Room 2538, FB 3, EPCD, Washington, DC 20233–6100; (301–457–2633).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau conducted three National Employers Surveys (1994, 1995, and 1997) for the National Center on the Educational Quality of the Workforce, a nonprofit research group. This group's focus is discovering relationships among employment, hiring, training, education, and business success. This information collection seeks to build upon the results of the previous surveys.

This information collection seeks to gather information specifically on employers' school-to-work programs. The collection will relate these findings to similar information collected from employers in the 1997 National Employers Survey (NES–3). The purpose is to measure change, or lack of it, in the scope and prevalence of these programs. We will use the follow-up data to assess changes from the 1997 NES on three major measures: the number of businesses participating in school-to-work that offer work-based learning slots; the number of school-to-work businesses that provide remedial education; and recruitment costs of school-to-work businesses.

This new survey will be a telephone survey of approximately 1,000 establishments that participated in the NES–3.

II. Method of Collection

The Bureau of the Census will conduct the NES Follow-up survey via telephone. The information will be recorded on paper and later coded into a computer database. The interview will include about 40 questions, most of which will not require the respondent to refer to any records, and will require about 10 minutes to complete.

The survey will be conducted of approximately 1,000 establishments with more than 20 employees, chosen through a stratified, random-sampling method. Confidentiality of the survey data is guaranteed by Title 13, United States Code. After the Census Bureau performs data keying and consistency editing, the data set will be provided to sworn Census agents representing the survey sponsor.

A high participation rate for employers is usually crucial for statistically reliable data in this type of survey. The survey sponsor has discussed the survey issues with selected respondents from the NES–3. It is the sponsor's opinion that the business establishments they contacted were quite interested in the survey issues and that most will strongly consider participating in the survey. The businesses indicated that their decision to participate in a survey was primarily based on their perception of the usefulness of the requested information and the businesses are very interested in the issues of the survey. Several respondents (employers) told the sponsor that they wanted the results of the survey. Based on these factors (and especially the employers concerns about these workplace issues), we expect a high rate of the employers from the NES–3 to participate in the Follow-up.

III. Data

OMB Number: 0607–0787.

Form Number: NES Follow-up telephone interview.

Type of Review: Regular.

Affected Public: Business establishments with 20 or more employees.

Estimated Number of Respondents: 1,000.

Estimated Time Per Response: 10 minutes.

Estimated Total Annual Burden Hours: 167.

Estimated Total Annual Cost: There is no cost to the respondent other than the time required to complete the interview.

Respondent's Obligation: Voluntary.

Legal Authority: United States Code, Title 13, sections 8 and 9.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information 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: January 20, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–1748 Filed 1–23–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 949]

Grant of Authority for Subzone Status Sargento Foods, Inc., (Cheese Processing), Plymouth, Wisconsin

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from Brown County, Wisconsin, grantee of Foreign-Trade Zone 167, for authority to establish special-purpose subzone status for export activity at the cheese processing plant of Sargento Foods, Inc., in Plymouth, Wisconsin, was filed by the Board on June 10, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 48–97, 62 FR 33830, 6–23–97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application for export processing is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status for export activity at the Sargento Foods, Inc., plant in Plymouth, Wisconsin (Subzone 167C), at the location

described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the further requirement that all foreign origin cheese products admitted to the subzone shall be reexported.

Signed at Washington, DC, this 16th day of January 1998.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–1804 Filed 1–23–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

BUREAU: International Trade Administration, U.S. and Foreign Commercial Service.

TITLE: The President's ''E'' Award and The President's ''E'' Certificate of Service.

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 the continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before March 27, 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. Phone number (202) 482–3272.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Evelyn Scott, Room 3810, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; phone (202) 482–1289, fax (202) 482–0729.

SUPPLEMENTARY INFORMATION:

I. Abstract

The President's ''E'' Award for Excellence in Exporting is our nation's highest award to honor American exporters. ''E'' Awards recognize firms and organizations for their competitive achievements in world markets, as well as the benefits of their success to the U.S. economy. The President's ''E Star'' Award recognizes the sustained superior international marketing performance of ''E'' Award winners.

II. Method of Collection

An application form is the vehicle designed to determine eligibility for the award within established criteria. The completed application is submitted to the appropriate U.S. Department of Commerce Export Assistance Center for review and endorsement, and then forwarded to the Office of Domestic Operations in the U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, Washington, D.C., for processing.

III. Data

OMB Number: 0625–0065.

Form Number: ITA 725P.

Type of Review: Regular submission.

Affected Public: U.S. firms and organizations and American subsidiaries of foreign-owned or controlled corporations.

Estimated Number of Respondents: 60.

Estimated Time per Response: 27.4 hours.

Estimated Total Annual Burden Hours: 1,644.

Estimated Total Annual Cost: $68,000.

IV. Requested for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information 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: January 20, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–1749 Filed 1–23–98; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates. In accordance with our regulations, we are initiating those administrative reviews. The Department of Commerce also received a request to revoke one antidumping duty order in part.

EFFECTIVE DATE: January 26, 1998.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, 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) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) has received timely requests, in accordance with 19 CFR 351.213(b) (1997), for administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates. The Department also received a timely request to revoke in part the antidumping duty order on welded ASTM A–312 stainless steel pipe from Taiwan.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than December 31, 1998.

	Period to be reviewed
Antidumping Duty Proceedings	
Canada: Elemental Sulphur, A–122–047	12/1/96–11/30/97
Husky Oil Limited	
India: Certain Stainless Steel Wire Rod, A–533–808	12/1/96–11/30/97
Mukand	
Mexico: Circular Welded Non-Alloy Steel Pipe,[1] A–201–805	11/1/96–10/31/97
Hylsa, S.A. de C.V.	
Mexico: Porcelain-On-Steel Cooking Ware, A–201–504	12/1/96–11/30/97
Cinsa, S.A. de C.V.	
Esmaltactiones de Norte America, S.A. de C.V.	
Taiwan: Welded ASTM A–312 Stainless Steel Pipes, A–583–815	12/1/96–11/30/97
Ta Chen Stainless Steel Pipe	
The People's Republic of China: Cased Pencils,[2] A–570–827	12/1/96–11/30/97
Anhui Stationary Company, Ltd., China First Pencil Company, Ltd., Shanghai Three Star Stationary Company Ltd., Beijing Pencil Factory, Dalian Pencil Factory, Donghua Pencil Factory, Harbin Pencil Factory, Jiangsu Pencil Factory, Jinan Pencil Factory, Juihai Pencil Factory, Julong Pencil Factory, Qingdao Pencil Factory, Shenyiang Pencil Factory, Songnan Pencil Factory, Tianjin Pencil Factory, Xinbang Joint Venture Pencil Factory, Anhui Import/Export Group Corporation, Anhui Light Industrial Products Import/Export Corp., Anhui Provincial Imports & Exports Corporation, Beijing Light Industrial Products Import/Export Corp., Changzhou Foreign Economic Technical & Trading Company, Changzhou Foreign Trade Group, Chiangshu Foreign Trading, China Fujian Foreign Trade Center, China National Light Industrial Products Import & Export Corporation (all branches), Dalian Light Industrial Products Import/Export Corporation, Giangdong Provincial Stationary & Sporting Goods Import & Export Corporation, Jiangsu Light Industrial Products Import/Export Group Corporation, Jilin Provincial Machinery & Equipment Import & Export Corporation, Liaoning Light Industrial Products Import/Export Corporation, Qingdao Light Industrial Products Import/Export Corporation, Shandong Light Industrial Products Import/Export Corporation, Shantou Light Industrial Products Import/Export Corporation, Shantou Stationery & Sporting Goods Import & Export Corporation, Shanxi Light Industrial Products Import/Export Corporation, Shenyiang Light Industrial Products Import/Export Corporation, Shum Yip (Shenzen) Industry & Trade Development Corporation, Sichuan Light Industrial Products Import/Export Corporation, Tianjin Stationery and Sporting Goods Import/Export Corporation, Yangjiang Light Industrial Products Import/Export Corporation, Zhenjiang Foreign Trade Corporation	
The People's Republic of China: Porcelein-on-Steel Cooking Ware,[3] A–570–506	12/1/96–11/30/97
Clover Enamelware Enterprises Ltd./Lucky Enamelware Factory Limited	
Countervailing Duty Proceedings	
None.	

[1] Inadvertently omitted from previous notice.
[2] If one of the above named companies does not qualify for a separate rate, all other exporters of cased pencils from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.
[3] If one of the above named companies does not qualify for a separate rate, all other exporters of porcelain-on-steel cooking ware from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under § 351.211 or a determination under § 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of this section to any administrative review initiated in 1996 or 1998 (19 CFR 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: January 16, 1998.

Richard W. Moreland,

Acting Deputy Assistant Secretary, Group II, Import Administration.

[FR Doc. 98–1807 Filed 1–23–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–807]

Polyethylene Terephthalate Film, Sheet and Strip From the Republic of Korea, Final Results of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review.

SUMMARY: On November 19, 1997, the Department of Commerce (the Department) published the notice of initiation and preliminary results of its changed circumstances administrative review concerning whether Saehan Industries, Inc. (Saehan) is the successor

firm to Cheil Synthetics Inc., (Cheil) and whether the revocation issued or Cheil should apply to Saehan. We have now completed that review. We have determined that Saehan is the successor firm to Cheil. As such, the revocation issued for Cheil applies to Saehan.

EFFECTIVE DATE: January 26, 1998.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney at (202) 482–4475 or Linda Ludwig at (202) 482–3833, AD/CVD Enforcement Office Eight, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

THE 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 by the Uruguay Round Agreement Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (62 FR 27296).

SUPPLEMENTARY INFORMATION:

Background

On September 29, 1997, Saehan requested that the Department conduct a changed circumstances administrative review pursuant to section 751(b) of the Tariff Act to determine whether Saehan should properly be considered the successor firm to Cheil and if, as such, the revocation issued for Cheil should apply to Saehan. Saehan also requested the Department to publish the preliminary results concurrently with the notice of initiation, pursuant to 19 CFR 351.221(c)(3)(ii). In its request, Saehan notified the Department that on February 28, 1997, Cheil officially changed its corporate name to Saehan, and despite this change in corporate name, the management, production facilities, supplier relationships, and customer base of Saehan are virtually identical to those of the former Cheil. In support of its claim, Saehan submitted documentary evidence demonstrating that Saehan maintained essentially the same management, production facilities, supplier, and customer relationships as Cheil. Citing the Department's determinations in *Sugars and Syrups from Canada; Initiation and Preliminary Results of Changed Circumstances Review*, 61 FR 48885 (Sept. 17, 1996) and *Industrial Phosphoric Acid from Israel; Preliminary Results of Antidumping Duty Changed Circumstances Review*, 58 FR 59010 (Nov. 5, 1993), Saehan claimed that the Department should determine that it is the successor-in-interest to Cheil.

On November 19, 1997, the Department published in the **Federal Register** (62 FR 61801) the notice of initiation and preliminary results of its antidumping duty administrative review of the antidumping duty order of polyethylene terephthalate film, sheet, and strip from the Republic of Korea. We have now completed this changed circumstances review in accordance with section 751(b) of the Tariff Act, as amended (the Act).

Scope of the Review

The merchandise subject to this antidumping duty order are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate, film, sheet, and strip, whether extruded or coextruded. The films excluded from this review are metallized films, and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of SBR latex has also been ruled as not within the scope of the order.

PET film is currently classifiable under Harmonized Tariff Schedule of the United States subheading 3920.62.00.00. The HTS subheading is provided for convenience and customs purposes. The written description of the scope of this order is dispositive.

This changed circumstances administrative review covers Saehan.

Successorship

In considering questions involving successorship, the Department examines several factors including, but not limited to, changes in (1) management, (2) production facilities, (3) supplier relationships, and (4) customer base. See e.g., Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review, 57 FR 20460 (May 13, 1992). While no one or several of these factors will necessarily provide a dispositive indication, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is essentially the same as its predecessor. See e.g., Industrial Phosphoric Acid from Israel, Final Results of Changed Circumstances Review, 59 FR 6944 (February 14, 1994). Thus, if evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same entity as the former company, the Department will treat the successor company the same as the predecessor for purposes of antidumping liability, e.g., assign the same cash deposit rate, revocation, etc.

We have examined the information provided by Saehan in its September 29, 1997 letter and determined that Saehan is the successor-in-interest to Cheil. The management and organizational structure of the former Cheil has remained intact under Saehan, and there have been no changes in the production facilities, supplier relationships, or customer base. Therefore, we determine that Saehan has maintained the same management, production facilities, supplier relationships, and customer bases as did Cheil. Based upon the foregoing, we determine that the July 5, 1996 revocation issued for Cheil applies to Saehan.

Comments

Although we gave interested parties an opportunity to comment on the preliminary results, none were submitted.

Final Results of Changed Circumstances Review

We determine that Saehan is the successor-in-interest Cheil, and accordingly, the revocation issued for Cheil applies to Saehan. We will notify the U.S. Customs Service of our decision and instruct Customs to liquidate without regard to antidumping duties, merchandise produced by Saehan on or after February 28, 1997, the date on which the corporate name change was legally effected.

This changed circumstances review and notice are in accordance with section 751(b) of the Act, as amended (19 U.S.C. 1675(b)), and 19 CFR 351.216.

Dated: January 16, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–1805 Filed 1–23–98; 8:45 am]

BILLING CODE 3510–PS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–811]

Certain Stainless Steel Wire Rods From France: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by Imphy S.A. and Ugine-Savoie (respondents), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain stainless steel wire rods from France. This review covers the above manufacturers/exporters of the subject merchandise to the United States. The period of review (POR) is January 1, 1996 through December 31, 1996.

We preliminarily determine that respondents sold subject merchandise at less than normal value (NV) during the POR. If these preliminary results are adopted in our final results of this administrative review, we will instruct U.S. Customs to assess antidumping duties based on the difference between the export price (''EP'') or constructed export price (''CEP'') and the NV.

We invite interested parties to comment on these preliminary results. Parties who submit arguments in this proceeding should also submit with the argument (1) A statement of the issue, and (2) a brief (no longer than five pages, including footnotes) summary of the argument.

EFFECTIVE DATE: January 26, 1998.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Stephen Jacques, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3434 or (202) 482–1391, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 353 (1997).

Background

On December 29, 1993, the Department published in the **Federal Register** (58 FR 68865) the final affirmative antidumping duty determination on certain stainless steel wire rods from France, and published an amended final determination and antidumping duty order on January 28, 1994. On January 14, 1997, the Department published the Opportunity to Request an Administrative Review of this order for the period January 1, 1996–December 31, 1996 (62 FR 1874). The Department received a request for an administrative review from Imphy, S.A. (''Imphy'') and Ugine-Savoie (''Ugine''), affiliated producers/exporters of the subject merchandise, on January 29, 1997. We published a notice of initiation of the review on March 3, 1997 (62 FR 9413).

The Department is now conducting this review in accordance with section 751 of the Act. The review covers sales of certain stainless steel wire rods by Imphy, Ugine, and their affiliated companies, Metalimphy Alloys Corp. (''MAC''), and Techalloy Company, Inc. (''Techalloy'').

Scope of the Review

The products covered by this administrative review are certain stainless steel wire rod (SSWR) products which are hot-rolled or hot-rolled annealed, and/or pickled rounds, squares, octagons, hexagons, or other shapes, in coils. SSWR are made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are only manufactured by hot-rolling, are normally sold in coiled form, and are of solid cross section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed, and pickled. The most common size is 5.5 millimeters in diameter.

The SSWR subject to this review is currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0020, 7221.00.0030, 7221.00.0040, 7221.00.0045, 7221.00.0060, 7221.00.0075, and 7221.00.0080 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of the order is dispositive.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents, covered by the description in the Scope of the Review section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix III of the Department's March 24, 1997 antidumping questionnaire. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents.

Fair Value Comparisons

To determine whether sales of subject merchandise to the United States were made at less than fair value, we compared the EP or CEP to the NV, as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Export Price and Constructed Export Price

We used EP, in accordance with subsections 772 (a) and (c) of the Act, where the subject merchandise was sold directly or indirectly to the first unaffiliated purchaser in the United States prior to importation because CEP was not otherwise warranted based on the facts of record. In addition, we used CEP in accordance with subsections 772 (b), (c) and (d) of the Act, for those sales to the first unaffiliated purchaser that took place after importation into the United States.

We made adjustments as follows:

We calculated EP based on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for discounts, foreign inland freight, foreign brokerage and handling, international freight, U.S. inland freight, U.S. brokerage and handling, marine insurance and U.S. Customs duties. We also adjusted the starting price for billing adjustments to the invoice price.

We calculated CEP based on packed prices to unaffiliated customers. Where appropriate, we made deductions for early payment discounts, credit expenses, warranty expenses, other direct selling expenses and commissions. We deducted those indirect selling expenses, including inventory carrying costs and product liability premiums, that related to commercial activity in the United States. We also made deductions for foreign brokerage and handling, foreign inland freight, international freight, U.S. inland freight, U.S. brokerage and handling, marine insurance, U.S. repacking expenses and U.S. Customs duties. We also adjusted the starting price for billing adjustments to the invoice price and for interest revenue. Finally, we made an adjustment for CEP profit in accordance with section 772(d)(3) of the Act.

The Department has recalculated credit expenses for those sales with missing payment dates. For sales with missing payment dates, the Department set the date of payment to the projected final results date.

Further Manufacturing

For products that were further manufactured after importation, we adjusted for all costs of further manufacturing in the United States, and the proportional amount of profit allocated to such costs. In accordance with section 772(f) of the Act, we computed profit based on total revenues realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity (including further manufacturing costs), based on the ratio of total U.S. expenses to total expenses for both the U.S. and home market.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared respondents' volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Act. Since respondents' aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. Therefore, we have based NV on home market sales.

Where appropriate, we deducted discounts, credit expenses, warranty expenses, inland freight and inland insurance. We also adjusted the starting price for billing adjustments to the invoice price and interest revenue. We did not adjust the starting price for commissions in the home market (please see the Concurrence Memorandum for a discussion of this issue).

For reasons discussed below in the ''Level of Trade'' section, we allowed a CEP offset for comparisons made at different levels of trade. To calculate the CEP offset, we deducted the home market indirect selling expenses from normal value, on home market sales which were compared to U.S. CEP sales. We limited the home market indirect selling expense deduction by the amount of the indirect selling expenses deducted in calculating the CEP under section 772(d)(1)(D) of the Act.

We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In addition, in accordance with section 773(a)(6) (A) and (B), we deducted home market packing costs and added U.S. packing costs.

We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in EP and CEP comparisons.

The Department has recalculated credit expenses for those home market sales with missing payment and shipment dates. For sales with missing payment dates, the Department calculated payment date based on the average time period between invoice date and shipment date for those sales where both invoice date and shipment date appeared in the database. For sales with missing shipment dates, the Department calculated shipment date based on the average time period between invoice date and shipment date for those sales where both invoice date and shipment date appeared in the database.

Price to CV Comparisons

When we based NV on CV, we calculated CV in the manner described below. *See* ''Cost of Production Analysis'' section. Where we compared CV to EP, we deducted from CV the weighted-average home market direct selling expenses and added the U.S. direct selling expenses.

Cost of Production Analysis

We had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP because the Department disregarded sales below the cost of production (COP) in the second administrative review (see *Final Results of Antidumping Duty Administrative Review: Certain Stainless Steel Wire Rods from France,* 62 FR 7206 (February 18, 1997)). Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by respondents in the home market.

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product plus selling, general and administrative (SG&A) expenses and all costs and expenses incidental to placing the foreign like product in condition packed ready for shipment. In our COP analysis, we used the home market sales and COP information provided by respondents in their questionnaire responses.

After calculating COP, we tested whether home market sales of SSWR were made at prices below COP within an extended period of time in substantial quantities and whether such prices permit recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of respondents' sales of a given product were at prices less than COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of respondents' sales of a given product during the POR were at prices less than the COP, we disregarded the below-cost sales because they (1) were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on comparisons of prices to weighted-average COPs for the POR, were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, we disregarded certain below-cost sales in these preliminary results.

In accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no usable sales of the foreign like product in the comparison market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondents in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses, we used the weighted-average home market selling expenses.

Arm's-Length Sales

Sales to affiliated customers in the home market not made at arm's length were excluded from our analysis. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. Where prices to the related party were on average 99.5 percent or

more of the price to the unrelated party, we determined that sales made to the related party were at arm's-length. Where no related customer ratio could be constructed because identical merchandise was not sold to unrelated customers, we were unable to determine that these sales were made at arm's length and, therefore, excluded them from our analysis. *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* (58 FR 37062, 37077 (July 9, 1993)). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made comparison to the next most similar model.

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' For these preliminary results of review, we have determined that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. The benchmark is defined as the rolling average of rates for the past 40 business days. Therefore, when we determine a fluctuation exists, we substitute the benchmark for the daily rate. (For a detailed explanation, see Policy Bulletin 96–1: Currency Conversions, 61 FR 9434, March 8, 1996).

Level of Trade (''LOT'')

In accordance with section 773(a)(1)(b) of the Act, to extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the EP or CEP transaction. The NV LOT is that of the starting price sales in the comparison market or, when NV is based on constructed value (''CV''), that of the sales from which we derive selling, general and administrative expenses and profit. For EP, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).

In implementing these principles in this review, we obtained information about the selling activities of the producers/exporters associated with each phase of marketing or the equivalent. We asked respondents to identify the specific differences and similarities in selling functions and/or support services between all phases of marketing in the home market and the United States.

In reviewing the selling functions reported by the respondents, we examined all types of selling functions and activities reported in respondents' questionnaire response on LOT. In analyzing whether separate LOT existed in this review, we found that no single selling function was sufficient to warrant a separate LOT in the home market (see *Antidumping Duties; Countervailing Duties; Proposed Rule, (Proposed Regulations),* 61 FR 7308, 7348).

In determining whether separate levels of trade existed in or between the U.S. and home market, the Department considered the LOT claims of respondents. To test the claimed LOT, we analyzed, *inter alia*, the selling activities associated with the phases of marketing respondents reported. For the home market, respondents reported one LOT, sales to end-users. Also, respondents stated that they make their home market sales through two channels of distribution: (1) Indirect sales through Ugine-Service and its local field offices; and (2) direct sales made through the commercial departments of Imphy and Ugine-Savoie. We examined record evidence from this review and have determined that there is only one LOT in the home market, regardless of channel of distribution.

For the U.S. market, respondents reported two LOTs: (1) Sales to end-users through MAC (EP sales); and (2) sales to distributors, *e.g.*, MAC, Techalloy (CEP sales). The Department examined the selling functions performed for both LOT. We found that the selling functions were sufficiently different in customer sales contacts (*i.e.*, visiting customers/potential customers, receiving orders, promotion of new products and following-up on unpaid invoices), technical services, computer systems and administrative functions to warrant two levels of trade in the United States.

In order to determine whether separate LOT actually existed between the U.S. and home markets, we reviewed the selling activities associated with each channel of distribution. When we compared EP sales to home market sales, we determined that sales were made at the same LOT (*i.e.*, to end-users) in both markets. However, for CEP sales, we determined that fewer and different selling functions were performed for CEP sales to MAC and Techalloy than for home market sales to end-users. We also found that the selling functions were sufficiently different in customer sales contacts, technical services, inventory maintenance, computer systems and administrative functions to warrant treating CEP sales and home market sales to end-users as different LOT. In addition, we found that the home market sales involved a more advanced stage of distribution (to end-users) as compared to respondents' CEP sales in the United States (distributor).

To the extent practicable, we compared normal value at the same LOT as the U.S. sale. In this review, there were no sales of the foreign like product in the home market at the same LOT as that of the CEP sales. Because we compared CEP sales to home market sales at a different LOT, we examined whether a level of trade adjustment may be appropriate. In this case, respondents only sold at one LOT in the home market; therefore, there is no basis upon which respondents can demonstrate a pattern of consistent price differences between LOTs with respect to the foreign like product. Further, we do not have information which would allow us to examine pricing patterns based on respondents' sales of other products and there are no other respondents or other record information on which such an analysis could be based.

Because the data available do not provide an appropriate basis for making a LOT adjustment, but the LOT in the home market is at a more advanced stage of distribution than the LOT of the CEP sale, a CEP offset is appropriate. Respondents claimed a CEP offset for

those U.S. CEP and CEP/Further Manufactured (CEP/FM) sales compared to sales in France through Ugine Service. We included a CEP offset for all sales in France which are compared with CEP and CEP/FM sales in the United States since the comparison of home market sales to CEP sales is at a different level of trade. We applied the CEP offset to normal value or constructed value, as appropriate.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margins (in percent) for the period January 1, 1996, through December 31, 1996, to be as follows:

Manufacturer/exporter	Margin (percent)
Imphy/Ugine-Savoie	10.51

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or other written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated importer-specific ad valorem duty assessment rates based on the ratio of the total amount of dumping margins calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. These rates will be assessed uniformly on all entries of each particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between statutory NV and statutory EP or CEP, by the total statutory EP or CEP value of the sales compared, and adjusting the result by the average difference between EP or CEP and customs value for all merchandise examined during the POR).

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be the rate established in the final results of this review (except that no deposit will be required for firms with zero or *de minimis* margins, *i.e.*, margins less than 0.5 percent); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 24.51 percent, the ''All Others'' rate made effective by the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: January 16, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–1806 Filed 1–23–98; 8:45 am]

BILLING CODE 3510–DS–P

COMMODITY FUTURES TRADING COMMISSION

Regulation of Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market

AGENCY: Commodity Futures Trading Commission.

ACTION: Concept release.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is reevaluating its approach to the regulation of noncompetitive transactions executed on or subject to the rules of a contract market. Accordingly, the Commission is soliciting comments on a broad range of questions concerning the oversight of transactions involving (i) the exchange of futures contracts for, or in connection with, cash commodities, (ii) other noncompetitive transactions, and (iii) the use of execution facilities for noncompetitive transactions. Following the receipt of public comments, the Commission will determine whether rulemaking is appropriate.

DATES: Comments must be received on or before March 27, 1998.

ADDRESSES: Interested persons should submit their written data, views, and opinions to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street N.W., Washington, D.C. 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5221 or by electronic mail to secretary@cftc.gov. Reference should be made to ''Regulation of Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market.'' Certain related materials described herein are available for inspection at the Office of the Secretariat at the above address. Copies of these materials also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 418–5100.

FOR FURTHER INFORMATION CONTACT: Rebecca Creed, Attorney, at (202) 418–5493, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
A. Statutory and Regulatory Provisions
B. Purpose of This Release
C. Overview
II. Standards Governing EFP Transactions
A. Background
1. Historic Uses of EFPs
2. Current EFP Volume
3. Current Oversight of EFPs
B. Elements of a Bona Fide EFP
1. Relationship of the Instruments
(a) Qualitative Correlation
(b) Quantitative Correlation
(c) Request for Comments
2. Relationship of the Parties
(a) Separate Parties
(b) String Trades

(c) Request for Comments
3. Nature of the Transaction
(a) Exchanges of Futures Contracts for Cash Commodities
(b) Futures Leg Requirements
(c) Cash Leg Requirements
(d) Transitory EFPs
(e) Contingent EFPs
(f) Request for Comments
4. Price of the Transaction
(a) Current Requirements
(b) Request for Comments
C. Other Regulatory Requirements Governing EFPs
1. Reporting and Recordkeeping
(a) Current Requirements
(b) Request for Comments
2. Disclosure
(a) Current Requirements
(b) Request for Comments
3. Internal Controls
(a) Current Requirements
(b) Request for Comments
4. Transparency
(a) Current Requirements
(b) Request for Comments
III. Other Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market
A. Types of Eligible Transactions
1. Exchanges of Futures for Swaps
(a) The New York Mercantile Exchange Proposal
(b) Request for Comments
2. Exchanges of Options for Physicals
(a) Background
(b) Request for Comments
3. Alternative Execution Procedures
(a) Current Procedures
(1) Contract Market Large Order Procedures
(2) Section 4(c) Contract Market Transactions
(3) Securities Market Block Trading Procedures
(b) Potential Procedures
(c) Request for Comments
B. Qualifying Standards
1. The Need for Standards
2. Request for Comments
C. Continuing Regulatory Requirements
1. The Need for Requirements
2. Request for Comments
IV. Execution Facilities for Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market
A. Current, Proposed and Potential Facilities
1. Interdealer Brokers
2. The Chicago Board Brokerage
3. Potential Facilities for Transactions Other Than EFPs
B. Qualifying Standards
1. Current Requirements
2. Request for Comments
V. Summary of Request for Comments

I. Introduction

A. Statutory and Regulatory Provisions

Section 4(a) of the Commodity Exchange Act (''Act'') makes it unlawful for any person to enter into a contract for the purchase or sale of a commodity for future delivery ''unless such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a 'contract market' for such commodity.'' [1] Although Congress has indicated that trading on contract markets be conducted generally in an open and competitive manner, it also has recognized the need for certain, limited exceptions to that requirement. Section 4c(a) of the Act prohibits various types of noncompetitively executed transactions but provides an exception for transfer trades, office trades, and exchanges of futures for physicals (''EFPs'') that are executed in accordance with contract market rules that have been approved by the Commission. [2] With reference to these statutory provisions, the Senate Committee on Agriculture and Forestry stated:

> Both the Commodity Exchange Act and the rules and regulations of the commodity exchanges require that futures transactions be executed openly in a competitive manner.
>
> * * * * *
>
> Certain carefully prescribed exceptions to competitive trading are allowed, but they do not nullify the general requirement of open and competitive trading.
>
> The purpose of this requirement is to ensure that all trades are executed at competitive prices and that all trades are focused into the centralized marketplace to participate in the competitive determination of the price of futures contracts. This system also provides ready access to the market for all orders and results in a continuous flow of price information. [3]

Consistent with this policy, Commission Regulation 1.38(a) requires that contract market rules providing for the execution of noncompetitive transactions must be submitted to the Commission for approval. Commission Regulation 1.38(b) requires all noncompetitive transactions as well as all related orders, records, and memoranda to be identified and marked. Regulation 1.38 was adopted pursuant to Sections 4b and 8a(5) of the Act. [4] Section 8a(5) authorizes the Commission to ''make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of this Act.''

B. Purpose of This Release

The purpose of this release is to solicit comments on whether the regulatory structure governing noncompetitive transactions executed on or subject to the rules of a contract market should be modified in light of recent developments in the marketplace. The impetus for this action comes from several sources, including the following.

First, ten years have passed since the Division of Trading and Markets (''Division'') conducted a comprehensive study of EFPs.[5] During this time, the use of EFPs has continued to grow and evolve.

Second, several organizations have developed computerized systems for basis trading of U.S. Treasury securities. Essentially, a basis trade involves the simultaneous acquisition of positions in actual Treasury securities and in offsetting futures contracts. Venues for basis trading simplify the trading process by enabling traders to obtain both cash and futures positions in a single transaction which is reported to a contract market as an EFP.

Third, the New York Mercantile Exchange (''NYMEX'') has sought Commission approval for a proposed rule that would permit the exchange of futures contracts for, or in connection with, swap agreements (''EFS transactions'').[6] This proposal would establish provisions for EFS transactions that are parallel to, but separate from, those governing EFP transactions. Thus, an EFS transaction would follow the form of an EFP except that a swap agreement would be substituted for the physical component.

Fourth, the Chicago Board of Trade (''CBT''), through counsel, requested the Division of Economic Analysis to agree not to recommend that the Commission take any enforcement action against the CBT, its members or market participants in connection with the CBT's proposed implementation of a one-year pilot program facilitating the off-exchange transfer of futures contracts in agricultural products in exchange for related over-the-counter agricultural options.[7]

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[1] 7 U.S.C. 6(a). As discussed below, Section 4(c) of the Act, 7 U.S.C. 6(c), vests the Commission with certain exemptive authority subject to specified qualifying criteria.

[2] 7 U.S.C. 6c(a).

[3] *Report of the Senate Committee on Agriculture and Forestry,* S. Rep. No. 1131, 93rd Cong., 2d Sess. 16 (1974).

[4] 7 U.S.C. 6b and 12a(5).

[5] *Report of the Division of Trading and Markets: Exchanges of Futures for Physicals* (October 1987) (''EFP Report''). This document provides a detailed discussion on the history, use and regulation of EFPs. Interested parties may obtain a copy of the EFP Report by contacting the Commission's Office of the Secretariat at the address noted above.

[6] Interested parties may obtain a copy of the NYMEX proposal permitting EFS transactions by contacting the Commission's Office of the Secretariat at the address noted above.

[7] The Division of Economic Analysis staff advised counsel that, in light of the Commission's ongoing consideration of agricultural trade options in connection with its advance notice of proposed rulemaking, 62 FR 31375 (June 9, 1997), it was not currently appropriate to consider this request. The Commission has subsequently proposed removing

Continued

Finally, recent legislative proposals contemplate the establishment of separate, professional markets.[8] The Commission wishes to explore whether it is possible to achieve some of the objectives of these proposals by expanding the boundaries of permissible noncompetitive trading on existing contract markets. In contrast to the legislative proposals, a revised structure governing noncompetitive transactions could act as an adjunct rather than as an alternative to existing regulated markets. Such an approach might improve the usefulness and efficiency of existing markets for institutional or professional users but with a reduced risk of market fragmentation. Thus, carefully designed revisions to the regulatory structure governing noncompetitive transactions could have a procompetitive effect.

C. Overview

For the foregoing reasons, the Commission has determined to seek comments on whether the existing regulatory structure should be revised to provide additional guidance concerning standards governing noncompetitive transactions executed on or subject to the rules of a contract market. In scope, the Commission's request includes transactions that currently are permitted, such as EFPs, as well as transactions that are not currently permitted, such as EFS transactions or block trades. Of course, if the Commission were to revise its regulatory structure relating to noncompetitive transactions, the choice of whether to permit these types of transactions on a particular contract market would remain, in the first instance, with that contract market.

In general, the Commission is soliciting comments on the following questions:

(1) Should the standards articulated in the EFP Report be codified in the Commission's regulations and/or refined in any way?

(2) Should other types of noncompetitive transactions, such as EFS transactions or block trades, be permitted to be executed on or subject to the rules of a contract market and, if so, what standards should apply to these transactions?

(3) What standards should be applicable to execution facilities for noncompetitive transactions executed on or subject to the rules of a contract market?

More specific questions addressing particular aspects of these topics are posed in the relevant sections of this release. A consolidated list of questions is set forth at the conclusion. The Commission recognizes, however, that its identification of the issues may not be exhaustive and therefore invites comments on other aspects of these topics even if not expressly set out below.

The Commission is asking these questions for the dual purpose of giving notice of its consideration of these issues and of obtaining input before proceeding with any specific initiatives. Commenters should set forth with particularity the bases for their views. After receiving input, the Commission will endeavor to strike an appropriate balance among the relevant concerns.

II. Standards Governing EFP Transactions

A. Background

1. Historic Uses of EFPs

An EFP involves simultaneous transactions in the futures and cash commodity markets. The futures market transaction consists of a noncompetitive transfer of a futures position between the parties to the EFP. Thus, one party buys the physical commodity and simultaneously sells (or gives up long) futures contracts while the other party sells the physical commodity and simultaneously buys (or receives long) futures contracts. Subject to applicable contract market rules, the quantity and price of the futures and cash commodity to be exchanged as well as other terms are negotiated privately by the parties rather than being executed openly and competitively on a contract market. Depending on the pre-existing market positions of EFP counterparties, an EFP transaction can create, transfer, or extinguish futures positions.

The EFP exception currently contained in Section 4c(a) of the Act first appeared in H.R. 12287, which was introduced in 1932. The report of the House Committee on Agriculture accompanying that bill indicates that this exception was intended to permit the continuation of what was described as an accepted commercial practice:

> Transactions involving the exchange of cash commodities for futures in accordance with exchange rules applying to such exchanges are exempted, even though they take the form of office trades, it being understood that the exchange of cash commodities for futures is a common and necessary practice.[9]

The EFP exception was ultimately adopted with the enactment of the Commodity Exchange Act in 1936. None of the amendments to Section 4c(a) since that time provides further guidance as to the scope of permissible EFP transactions.[10]

As discussed in detail in the EFP Report, the use of EFPs has evolved to include practices not contemplated at the time Section 4c(a) originally was enacted. Indeed, financial futures contracts, which now dominate futures trading at some exchanges, did not exist at the time the EFP exception was adopted. In the EFP Report, the Division concluded that it appeared appropriate to interpret Section 4c(a) to accommodate some of these practices, many of which arise out of trading practices in various cash markets and which accomplish a variety of commercial purposes.[11] However, the Division also stated that the historical context in which the EFP exception first was enacted and the statutory language of Section 4c(a) itself necessarily imply certain limits on the permissible scope of EFP transactions as an exception to the general requirement of competitive execution.[12]

2. Current EFP Volume

A comparison of statistical data regarding the level of EFP activity between the late 1980s (when the EFP Report was published) and recent years shows that EFP activity, in many major markets, has continued to grow. The following table summarizes such data for selected contracts between 1986 and 1996.

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the prohibition against off-exchange trade options on the enumerated agricultural commodities pursuant to a three-year pilot program. *Trade Options on the Enumerated Agricultural Commodities*, 62 FR 59624 (Nov. 4, 1997).

[8] *See, e.g.*, S. 257, 105th Cong., 1st Sess. § 6 (1997).

Part 36 of the Commission's regulations adopts certain exemptions under a pilot program for separate, professional markets. Included among the exemptions is a provision exempting certain noncompetitive trading subject to the rules of a professional market. However, no contract market has filed a proposal with the Commission pursuant to Part 36.

[9] *Commodity Short Selling*, H.R. Rep. No. 1551, 72d Cong., 1st Sess. 3 (1932).

[10] *See* Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93–463, 88 Stat. 1389 (substituted the Commission for the Secretary of Agriculture and deleted state law preservation clause); Futures Trading Act of 1978, Pub. L. No. 95–405, 92 Stat. 865 (required contract market rules permitting EFPs to be approved by the Commission); Futures Trading Act of 1982, Pub. L. No. 97–444, 96 Stat. 2294 (exempted transactions in foreign currency options traded on a national securities exchange from coverage of the Commodity Exchange Act).

[11] EFP Report at 144–145.

[12] *Id.* at 26. For example, the Division has expressed its opinion that the EFP ''exemption was not designed to create an avenue for traders to use EFP transactions to accomplish what they could not otherwise legitimately do, that is, wash trades, accommodation trades, fictitious sales, or illegal off-exchange transactions.'' *Report of the Division of Trading and Markets: Volume Investors Corporation* 59 n. 54 (July 1985).

TABLE 1.—EFPS AS A PERCENT OF TRADING VOLUME IN SELECTED CONTRACTS 1986—1996 [13]

Contract Market	1986	1996
CBT Wheat	2.32	2.35
KCBT Wheat	15.61	10.87
MGE Wheat	24.72	15.31
CBT Corn	8.14	6.81
CBT Soybeans	5.42	4.57
CBT Soybean Oil	6.52	4.89
CBT Soybean Meal	7.89	7.95
CME Live Cattle	0.06	0.04
CSC Coffee "C"	1.48	4.10
CSC Sugar #11	3.86	4.69
CSC Cocoa	6.24	3.17
CBT Treasury Bonds	0.75	5.00
CBT Treasury Notes	1.23	4.59
CME Japanese Yen	7.32	16.11
CME British Pound	7.76	21.53
CME Deutsche Mark	6.12	16.81
CME Swiss Franc	5.96	13.79
COMEX Gold	7.46	9.05
COMEX Silver	3.46	5.04
NYMEX Crude Oil	3.60	2.67
NYMEX Heating Oil #2	1.90	6.66

[13] The data shown in Table 1 is for calendar year 1986 and 1996.

As the table shows, EFP activity as a share of trading volume has been relatively stable in traditional agricultural markets and has declined in some cases. The trend for financial futures contracts has been just the opposite, with EFP activity continuing to increase, in some cases dramatically.

3. Current Oversight of EFPs

EFP transactions are currently subject to oversight through a variety of sources, including: (i) the Commission's review of contract market rules governing such transactions; (ii) the Commission's reporting and recordkeeping requirements; (iii) contract markets' enforcement of their own rules; (iv) the Commission's rule enforcement review program; and (v) the Commission's own enforcement program.

B. Elements of a Bona Fide EFP

The EFP Report described EFP practices in selected markets, analyzed the legislative and regulatory framework surrounding EFPs, and reviewed the contract market rules and interpretations that govern them. The EFP Report suggested possible criteria to be examined by contract markets in evaluating whether a particular EFP transaction is eligible for the Section 4c(a) exception. In particular, the Division enumerated three essential elements of a bona fide EFP as follows: (i) a futures transaction and a cash transaction which are integrally related; (ii) an ''exchange'' of futures contracts for cash commodity, where the cash commodity contract provides for the transfer of ownership of the cash commodity to the cash buyer upon performance of the terms of the contract, with delivery to take place within a reasonable time thereafter in accordance with prevailing cash market practice; and (iii) separate parties to the EFP, where the accounts involved have different beneficial ownership or are under separate control.[14]

In addition, the Division developed a non-exclusive list of other indicia to assist contract markets in determining whether the essential elements of a bona fide EFP have been satisfied. These include: (i) the degree of price correlation between the futures and cash legs of the EFP; (ii) the prices of the futures and cash legs of the EFP and their relationship to the prevailing prices in their respective markets; (iii) whether the cash seller has possession, the right to possession, or the right to future possession of the cash commodity prior to the execution of the EFP; (iv) the cash seller's ability to perform on his delivery obligation in the absence of prior possession of the cash commodity, *i.e.*, the cash seller's access to the cash market; and (v) whether the cash buyer acquires title to the cash commodity.[15]

These elements can be analyzed in terms of four categories: (i) the relationship of the instruments; (ii) the relationship of the parties; (iii) the nature of the transaction; and (iv) the price of the transaction. The following discussion summarizes the elements and indicia of a bona fide EFP as set forth by the Division in the EFP Report. As noted above, the Commission is soliciting comments on whether these standards should be codified in the Commission's regulations and/or refined in any way.

1. Relationship of the Instruments

(a) Qualitative Correlation. In the EFP Report, the Division determined that the futures and cash legs of a bona fide EFP should be correlated with each other, both qualitatively and quantitatively.[16] Qualitative correlation clearly exists when the cash commodity satisfies the delivery specifications of the associated futures contract. However, when the cash commodity is not deliverable against the relevant futures contract, questions arise as to its acceptability as the cash leg. While some contract markets focus on whether the cash commodity is the economic equivalent of, or is derived from, the particular commodity specified in the futures contract, others also consider the price relationship between the cash and futures legs of the transaction.

In the EFP Report, the Division concluded that the cash commodity should have a reliable and demonstrable price relationship with the futures contract involved in the EFP.[17] The cash leg should exhibit price movement that historically has paralleled the price movement of the futures contract, with the cash and futures prices typically moving in the same direction and at consistent relative rates of change. Although perfect price correlation is not required, a ''strong correlation'' should exist. Otherwise, the parties are at risk that the basis or price differential between the cash and futures legs will change significantly prior to the conclusion of the EFP, thus adversely affecting the utility of the transaction itself. The lack of a strong correlation may indicate that the parties' motive for the EFP was to circumvent the regulatory requirements of the Act or the Commission's regulations, such as the requirement of open and competitive execution, rather than to conduct a commercially appropriate transaction. The Division also concluded that hedgeable commodities are appropriate cash legs for EFPs.[18]

In the EFP Report, the Division noted that statistical correlation coefficients [19] have been used to justify specific EFPs involving stock index futures contracts either before or after the transaction was consummated.[20] The Division also recommended that contract markets publicize their determinations regarding the acceptability of particular commodities as the cash leg of an EFP in order to provide more guidance to the market users of these transactions.[21]

(b) Quantitative Correlation.

For quantitative correlation to exist, the Division determined that the cash commodity position should be approximately equal in quantity or dollar value to the futures position and that appropriate hedge ratios may be

[14] EFP Report at 146–150.

[15] *Id.* at 150–151.

[16] *Id.* at 152–160.

[17] *Id.* at 155.

[18] *Id.* at 157.

The Division referred to Administrative Determination 239, issued by the Commodity Exchange Authority on December 16, 1974, which advised that, ''[i]f a commodity, product or by-product is hedgeable under the Act, it may be exchanged for futures. If it is not hedgeable, it may not be exchanged.'' *See generally* 17 CFR 1.3(z) (defines bona fide hedging transactions and positions); *Clarification of Certain Aspects of the Hedging Definition*, 52 FR 27195 (July 20, 1987).

[19] A correlation coefficient measures the degree to which the movements of two variables are related. Here the variables consist of the price of the futures contracts and the price of the cash commodity.

[20] EFP Report at 158.

[21] *Id.* at 159.

used to create such dollar equivalency.[22] Again, the absence of such equivalency may indicate a motive to circumvent some requirement of the Act or the Commission's regulations rather than to conduct a commercially appropriate transaction.

(c) Request for Comments. The Commission is soliciting comments on the following questions:

(4) How should the ''strong price correlation'' standard articulated in the EFP Report be implemented?

(5) Should the Commission require contract markets to adopt a minimum statistical correlation coefficient to be used in assessing the acceptability of a particular cash commodity for use as the cash leg of an EFP?

(6) If a minimum correlation coefficient is required, should this coefficient apply to all EFPs, or should it be adjusted to account for the different commodities involved in EFPs?

(7) What is the appropriate type and scope of guidance contract markets should be required to provide to the general public concerning the acceptability of particular commodities as the cash leg of an EFP?

2. Relationship of the Parties

(a) Separate Parties. In the EFP Report, the Division concluded that a bona fide EFP must be executed between separate parties.[23] Determining if separate parties are involved in a particular transaction in turn depends upon whether the accounts have different beneficial owners or are under separate control. This standard permits separate profit centers of a futures commission merchant (''FCM'') to engage in EFPs with each other in order to accomplish their trading strategies and to fulfill their business needs.

(b) String Trades. In the EFP Report, the Division discussed a method of effecting an EFP transaction in the grain markets called a ''pass-through'' or ''string trade.''[24] Under this method, the two parties to the EFP each have cash commodity contracts with a different party or parties which require them to buy/sell the cash commodity and sell/buy the corresponding futures contract in order to set the price for the cash transaction. All of the parties in the string have complementary cash commitments and corresponding obligations to buy or sell futures contracts to the next party in the string. Instead of executing a series of EFP transactions in which the intermediate futures positions transferred among the parties would net out for the common parties, the first and last parties in the string execute a single EFP and the other mutually exclusive futures obligations are canceled.[25]

(c) Request for Comments. The Commission is soliciting comments on the following questions:

(8) What is the appropriate scope of the separate parties requirement?

(9) Should the Commission address string trades as that practice is described in the EFP Report and, if so, how?

3. Nature of the Transaction

(a) Exchanges of Futures Contracts for Cash Commodities. As discussed previously, Section 4c(a) of the Act excepts EFPs from the prohibition against various types of noncompetitively executed transactions. A bona fide EFP must involve an ''exchange'' of futures contracts for cash commodity in which both legs of the transaction entail actual economic risk.

(b) Futures Leg Requirements. The futures leg of the EFP must be reported to and cleared by a contract market clearing organization. Therefore, it is subject to the same margin obligations, both original and variation, as any other exchange-traded futures transaction. If the futures leg were netted off-exchange, this conduct might constitute bucketing in violation of Section 4b(a) of the Act.[26]

(c) Cash Leg Requirements. In the EFP Report, the Division concluded that the cash commodity contract must impose a real obligation to transfer ownership of the cash commodity from the cash seller to the cash buyer upon performance of the terms of the contract, with delivery taking place within a reasonable time thereafter in accordance with prevailing cash market practice.[27] The Division further asserted that, although the cash commodity contract must contemplate the making and taking of delivery of the cash commodity, the parties may, subject to the terms of the contract and the principles of contract law, individually transfer their contractual rights or obligations with respect to the cash commodity to a third party or may offset these positions or obligations prior to delivery.[28]

In the EFP Report, the Division discussed several factors to be considered in analyzing the parties' intent with respect to the transfer of cash commodity, including: (i) the ability of the cash seller to make delivery and of the cash buyer to take delivery of the cash commodity; (ii) the level of creditworthiness required of the cash seller and buyer; (iii) the form and terms of the cash commodity contract; (iv) the documentation underlying the transfer of cash commodity from the cash seller to the cash buyer; and (v) whether the cash buyer acquires an enforceable claim on the title to the cash commodity.[29]

The Division expressed the view that the cash seller is not required to have possession, or the right to possession, of the cash commodity in order to undertake a contractual obligation to deliver it in the future by way of an EFP.[30] Nevertheless, the lack of: (i) possession, (ii) the right to possession, or (iii) access to the cash market may indicate that the parties lacked the requisite intent to execute a cash transaction in the first place. This would raise doubts about the legitimacy of the EFP. Similarly, evidence that the cash buyer was unable to accept delivery of the cash commodity may indicate that the parties never intended to execute the cash leg of the EFP. An examination of the documents underlying the cash transaction, including the form and the terms of the cash commodity contract, confirmation statements, and documents evidencing title, in light of the state law governing transfers of ownership is especially useful in determining the parties' intent.

In determining whether there has been, or will be, an actual transfer of ownership of the cash commodity, the critical inquiry is whether the buyer of the cash commodity has acquired or will acquire, upon completion of performance under the contract, title to the cash commodity associated with the

[22] *Id.* at 159–160.

For example, if the futures position established by the EFP transaction represents 50,000 bushels of corn, then the associated cash leg should also equal approximately 50,000 bushels of corn. With respect to the use of appropriate hedge ratios to create dollar equivalency, traders might cross-hedge a 182-day T-bill by using more than one 91-day T-bill futures contract since the risk exposure on the principal amount of the T-bill increases the higher the duration of the security. Other instruments with differing maturities and yields would require different ratios.

[23] *Id.* at 147, 149–150.

[24] *Id.* at 47, 148 n. 173.

[25] For example, party A has agreed to sell grain to and buy futures contracts from party B. Meanwhile, party B has agreed to sell grain to and buy futures contracts from party C. When C is ready to sell futures contracts to B in order to fix the price of their cash transaction, B directs C to execute the futures trade with A instead, thus satisfying B's obligation to sell futures contracts to A. Thus, A and C execute an EFP in which C sells futures contracts to A, but there is no corresponding cash transaction between A and C. In the absence of this string trade, parties A and B and parties B and C must execute separate EFP transactions consistent with their contractual obligations. Thus, the string trade serves to match the mutually exclusive futures obligations so that only one EFP is reported to the contract market.

[26] 7 U.S.C. 6b.

[27] EFP Report at 146.

[28] *Id.* at 149. For example, under this approach, a third party could assume the seller's obligation to deliver the cash commodity, or the cash seller could contract to purchase the cash commodity from the third party and direct that delivery be made to the cash buyer in the EFP.

[29] *Id.* at 179–192, 196.

[30] *Id.* at 181.

EFP.[31] In this regard, the Division stated that the cash commodity contract may contemplate an immediate transfer of title or a transfer of title at some subsequent time.[32] Regardless of when title passes, however, delivery of the cash commodity should occur within a reasonable period of time in accordance with normal industry practice involving comparable cash market transactions. If delivery did not occur, the transaction would need to be scrutinized, the reasons for failure identified, and a determination made as to whether the EFP is bona fide.

(d) Transitory EFPs. In the EFP Report, the Division expressed concern about a practice, then occurring frequently in the gold and foreign currency markets, involving both an EFP and an offsetting cash commodity transfer.[33] For example, party A purchases the cash commodity from party B and then engages in an EFP whereby A sells the cash commodity back to B and receives a long futures position. As a result of this integrated transaction, the parties acquire futures positions but end up with the same cash market position as they had before the transaction. These transactions are sometimes referred to as transitory EFPs. In such cases, questions arise as to whether there has been a bona fide ''exchange'' of the cash commodity as is required by Section 4c(a) of the Act.

The Division concluded that, in reviewing transitory EFPs, the EFP and the cash commodity transfer should be examined both separately and as an integrated transaction.[34] The parties must incur actual economic risk in both legs of the EFP and in the cash commodity transfer, and the EFP itself must otherwise be bona fide.

The predominant consideration is whether the cash commodity transfer can stand on its own as a commercially appropriate transaction, with no obligation on either party to carry out the EFP.[35] One indication is whether the terms and structure of the cash commodity transfer are substantially the same in all material respects as other cash transactions in that market or more specifically for those particular participants. For example, if the price of the cash commodity is determined differently or if a lower level of capitalization is required of the buyer than would otherwise be the case, then the cash commodity transfer may not be genuine. Another indication is whether the buyer acquires title to the cash commodity in accordance with customary cash market practices.

Additional issues to be considered in evaluating whether the integrated transaction is bona fide include: (i) The timing of the cash commodity transfer and the EFP; (ii) whether the same parties have executed a number of integrated transactions in which the cash commodity transfer never occurs independently of the EFP; (iii) whether there have been a series of transactions in which the same cash commodity is transferred repeatedly between the same parties, resulting in the liquidation of a futures position much larger than the exchanged cash commodity which ultimately remains with the original owner; and (iv) the relationship between the parties and their patterns of dealings, including evidence of money passes between them.[36]

(e) Contingent EFPs. Contingent EFPs are an impermissible subset of transitory EFPs. The existence of conditions tying the cash commodity transfer and the EFP together may indicate that the transactions are not severable but are contingent upon each other.[37] A cash commodity transfer which cannot stand on its own may indicate that there was no actual economic risk in the initial cash transfer and may raise concerns about whether the EFP involved an ''exchange'' of futures contracts for cash commodity as is required by Section 4c(a) of the Act.

(f) Request for Comments. The Commission is soliciting comments on the following questions:

(10) What criteria are appropriate for judging whether the futures leg of an EFP is bona fide?

(11) What criteria are appropriate for judging whether the cash leg of an EFP is bona fide?

(12) What criteria are appropriate for determining whether a transitory EFP is bona fide?

(13) What criteria are appropriate for determining whether an EFP is contingent?

4. Price of the Transaction

(a) Current Requirements. As discussed previously, because EFPs are executed noncompetitively off-exchange, the prices of both the futures and cash legs are determined by mutual agreement of the parties. In the EFP Report, the Division concluded that the price differential between the futures and cash legs should reflect commercial realities and that at least one leg of the transaction should be priced at the prevailing market.[38] Although pricing one leg of the EFP significantly away from the market may be justified by commercial necessity,[39] the Division expressed its concern that such aberrant pricing can be used to shift substantial sums of cash from one party to another or to allocate gains and losses between the futures and cash sides of the EFP.[40] Moreover, when both legs of an EFP are priced away from the market, the transaction may not be commercially appropriate, particularly when one party could obtain better prices for the futures and cash legs in another available market. In the EFP Report, the Division urged contract markets to determine whether the pricing of a particular EFP is supported by a business purpose.[41]

(b) Request for Comments. The Commission is soliciting comments on the following questions:

(14) Should the Commission require both the futures and cash legs of an EFP to be priced within the daily range of their current respective markets, should it require only one leg of an EFP to be priced within its daily range, or should it impose no restrictions on the price of either leg of an EFP?

(15) Should the Commission require contract markets to obtain documentation regarding the business purpose underlying the pricing of an EFP?

C. Other Regulatory Requirements Governing EFPs

1. Reporting and Recordkeeping

(a) Current Requirements Under the Commission's current regulations EFPs are subject to broad reporting and recordkeeping requirements. Commission Regulation 1.35(a) generally requires every FCM, introducing broker (''IB''), and contract market member to keep full, complete and systematic records of all transactions relating to its business of dealing in commodity futures, commodity options, and cash commodities, to retain such records for a period of five years, and to produce them upon request of the Commission or the Department of Justice. Commission Regulation 1.38(b) requires every person handling, executing, clearing, or carrying EFPs to identify all related documents by appropriate symbol or designation. Similarly, under Commission Regulation 1.35(e), each

[31] *Id.* at 185–186.

[32] *Id.* at 186.

[33] *Id.* at 192–193.

[34] *Id.* at 195.

[35] *Id.* Evidence that the cash commodity transfer is severable from the EFP is necessary, but not sufficient, to establish the legitimacy of the integrated transaction. As noted above, the EFP itself must be bona fide.

[36] *Id.* at 200–201.

[37] *Id.* at 198.

[38] *Id.* at 174–175.

[39] The Division identified several such examples in the EFP Report including meeting a margin call, taking advantage of expected foreign exchange fluctuations, and complying with internal inventory policies. *Id.* at 169–173.

[40] *Id.* at 169.

[41] *Id.* at 175.

contract market must maintain a record showing, by appropriate and uniform symbols, any transaction which is made noncompetitively in accordance with written rules of the contract market. Commission Regulation 1.35(a–2) requires FCMs, IBs, and other contract market members to ask their customers for documentation of the cash leg of an EFP upon request of the contract market, the Commission, or the Department of Justice and upon receipt to provide the documentation to the requesting body; requires customers to create, retain, and produce such documentation directly to the requesting body; and requires that all contract markets adopt, as necessary, corresponding rules requiring its members to provide the documentation to the contract market.

Under Part 16 of the Commission's regulations, each contract market must report the total quantity of futures contracts bought or sold in connection with EFPs to the Commission by clearing member and must publish the total quantity of EFPs executed on any given business day. Part 17 of the Commission's regulations requires FCMs, members of contract markets, and foreign brokers to report to the Commission the quantity of EFPs executed in each special account on the day it has a reportable futures position as well as on the first day the account is no longer reportable. Commission Regulation 18.05 requires each trader holding or controlling a reportable futures position (''large trader'') to keep records of all futures and cash commodity positions and transactions. Finally, the Commission may issue a special call under Regulation 21.03(e)(1)(iii) to FCMs, IBs, or customers that requires information about EFPs to be submitted for the particular commodity, contract market, and delivery months named in the call.

(b) Request for Comments. The Commission is soliciting comments on the following question:

(16) Are the current reporting and recordkeeping requirements relating to EFPs adequate?

2. Disclosure

(a) Current Requirements. Commission Regulation 1.55(a)(1) prohibits an FCM or IB from opening a commodity futures account for any customer unless the FCM or IB first provides the customer with a written risk disclosure statement prepared by or approved by the Commission and receives a signed acknowledgment from the customer that he or she has received and understood this statement.[42] This risk disclosure statement, as set forth in Commission Regulation 1.55(b), does not specifically address EFPs. However, Commission Regulation 1.55(f) makes clear that compliance with the specific disclosure requirements of Regulation 1.55 does not relieve an FCM or IB from any other disclosure obligation it may have under applicable law. These disclosure obligations arise under Section 4b of the Act as well as under state and common law and require an FCM or IB to provide its customers with all material information relating to a transaction, including information relating to the risks involved in entering a particular transaction.[43]

The Commission seeks to ensure full and fair disclosure of the requirements of and risks inherent in EFPs. Only when customers have complete information regarding EFPs can they effectively evaluate whether such transactions are consistent with their financial goals. The Commission believes that some guidance as to the form and content of disclosure concerning EFPs may be appropriate.

(b) Request for Comments. The Commission is soliciting comments on the following questions:

(17) What should be the form and content of disclosure concerning EFPs?

(18) Should the form and content of disclosure vary according to the commercial sophistication of the EFP participant similar to the Commission's proposed amendment to Regulation 1.55?

(19) Should the Commission explicitly require that customers must be informed that an EFP is executed noncompetitively, that it involves a cash transaction, and that their FCM might take the opposite side of the EFP?

(20) Should the Commission explicitly require Commission registrants to obtain customer consent before executing an EFP on the customer's behalf?

3. Internal Controls

(a) Current Requirements. Commission Regulation 166.3 generally requires all Commission registrants, except associated persons who have no supervisory duties, to ''diligently supervise the handling by its partners, officers, employees and agents * * * of all commodity interest accounts carried, operated, advised or introduced by the registrant and all other activities * * * relating to its business as a Commission registrant.'' One basic purpose of the rule is to protect customers by ensuring that their dealings with employees of Commission registrants will be reviewed and overseen by other officials in the firm.[44] Although Commission Regulation 166.3 currently applies to EFPs, the Commission believes that some guidance as to the types of internal controls that Commission registrants should be required to maintain may be appropriate.

(b) Request for Comments. The Commission is soliciting comments on the following question:

(21) What internal controls are appropriate for Commission registrants to ensure compliance with regulatory requirements concerning the essential elements of bona fide EFPs, reporting and recordkeeping, and disclosure?

4. Transparency

(a) Current Requirements. The current reporting requirements for EFPs are outlined above. Exchanges do not require, and generally do not have a mechanism for providing, timely information about EFP bids, offers, and transactions.

(b) Request for Comments. The Commission is soliciting comments on the following questions:

(22) Do existing price reporting standards provide adequate transparency concerning EFPs to the marketplace and, if not, are there alternative methods of achieving improved price transparency?

(23) Should the Commission require contract markets to publicize information about bids and offers, as well as consummated EFP transactions?

III. Other Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market

A. Types of Eligible Transactions

Although EFPs have raised many issues and concerns, they have proven to be useful commercial tools. As noted above, the Commission seeks to explore whether there are other types of noncompetitive transactions that also could enhance the usefulness of

[42] The Commission is currently proposing to amend Regulation 1.55 so that FCMs and IBs would no longer be required to furnish the specified written risk disclosure statement to certain categories of financially accredited customers or to obtain written acknowledgments of receipt of the risk disclosure statement before opening a commodity futures account for these customers. In addition, the Commission is currently proposing amendments to relieve FCMs and IBs from requirements to furnish disclosure statements to these financially accredited customers pertaining to foreign futures or foreign options (Regulation 30.6(a)), domestic exchange-traded commodity options (Regulation 33.7(a)), customers whose accounts are transferred to another FCM or IB other than at the customer's request (Regulation 1.65(a)(3)), and the treatment in bankruptcy of non-cash margin held by an FCM (Regulation 190.10(c)). *Distribution of Risk Disclosure Statements by Futures Commission Merchants and Introducing Brokers,* 62 FR 47612 (Sept. 10, 1997).

[43] *Id.* at 47614.

[44] *Adoption of Customer Protection Rules,* 43 FR 31886, 31889 (July 24, 1978).

designated contract markets without compromising necessary regulatory safeguards. The Commission has identified three potential candidates: (i) EFS transactions; (ii) exchanges of options for physicals (''EOPs''); and (iii) block trades. The Commission welcomes the identification by commenters of any other potential types of transactions.

1. Exchanges of Futures for Swaps

(a) The New York Mercantile Exchange Proposal. As noted, the NYMEX has applied to the Commission for approval of a rule that would permit the execution of EFS transactions. As proposed by the NYMEX, EFS transactions would involve the noncompetitive exchange of futures contracts for separately negotiated swap agreements. In this respect, the proposal would establish for EFS transactions provisions that are parallel to, but separate from, those governing EFP transactions.[45] Thus, an EFS transaction would follow the structural form of an EFP transaction except that a swap agreement would be substituted for the physical component of the transaction.[46]

Under the NYMEX proposal, the swap component of the EFS transaction must comply with the requirements of Part 35 of the Commission's regulations or with the Commission's 1989 Policy Statement concerning cash-settled swap transactions or must otherwise qualify for or fall within other exemptions or jurisdictional exclusions under the Act or Commission regulations. This initiative represents the first proposal the Commission has received for approval of EFS transactions.

The NYMEX states that the rule proposal in part responds to the substantial growth that has occurred in the swaps market during recent years. In this respect, the NYMEX asserts that swap transactions, though not ''physical'' in the traditional sense, subject market participants to the same type of price risk. Thus, the NYMEX claims that the proposal could aid in linking the on-exchange futures and off-exchange swap markets.

The NYMEX believes that allowing EFS transactions would increase market efficiency and enhance the use of the exchange as a risk transfer medium. Specifically, the NYMEX believes that both traditional market users and swap dealers (banks, trading companies, and energy companies) would benefit from the availability of EFS transactions. By a similar line of reasoning, the NYMEX notes that commodity swap instruments continue to play an increasingly important role in providing a risk management function in crude oil and other markets, in part because they can be individually tailored to a user's commercial needs and thereby reduce substantially the presence of basis risk. Because of this, the NYMEX concludes that permitting EFS transactions would reduce basis risk for NYMEX market participants, enhance competition among exchange and over-the-counter markets, and facilitate greater usage of NYMEX as a centralized market.

The NYMEX affirms that it has not identified any evidence suggesting that adoption of the proposal would harm existing liquidity in NYMEX markets. Moreover, the NYMEX concludes that the rule proposal would make the liquidity present in NYMEX energy markets accessible to swap market participants via the EFS process. Additionally, the NYMEX identifies the ability of swap participants to close out futures positions more readily, as the underlying futures contracts approach expiration, and thus utilize the exchange in managing price risk associated with swap market transactions as a potential benefit of the proposal.

The NYMEX also views the financial safeguards of the on-exchange trading environment as potentially beneficial, and attractive to, swap market participants. The NYMEX concludes that access to these financial safeguards, including those associated with the position limit and margining systems, either for purposes of creating or extinguishing swap agreements, would enable swap market participants to enhance the credit quality of swap positions. Thus, in summary, the NYMEX concludes that several benefits would accrue to market participants from adoption of the proposed rule, including improvements in liquidity and price transparency, and reductions in basis and credit risk.

(b) Request for Comments. The Commission is soliciting comments on the following questions:

(24) What are the economic reasons firms might have for engaging in EFS transactions and what benefits might accrue thereunder, including the potential benefits to domestic futures markets, to over-the-counter markets, and to financial markets generally?

(25) What are the potential costs or risks of permitting EFS transactions, particularly with respect to the effect on price discovery, risk transfer, and the competitive character of ''on-exchange'' transactions?

(26) Should the Commission approve the NYMEX rule proposal permitting EFS transactions?

(27) Should EFS transactions be limited to particular markets, participants or types of transactions?

(28) Should special provisions be established to ameliorate any competitive costs or otherwise safeguard the competitive conditions of the on-exchange market?

2. Exchanges of Options for Physicals

(a) Background. The EFP Report included an examination of EOPs.[47] The Division noted that the statutory sections governing options trading, Sections 4c(b) and 4c(c) of the Act,[48] do not provide for the extension of the Section 4c(a) exception for EFPs to options. The Division acknowledged that Regulation 1.38 provides for the execution of noncompetitive transactions pursuant to Commission-approved contract market rules and, on that basis, concluded that EOP transactions could potentially fall within the noncompetitive trade exception found in that regulation.

The EFP Report's investigation of contract market rules found that most were silent on the question of whether EOP transactions were acceptable, with only the Chicago Mercantile Exchange (''CME'') rules expressly prohibiting EOP transactions.[49] Although the Amex Commodities Corporation (''ACC'') adopted a rule permitting EOPs,[50] it subsequently withdrew that rule, apparently prior to the execution of any EOP transactions.

The Division staff that prepared the EFP Report were unable to discover any instances in which an option on a futures contract was exchanged for a cash commodity, and the Commission is not aware that any of these transactions have occurred since the publication of the report. The Division observed that the absence of these transactions could be due to the fact that market participants had not yet been able to design a plan to execute EOPs, perhaps

[45] As noted above, pursuant to Section 4c(a) of the Act, EFPs are explicitly permitted as an exception to the usual open and competitive execution requirements established by the Act, but only to the extent provided for by contract market rules approved by the Commission. Also as noted, Commission Regulation 1.38(a) authorizes noncompetitive transactions if executed in accordance with contract market rules that have received Commission approval. All domestic commodity exchanges permit the execution of EFP transactions, although there is some variation among exchange rules.

[46] In general, a simplified swap agreement may be characterized as an agreement between two parties to exchange a series of cash flows measured by different interest rates, exchange rates, or prices, with payments calculated by reference to a principal base (or notional amount). *See Policy Statement Concerning Swap Transactions*, 54 FR 30695 (July 21, 1989). Part 35 of the Commission's Regulations defines swap agreements by reference to the Bankruptcy Code. *See* 17 CFR 35.1(b)(1).

[47] EFP Report at 235–240.

[48] 7 USC 6c(b) and 6c(c).

[49] CME Rule 538.

[50] ACC Rule 908.

because of difficulty in establishing an appropriate basis relationship between the option and the cash commodity.

The EFP Report indicated that commentary from contract market officials and market participants on the EOP issue was divided. Some commenters objected on the basis that an option does not involve a delivery commitment. However, others indicated that EOPs could be appropriate in some circumstances. These commenters indicated that an EOP might be appropriate for the grantor of an option, who has a delivery commitment upon exercise, or in the case of a deep-in-the-money option, which as a practical matter appears to be the equivalent of a futures position. One commenter stated that EOPs were conceptually viable but that the instability associated with option deltas (and therefore option value) could create great risk for a person accepting an option in exchange for a cash commodity. This commenter also indicated that, assuming this risk was reflected in the price, EOP transactions could be very expensive.

(b) Request for Comments. The Commission is soliciting comments on the following questions:

(29) Are EOPs viable and do these transactions offer genuine risk management benefits?

(30) If so, should EOPs be permitted, and should there be limitations on EOPs that reflect the particular risk characteristics of options?

3. Alternative Execution Procedures

(a) Current Procedures. (1) Contract Market Large Order Procedures. The Commission has approved several contract market rules that establish alternative execution procedures for certain transactions. These procedures generally preserve the competitive forces available on a centralized market and thereby comply with the ''open and competitive'' requirement of Commission Regulation 1.38(a).

The CME, the New York Cotton Exchange (''NYCE'') and the New York Futures Exchange (''NYFE'') have adopted similar procedures providing for the execution of large orders.[51] These procedures may be used only upon customer request or if the large order bid or offer is the best price available to satisfy the terms of the order. A member makes a request for a large order bid and/or offer in the appropriate trading area. Responding members may make bids and/or offers at, above or below the current prevailing bid or offer in the underlying market for regular size orders. Only the best bid and/or offer shall prevail, and the large order must be filled on an all-or-none basis. The large order execution price does not trigger conditional orders in the underlying market, such as stop or limit orders.

The NYCE and NYFE expressly prohibit an initiating floor broker from bundling customer orders to meet the minimum contract size required for eligibility under the large order execution procedures, but allow a responding broker to bundle customer limit orders and to add orders from his or her own account to match the quantity of futures or options in the large order request. Under the CME all-or-none procedures, both the initiating floor broker and the responding floor broker may bundle customer orders to meet the minimum contract size as long as the customers specifically request execution under these procedures or the all-or-none bid or offer is the best price available to satisfy the terms of the orders. Although cross trades are not permitted at the NYCE and NYFE under these procedures, they are permitted at the CME. Large order transactions executed at all three exchanges must be reported to a designated Exchange official who records and publishes the quantity and prices separately from reports of transactions in the regular market.

The CME also has adopted separate large order execution (''LOX'') procedures for transactions involving 300 or more futures contracts in the Standard & Poor's 500 Stock Price Index or the Nikkei Stock Average.[52] These procedures, which include the pre-execution solicitation of interest and discussion of price, have only been used once in the several years they have been available.

The CME also has adopted request for size (''RFS'') quotations for the GLOBEX system. These procedures supplement the GLOBEX request for quote (''RFQ'') procedures. As originally configured, RFQ messages were distributed without any contract quantity indication. Thus, the adoption of RFS procedures permits requests for large size transactions for all contracts traded through GLOBEX, subject to a minimum threshold quantity for RFS quotations of 100 contracts.[53]

(2) Section 4(c) Contract Market Transactions. As noted previously, Section 4(c) of the Act vests the Commission with certain exemptive authority from the general requirement that all futures transactions must be executed on designated contract markets, subject to specified qualifying criteria. Part 36 of the Commission's regulations adopts certain exemptions under a pilot program for the establishment of separate professional markets which would have less restrictive requirements governing trading, reporting, and risk disclosure for eligible transactions than are applicable to current contract markets. Subject to certain recordkeeping and audit trail requirements, Part 36 procedures provide for the execution of noncompetitive transactions, regardless of size. In addition, these transactions are limited to certain Commission registrants and sophisticated and/or institutional traders which meet certain minimum asset requirements, including banks, trust companies, savings associations, credit unions, investment companies, commodity pools, certain business associations, employee benefit plans, government entities, broker-dealers, FCMs, floor brokers, floor traders, and certain other natural persons. A contract market may adopt trading rules permitting the execution of Part 36 transactions using any combination of noncompetitive execution procedures and competitive on-floor trading procedures.

No contract market has filed a proposal with the Commission pursuant to Section 4(c) and Part 36. Significantly, Part 36 only permits noncompetitive executions in specially-designated, stand-alone, professional markets. In contrast, the other noncompetitive trading methods discussed in this release are adjuncts to regular trading on or subject to the rules of a contract market.

(3) Securities Market Block Trading Procedures. Block trading in securities markets differs substantially from that on Commission designated contract

[51] CME Rule 521 (''All-Or-None Transactions''); NYCE Rule 1.10-B (''Block Order Execution''); NYFE Rule 312 (''Block Order Execution'').

The CME all-or-none procedures apply to a variety of products, including currency futures, South African Rand options, 28-day Mexican TIIE futures, 91-day Mexican CETES futures, Brady Bond futures, IPC futures, Three-month Eurodollar futures bundle combinations, 13-week U.S. Treasury Bill futures, British Pound/Deutsche Mark and Deutsche Mark/Japanese Yen futures, and Argentine Par Bond futures. The minimum contract size eligible for execution under these procedures ranges from 20 contracts to 100 contracts. The NYCE limits its block order execution procedures to transactions involving 50 or more FINEX futures or futures spreads, options spreads or futures/options combinations in the same contract. The NYFE limits its block order execution procedures to transactions involving 15 or more NYSE Large Composites, 30 or more NYSE Composite Index or 50 or more CRB futures or options, futures spreads, options spreads or futures/options combinations in the same contract.

[52] CME Rule 549.

[53] The CME recently lowered the minimum threshold quantity for RFS quotations for currency futures traded through GLOBEX to 50 contracts.

markets. Blocks may be traded on securities exchanges, in over-the-counter securities markets, or through ''principal-to-principal'' trade execution venues. In the securities industry, a block trade is commonly defined as a transaction involving 10,000 or more shares or a quantity of stock having a market value greater than or equal to $200,000. In recent years, block trading in securities markets has increased as a percentage of reported trading volume.[54]

The New York Stock Exchange (''NYSE'') and the Chicago Board Options Exchange (''CBOE'') have rules providing for block trading.[55] A customer desiring to trade a block of NYSE-listed stocks contacts a block trader. Depending on the block trader's assessment of market demand and supply, the block trader may notify the Specialist of the pending block trade.[56] If notified, the Specialist may indicate an interest in participating in the block. The block trader then must decide whether to ''position'' the entire block by serving as the counterparty or ''shop the block'' by seeking customers to take the other side of the trade. The block trader may also combine these strategies by positioning part of the block and seeking customers for the remaining shares. Upon agreement of a price for the block,[57] the block order is transmitted to the NYSE floor for crossing against the block trader's house account or against other customer orders as arranged in ''shopping the block.''

Block orders crossed on the NYSE floor must comply with NYSE rules, including the following. Block orders within the current market quotation must first be offered publicly at a price higher than the member's bid by the minimum variation applicable to that stock so that the trading crowd may participate in the block at that publicly offered price, before the member may proceed with the cross transaction.[58] Block orders crossed outside the current market quotation must be disclosed to the Specialist.[59] Where the member is holding agency orders on both sides of the market, he or she must probe the market to determine whether more stock would be lost than is reasonable under the circumstances to orders in the crowd.[60] Where the member is serving as the counterparty of the block and where all or any portion of the block establishes or increases his or her position, the member must fill all limit orders at the post for the clean-up price or better at the clean-up price, before any amount may be retained for the member's account.[61] As an anti-manipulation safeguard, when a member holds any part of a long position in a stock in its trading account as a result of a block trade it completed with a customer, the member is precluded from effecting certain transactions in this stock on the same trading day in which the block trade was executed.[62]

At the CBOE, a member or member organization may solicit another member, member organization, non-member customer or broker-dealer (''solicited person'') to take the opposite side of a large-sized order (''original order'').[63] The member representing the original order must disclose the terms and conditions of that order to the trading crowd before it can be executed.[64]

In order to promote disclosure at the inception of the solicitation period and to encourage solicited persons to bid or offer at prices that improve the current market, the CBOE rule establishes a series of priority principles for these solicited transactions. Priority depends upon whether the original order is disclosed throughout the solicitation period, whether the solicited order improves the best bid or offer in the crowd and whether the solicited order matches the original order's limit.

If the terms and conditions of the original order are disclosed to the trading crowd prior to any solicitation and the order is continuously represented in the crowd throughout the solicitation process, then the following rules apply. If the solicited order matches the original order's limit and improves the best bid or offer in the trading crowd, then the solicited order has priority over the crowd and may trade with the original order at the improved bid or offered price subject to the customer limit order book priorities set forth in CBOE Rule 6.45.[65] If the solicited order does not match the original order's limit, but improves the best bid or offer in the crowd and the original order is subsequently modified to match the solicited order's bid or offer, then the terms of the original order, as modified, must be disclosed to the trading crowd. The crowd has priority to trade with the modified original order before this order may be crossed with the solicited order.[66] If the solicited order does not match the original order's limit and meets but does not improve the best bid or offer in the trading crowd and the original order is subsequently modified to match the solicited order's bid or offer, then the trading crowd has priority to trade with

[54] In 1996, block trading on the New York Stock Exchange comprised 55.9% of the exchange's reported volume, or 2,348,457 transactions accounting for 58.5 billion shares. *New York Stock Exchange Fact Book 1996*, at 16 (May 1997).

[55] NYSE Rule 127; CBOE Rule 6.9.

[56] NYSE Rule 127(a).

[57] When positioning a block, the block trader quotes a tentative price for the stock to the block customer, and the customer may tentatively accept this price. Barring an extreme and unexpected movement in the price of the stock, the customer may be reasonably assured of execution at the quoted price.

When a block trader ''shops a block,'' the trader contacts one or more potential customers to take the opposite side of the block at a specified price. The block trader might be willing to negotiate this price depending on how interested other investors are in participating in the block. The block trader continues to ''shop the block'' until he or she has a sufficient quantity of orders for the opposite side at a single price. At this point, the block trader returns to the block customer and confirms the customer's interest in the block transaction at the negotiated price, also known as the ''clean-up'' price.

[58] NYSE Rule 76.

[59] NYSE Rule 127(b).

[60] NYSE Rule 127(c). If the member representing the block orders decides that the amount of stock that would be lost is not excessive, then he or she announces the clean-up price to the crowd and fills at such price all agency limit orders at the post for the clean-up price or better. The member then crosses the remaining block orders at the clean-up price.

If the member decides that the amount of stock that would be lost is excessive, then he or she either may return to the block customers to negotiate a new clean-up price or may limit participation in the block by members at the post. The member limits participation merely by informing the crowd that they cannot participate freely in the block. After such an announcement, the member follows the crossing procedures set forth in NYSE Rule 76 and makes a bid and offer for the full amount of the block. A ''reasonable'' time must elapse before the cross is completed in order to provide the crowd, including the Specialist, the opportunity to execute superior priced bids or offers to provide price improvement. Thereafter, the member crosses the orders for the remaining shares at the clean-up price. The member is not required to fill at the clean-up price orders limited to the clean-up price or better. The block is entitled to priority at the proposed clean-up price.

[61] NYSE Rule 127(d)(1).

[62] NYSE Rule 97.

[63] CBOE Rule 6.9. CBOE Rule 6.9 specifically allows solicited transactions by ''a member or member organization representing an order respecting an option traded on the Exchange * * * 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).''

[64] CBOE Rule 6.9(d). However, the member is not required to announce to the trading crowd that another person has been solicited to participate in the order. The initiating member simply must disclose all the terms and conditions of the original order and any modifications to the trading crowd.

[65] CBOE Rule 6.9(a).

Under CBOE Rule 6.45, the highest bid or lowest offer has priority. Where two or more bids (offers) for the same option contract represent the highest (lowest) price, the bid (offer) that is displayed in the customer limit order book shall have priority over any other bid at the post. If two or more bids (offers) represent the highest (lowest) price and the customer limit order book is not involved, then priority is determined according to the sequence in which the bids (offers) were made.

The procedures set forth in CBOE Rule 6.74 govern the crossing of original orders with solicited orders, except when the solicited party has priority as is the case under CBOE Rule 6.9(a).

[66] CBOE Rule 6.9(b).

the modified original order at the best bid or offered price subject to the customer limit order book priorities.[67] Finally, where the terms and conditions of the original order have not been disclosed in advance of the solicitation, the trading crowd has priority to trade with the original order at the best bid or offered price subject to the customer limit order book priorities before the original order may be crossed with the solicited order.[68]

CBOE members and their associated persons who have knowledge of all the material terms and conditions of an imminent, undisclosed solicited transaction are prohibited from certain trading in an option of the same class that is the subject of the solicited transaction, the underlying security or any related instrument. That prohibition is in effect until the original order and any modifications are disclosed to the trading crowd or until the solicited transaction can no longer reasonably be considered imminent in view of the passage of time since the solicitation.[69]

Block trading also is carried out on regional securities exchanges and in over-the-counter securities markets. The procedures governing block trades in these markets are generally less complex than those applicable at the NYSE. Block trades for stocks listed on regional exchanges are negotiated off-floor and in most cases must be crossed on the floor of the exchange. Moreover, traders generally do not have to accommodate limit orders. Over-the-counter block trades are arranged by a block trader who then crosses the resulting orders.

Another venue for securities block trading involves ''principal-to-principal'' systems. Generally, block customers directly enter trade quantities and bid/ask prices into a computerized system, which matches the orders according to the availability of bids and offers at matching prices. In addition, block customers may execute block trades themselves, off-exchange, without the assistance of a broker or block trader.

(b) Potential Procedures. Certain participants in the futures markets have suggested that the competitive execution requirements under the Commission's regulations be relaxed to permit block trading procedures similar to those in the securities exchange and over-the-counter markets. As noted previously, the proviso to Commission Regulation 1.38(a) permits noncompetitive transactions if executed pursuant to contract market rules that have been approved by the Commission.

One of the purposes of this release is to investigate whether there are alternative, noncompetitive execution procedures that would further the policies and purposes of the Act. If so, the Commission seeks to determine the extent to which these procedures could be structured to serve the purposes of market participants while not sacrificing customer protection. The procedures might be limited according to order size, class of participant, contract, or some other category. In addition, the Commission seeks to determine the extent to which the procedures would be, and should be, similar to securities market procedures.

The following examples, while not exhaustive, illustrate the range of possibilities. The least significant modification of current open and competitive procedures would expressly permit market participants to alert potential counterparties of their interest in trading in a particular market at a particular time. Actual execution would occur pursuant to existing competitive procedures.

A more significant departure from current procedures would permit market participants to divulge not only a general interest in trading but also specific information about quantity and price to potential counterparties. Again, actual execution would occur competitively. This might be analogous to the practice of ''shopping the block'' in securities markets.

A further variation would permit negotiation between market participants. This would permit some degree of prearrangement although the execution price would to some extent remain subject to prices in the competitive market.

Yet another variation would adjust execution procedures to confer a degree of priority on particular orders that they might not attain in the open and competitive process. Such priority could be conferred, for example, on certain retail orders or on certain marketmaker orders.

Finally, market participants could be permitted to execute certain transactions bilaterally, away from the centralized marketplace, and simply report them to the exchange and clearing house. This would be similar to the way EFPs are handled currently.

Each of these alternatives potentially raises concerns, including, among others:

the impact on price discovery;
the impact on liquidity;
the potential for manipulation; and
the potential for mispricing, frontrunning, or other customer fraud.

Any proposed procedure would have to address such concerns. The need for safeguards is discussed further below.

(c) Request for Comments. The Commission is soliciting comments on the following questions:

(31) Should alternative, noncompetitive execution procedures be permitted on or subject to the rules of a contract market?

(32) If so, how should these procedures be structured to address regulatory concerns?

(33) Should these procedures be limited by order size, participant class, contract, or some other criteria?

(34) Can adequate safeguards be devised in connection with these procedures to prevent manipulation?

(35) Can adequate safeguards be devised in connection with these procedures to prevent fraud?

B. Qualifying Standards

1. The Need for Standards

The preceding discussion identifies particular types of transactions that might be appropriate for noncompetitive execution, such as EFS transactions or block trades. The common thread connecting these types of transactions with one another and with EFPs is their potential ability to fulfill some particularized need of market participants that the traditional open and competitive execution methods cannot fulfill as well. Congress has implicitly found with respect to EFPs that, at least under some circumstances, they provide certain benefits although their pricing and execution occurs outside of the centralized, open and competitive marketplace. To permit other types of noncompetitive transactions, the Commission would have to make a similar finding. For example, a contract market seeking approval of new procedures could address the effect of the proposal on the contract market's usefulness as a vehicle for price discovery and risk transfer. If the proposal had the potential to affect those functions adversely, the contract market could try to demonstrate countervailing benefits. The contract market also could address, pursuant to Section 15 of the Act,[70] whether its proposal was the least anticompetitive means of achieving its objective. Moreover, a contract market might show that these transactions are structured in such a way as to complement the competitive market, not to supplant it.

[67] CBOE Rule 6.9(c).

[68] CBOE Rule 6.9(d).

[69] CBOE Rule 6.9(e). This trading restriction applies to the solicited party as well as to any other member or associated person who has knowledge of all the material terms and conditions of both the original and solicited orders, including the price.

[70] 7 U.S.C. 19.

2. Request for Comments

The Commission seeks input on the general qualifying standards that should govern a proposal's eligibility for approval and how compliance with such standards would be demonstrated. The Commission is soliciting comments on the following questions:

(36) What are the appropriate qualifying standards for noncompetitive transactions concerning:

(a) the effect on the usefulness of a designated futures contract as a hedging mechanism?

(b) the effect on the price discovery function of a designated futures contract?

(c) the effect on the level of financial integrity in a designated contract market?

(d) the effect on the level of customer protection in a designated contract market?

(37) Should access to noncompetitive transactions be limited to commercials or sophisticated investors?

(38) Should noncompetitive transactions be subject to contract market rules?

(39) Are there other appropriate qualifying standards?

C. Continuing Regulatory Requirements

1. The Need for Requirements

As discussed above, in addition to determining whether an EFP is bona fide, there is a need for appropriate regulatory oversight in areas such as reporting and recordkeeping, disclosure, and internal controls. Similar considerations apply to other types of noncompetitive transactions.

2. Request for Comments

The Commission seeks input on any additional requirements that should apply to a potential noncompetitive transaction, once it is determined that the transaction meets basic eligibility standards. To that end, the Commission has identified the following areas where it appears that additional qualifying requirements would be required in order to maintain systemic integrity and to provide guidance to self-regulatory entities. The Commission seeks input both as to whether the prospective requirement is necessary and, if so, how the requirement could be structured to provide a meaningful test. The Commission is soliciting comments on the following questions:

(40) What are the appropriate standards to ensure that noncompetitive transactions are bona fide and meet basic qualifying requirements on an ongoing basis?

(41) What are the appropriate reporting and recordkeeping requirements applicable to these transactions?

(42) What are the appropriate disclosure requirements applicable to these transactions?

(43) What are the appropriate internal controls applicable to these transactions?

(44) What are the appropriate safeguards to maintain an adequate level of transparency?

(45) What are the appropriate safeguards to prevent manipulation?

(46) What are the appropriate safeguards to prevent fraud?

IV. Execution Facilities for Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market

A. Current, Proposed and Potential Facilities

As noted in the Introduction, several organizations have developed execution facilities for transactions that are executed off-exchange and reported to contract markets as EFPs. As with the procedures discussed in the previous section, these facilities expand the opportunity for market participants to engage in the negotiation of transactions off the floor of the exchange. It appears, however, that there are significant structural differences between these facilities and traditional methods for the execution of EFPs. The latter generally appear to take a bilateral, over-the-counter approach to the negotiation of trades.

Unlike traditional approaches, these execution facilities provide a formal market environment for the negotiation and arrangement of transactions, are typically operated by third parties, and may be beyond the operational and regulatory purview of contract markets to some extent. In this respect, however, the Commission also recognizes that these facilities perhaps should be characterized as noncompetitive only in the sense that the transactions executed thereon are completed outside of designated contract markets. Thus, unlike the execution procedures on a contract market, the execution procedures on one of these facilities have not been formally reviewed and approved by the Commission for compliance with the open and competitive requirements of the Act and other statutory requirements. The Commission acknowledges that an execution facility's centralized structure may provide a market environment that facilitates the competitive execution of transactions and also may provide competitive benefits for the underlying contract markets.

This section includes a discussion of existing facilities, proposed facilities, and potential facilities and presumes that the futures leg of the transaction is reported to and cleared by an existing contract market clearing organization. Generally, the request for comments relative to this section seeks input as to whether the regulatory environment applicable to such transactions continues to be appropriate in light of the growth and evolution of activity on such facilities or whether some form of additional oversight is needed. As more fully set out below, the Commission's request for comments also seeks input on the appropriate form of any prospective regulatory actions applicable to these facilities.

1. Interdealer Brokers

There are six major interdealer brokers in the cash U.S. Treasury securities market.[71] All or most offer basis trading facilities. As noted above, a basis trade involves the simultaneous acquisition of positions in actual Treasury securities and in offsetting futures contracts. Transactions through these facilities must meet minimum trade sizes as well as other qualifying requirements.

It appears that at least a minimal level of transparency is maintained for basis trading on these facilities, although it is not clear whether that level is completely adequate. Information on these basis trades is obtained through reports published over screen-based news reporting services, such as Govpx or Bloomberg. The screens are anonymous, except that firms may be identified for basis trade quotations.

It also appears that these firms restrict their activities to dealing only with primary dealers and other large institutional entities. The interdealer brokers do not reveal counterparty names, and anonymity is thereby maintained. Trades generally are cleared through the Government Securities Clearing Corporation (''GSCC''), and anonymity is maintained even after a trade is consummated. GSCC nets the cash market legs of the basis trades.

2. The Chicago Board Brokerage

The CBT is developing a computerized system for, among other things, basis trading of U.S. Treasury securities. The system will be operated by the Chicago Board Brokerage (''CBB''), a subsidiary of the CBT, which is registered with the Securities and Exchange Commission (''SEC'') as a broker/dealer.

Pricing of basis trades on the CBB system will be carried out according to a standardized formula. The futures leg will be assigned a price equal to the last sale price for the futures contract. The cash Treasury leg will be assigned a price according to the basis spread relative to the price of the futures leg. The price of the cash Treasury leg also will be adjusted to account for

[71] The six are Cantor Fitzgerald, Liberty, RMJ, Tullet & Tokyo, Garban, and Hilliard & Farber.

differences between the coupon rate of the actual Treasury security and the standardized 8 percent coupon rate of the futures contract. The cash leg will be cleared through the Clearing Corporation for Options and Securities (''CCOS''), a subsidiary of the Board of Trade Clearing Corporation (''BOTCC'') which is registered as a clearing agency with the SEC. The futures leg will be cleared through the CBT and BOTCC pursuant to rules governing EFP transactions.

3. Potential Facilities for Transactions Other Than EFPs

The interdealer brokers and the CBB are facilities for the execution of EFPs. If the Commission were to permit other types of noncompetitive trading, such as block trading, facilities might be established for the execution of those types of transactions. For example, a computerized, bulletin board system might be established in connection with the execution of blocks. The Commission, of course, before approving relevant contract market rules, would have the opportunity to review procedures relating to these trades. Nonetheless, as discussed below, the Commission is requesting comments as to the appropriate form of regulatory oversight for these facilities.

B. Qualifying Standards

1. Current Requirements

Basis trades executed through these facilities currently are subject to the same regulatory requirements as any other EFP transaction. The Commission's oversight of these facilities does not differ in any way from its oversight of the EFP markets generally. The Commission is concerned that the nature of the transactions executed on these facilities and the environment in which they are executed may differ enough from the nature of traditional EFPs as to warrant differing regulatory treatment. Indeed, it could be argued that some of these facilities have evolved to the extent that they are functionally the equivalent of designated contract markets.

2. Request for Comments

The Commission seeks input on the regulatory structure appropriate for these execution facilities. At a threshold level, this area of inquiry seeks comments on whether the existing regulatory structure appears adequate as currently organized and administered. To the extent that a commenter believes the current approach is adequate, a supporting rationale should be set forth. To the extent that a commenter believes the current approach is deficient, the Commission seeks comments identifying the nature of the deficiency and whether new guidelines or standards are required. Where a commenter believes that new regulatory initiatives are required, the Commission seeks comments on the form and nature of any such initiatives. Any such comments should include a supporting rationale.

Specifically, the Commission is soliciting comments on the following questions:

(47) What characteristics distinguish execution facilities for EFPs from contract markets?

(48) Is the current regulatory approach concerning these facilities adequate?

(49) If not, what modifications are appropriate?

(50) If execution facilities were established for noncompetitive transactions other than EFPs, how, if at all, should the regulatory approach that would apply to those facilities vary from that currently applicable to contract markets?

(51) Should execution facilities for EFPs and other noncompetitive transactions that are operated by non-contract markets be subject to oversight by the relevant contract market?

(52) Should these facilities limit access to commercials or sophisticated investors?

(53) Should these facilities be subject to procedures to prevent manipulation?

(54) Should these facilities be subject to procedures to prevent fraud?

(55) Should these facilities be subject to procedures to ensure that transactions executed thereon are bona fide?

(56) Should these facilities be subject to procedures to provide for market transparency?

(57) Should these facilities be subject to procedures related to reporting and recordkeeping?

V. Summary of Request for Comments

After reviewing the comments, the Commission will determine whether rulemaking or other action is appropriate. Commenters are invited to discuss the broad range of concepts and approaches described in this release. The Commission specifically invites commenters to compare the advantages and disadvantages of the possible changes discussed above with those of the existing regulatory framework. In addition to responding to the specific questions presented, the Commission encourages commenters to submit any other relevant information. In sum, the Commission is soliciting comments on the following questions:

Overview

(1) Should the standards articulated in the EFP Report be codified in the Commission's regulations and/or refined in any way?

(2) Should other types of noncompetitive transactions, such as EFS transactions or block trades, be permitted to be executed on or subject to the rules of a contract market and, if so, what standards should apply to these transactions?

(3) What standards should be applicable to execution facilities for noncompetitive transactions executed on or subject to the rules of a contract market?

Elements of a Bona Fide EFP: Relationship of the Instruments

(4) How should the ''strong price correlation'' standard articulated in the EFP Report be implemented?

(5) Should the Commission require contract markets to adopt a minimum statistical correlation coefficient to be used in assessing the acceptability of a particular cash commodity for use as the cash leg of an EFP?

(6) If a minimum correlation coefficient is required, should this coefficient apply to all EFPs, or should it be adjusted to account for the different commodities involved in EFPs?

(7) What is the appropriate type and scope of guidance contract markets should be required to provide to the general public concerning the acceptability of particular commodities as the cash leg of an EFP?

Elements of a Bona Fide EFP: Relationship of the Parties

(8) What is the appropriate scope of the separate parties requirement?

(9) Should the Commission address string trades as that practice is described in the EFP Report and, if so, how?

Elements of a Bona Fide EFP: Nature of the Transaction

(10) What criteria are appropriate for judging whether the futures leg of an EFP is bona fide?

(11) What criteria are appropriate for judging whether the cash leg of an EFP is bona fide?

(12) What criteria are appropriate for determining whether a transitory EFP is bona fide?

(13) What criteria are appropriate for determining whether an EFP is contingent?

Elements of a Bona Fide EFP: Price of the Transaction

(14) Should the Commission require both the futures and cash legs of an EFP to be priced within the daily range of their current respective markets, should it require only one leg of an EFP to be priced within its daily range, or should it impose no restrictions on the price of either leg of an EFP?

(15) Should the Commission require contract markets to obtain documentation regarding the business purpose underlying the pricing of an EFP?

Other Regulatory Requirements Governing EFPs: Reporting and Recordkeeping

(16) Are the current reporting and recordkeeping requirements relating to EFPs adequate?

Other Regulatory Requirements Governing EFPs: Disclosure

(17) What should be the form and content of disclosure concerning EFPs?

(18) Should the form and content of disclosure vary according to the commercial sophistication of the EFP participant similar to the Commission's proposed amendment to Regulation 1.55?

(19) Should the Commission explicitly require that customers must be informed that an EFP is executed noncompetitively, that it involves a cash transaction, and that their FCM might take the opposite side of the EFP?

(20) Should the Commission explicitly require Commission registrants to obtain customer consent before executing an EFP on the customer's behalf?

Other Regulatory Requirements Governing EFPs: Internal Controls

(21) What internal controls are appropriate for Commission registrants to ensure compliance with regulatory requirements concerning the essential elements of bona fide EFPs, reporting and recordkeeping, and disclosure?

Other Regulatory Requirements Governing EFPs: Transparency

(22) Do existing price reporting standards provide adequate transparency concerning EFPs to the marketplace and, if not, are there alternative methods of achieving improved price transparency?

(23) Should the Commission require contract markets to publicize information about bids and offers, as well as consummated EFP transactions?

Types of Eligible Transactions: Exchanges of Futures for Swaps

(24) What are the economic reasons firms might have for engaging in EFS transactions and what benefits might accrue thereunder, including the potential benefits to domestic futures markets, to over-the-counter markets, and to financial markets generally?

(25) What are the potential costs or risks of permitting EFS transactions, particularly with respect to the effect on price discovery, risk transfer, and the competitive character of ''on-exchange'' transactions?

(26) Should the Commission approve the NYMEX rule proposal permitting EFS transactions?

(27) Should EFS transactions be limited to particular markets, participants or types of transactions?

(28) Should special provisions be established to ameliorate any competitive costs or otherwise safeguard the competitive conditions of the on-exchange market?

Types of Eligible Transactions: Exchanges of Options for Physicals

(29) Are EOPs viable and do these transactions offer genuine risk management benefits?

(30) If so, should EOPs be permitted, and should there be limitations on EOPs that reflect the particular risk characteristics of options?

Types of Eligible Transactions: Alternative Execution Procedures

(31) Should alternative, noncompetitive execution procedures be permitted on or subject to the rules of a contract market?

(32) If so, how should these procedures be structured to address regulatory concerns?

(33) Should these procedures be limited by order size, participant class, contract, or some other criteria?

(34) Can adequate safeguards be devised in connection with these procedures to prevent manipulation?

(35) Can adequate safeguards be devised in connection with these procedures to prevent fraud?

Qualifying Standards

(36) What are the appropriate qualifying standards for noncompetitive transactions concerning:

(a) the effect on the usefulness of a designated futures contract as a hedging mechanism?

(b) the effect on the price discovery function of a designated futures contract?

(c) the effect on the level of financial integrity in a designated contract market?

(d) the effect on the level of customer protection in a designated contract market?

(37) Should access to noncompetitive transactions be limited to commercials or sophisticated investors?

(38) Should noncompetitive transactions be subject to contract market rules?

(39) Are there other appropriate qualifying standards?

Continuing Regulatory Requirements

(40) What are the appropriate standards to ensure that noncompetitive transactions are bona fide and meet basic qualifying requirements on an ongoing basis?

(41) What are the appropriate reporting and recordkeeping requirements applicable to these transactions?

(42) What are the appropriate disclosure requirements applicable to these transactions?

(43) What are the appropriate internal controls applicable to these transactions?

(44) What are the appropriate safeguards to maintain an adequate level of transparency?

(45) What are the appropriate safeguards to prevent manipulation?

(46) What are the appropriate safeguards to prevent fraud?

Execution Facilities for Noncompetitive Transactions Executed on or Subject to the Rules of a Contract Market: Qualifying Standards

(47) What characteristics distinguish execution facilities for EFPs from contract markets?

(48) Is the current regulatory approach concerning these facilities adequate?

(49) If not, what modifications are appropriate?

(50) If execution facilities were established for noncompetitive transactions other than EFPs, how, if at all, should the regulatory approach that would apply to those facilities vary from that currently applicable to contract markets?

(51) Should execution facilities for EFPs and other noncompetitive transactions that are operated by non-contract markets be subject to oversight by the relevant contract market?

(52) Should these facilities limit access to commercials or sophisticated investors?

(53) Should these facilities be subject to procedures to prevent manipulation?

(54) Should these facilities be subject to procedures to prevent fraud?

(55) Should these facilities be subject to procedures to ensure that transactions executed thereon are bona fide?

(56) Should these facilities be subject to procedures to provide for market transparency?

(57) Should these facilities be subject to procedures related to reporting and recordkeeping?

Issued in Washington, DC, on January 16, 1998.

Jean A. Webb,

Secretary.

[FR Doc. 98–1672 Filed 1–23–98; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Customer Comments; AF Form 3211; OMB Number 0701–(to be determined).

Type of Request: New Collection.

Number of Respondents: 200.

Responses Per Respondent: 1.

Annual Responses: 200.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 17.

Needs and Uses: Each guest of Air Force lodging and its contract lodging operations are provided access to AF Form 3211. AF Form 3211 gives each guest the opportunity to comment on facilities and service received. Completion of the form is optional. The information collection requirement is necessary for Wing leadership to access the effectiveness of their lodging program. AF Form 3211 is useful as background documentation and supporting material for various management decisions. The information is reviewed by higher headquarters during lodging assistance and Innkeeper Award competitions.

Affected Public: Individuals or Households; Business or Other For-Profit.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: January 21, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–1738 Filed 1–23–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0090]

Submission for OMB Review; Comment Request Entitled Rights in Data and Copyrights

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0090).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Rights in Data and Copyrights. A request for public comments was published at 62 FR 62001, November 20, 1997. No comments were received.

DATES: Comments may be submitted on or before February 25, 1998.

FOR FURTHER INFORMATION CONTACT: Jack O'Neill, Federal Acquisition Policy Division, GSA (202) 501–3856.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0090, Rights in Data and Copyrights, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

Rights in Data is a regulation which concerns the rights of the Government, and organizations with which the Government contracts, to information developed under such contracts. The delineation of such rights is necessary in order to protect the contractor's rights to not disclose proprietary data and to insure that data developed with public funds is available to the public.

The information collection burdens and recordkeeping requirements included in this regulation fall into the following four categories.

(a) A provision which is to be included in solicitations where the proposer would identify any proprietary data he would use during contract performance in order that the contracting officer might ascertain if such proprietary data should be delivered.

(b) Contract provisions which, in unusual circumstances, would be included in a contract and require a contractor to deliver proprietary data to the Government for use in evaluation of work results, or is software to be used in a Government computer. These situations would arise only when the very nature of the contractor's work is comprised of limited rights data or restricted computer software and if the Government would need to see that data in order to determine the extent of the work.

(c) A technical data certification for major systems, which requires the contractor to certify that the data delivered under the contract is complete, accurate and compliant with the requirements of the contract. As this provision is for major systems only, and few civilian agencies have such major systems, only about 30 contracts will involve this certification.

(d) The Additional Data Requirements clause, which is to be included in all contracts for experimental, developmental, research, or demonstration work (other than basic or applied research to be performed solely by a university or college where the contract amount will be $500,000 or less). The clause requires that the contractor keep all data first produced in the performance of the contract for a period of three years from the final acceptance of all items delivered under the contract. Much of this data will be in the form of the deliverables provided to the Government under the contract (final report, drawings, specifications, etc.). Some data, however, will be in the form of computations, preliminary data, records of experiments, etc., and these will be the data that will be required to be kept over and above the deliverables. The purpose of such recordkeeping requirements is to insure that the Government can fully evaluate the research in order to ascertain future activities and to insure that the research was completed and fully reported, as well as to give the public an opportunity to assess the research results and secure any additional information. All data covered by this clause is unlimited rights data paid for by the Government.

Paragraph (d) of the Rights in Data-General clause outlines a procedure whereby a contracting officer can challenge restrictive markings on data delivered. Under civilian agency contracts, limited rights data or restricted computer software is rarely, if ever, delivered to the Government. Therefore, there will rarely be any challenges. Thus, there is no burden on the public.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, *1,100;* responses per respondent, *1;* total annual responses, *1,100;* preparation hours per response, *2.7;* and total response burden hours, *29,970.*

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *9,000;* hours per recordkeeper, *3;* and total recordkeeping burden hours, *27,000.*

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (VRS), Room 4037, 1800 F Street, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0090, Rights in Data and Copyrights, in all correspondence.

Dated: January 21, 1998.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 98–1781 Filed 1–23–98; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Department of the Army

Records of Decision on the Final Environmental Impact Statement (FEIS) on the Disposal and Reuse of the Savanna Army Depot Activity, Savanna, Illinois

AGENCY: Department of the Army, DOD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announced its Record of Decision (ROD) on the FEIS for the disposal and reuse of the 13,062 acres comprising the Savanna Army Depot Activity, Savanna, Illinois, in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended.

Under the Act, the Secretary of the Army has been delegated the authority to dispose of excess real property and facilities located at a military installation being closed or realigned. The National Environmental Policy Act requires the Army to prepare its analysis of the environmental impacts of disposal. The EIS also analyzes the secondary environmental impacts of disposal—the reuse of the property. The ROD and the FEIS satisfy the requirements of NEPA.

The Army has selected the encumbered disposal alternative. Encumbered disposal requires the transfer of the property to others with use restrictions imposed by the Army. The ROD concludes that surplus property will be conveyed subject to restrictions, identified in the FEIS, that pertain to the following: unexploded ordnance, wetlands, historical resources, threatened and endangered species, utilities easements, easements and rights-of-way, access easements, reversionary interests, overflow easements, remedial activities, and lead-based paint. The Army will impose deed restrictions or other requirements to ensure safety and protection of human health and the environment.

The Army has taken all practicable measures to avoid or minimize adverse environmental impacts associated with its preferred alternative of encumbered property disposal. The Army will continue to work with individual future owners to avoid, reduce, or compensate for adverse impacts that might occur as a result of disposal. Mitigation measures for reuse activities are identified in the FEIS.

ADDRESSES: A copy of the ROD may be obtained by writing to Ms. Shirley Barnett, at the U.S. Army Materiel Command, ATTN: AMCSO, 5001 Eisenhower Avenue, Alexandria, VA 22333–0001 or by calling (703) 617–8172. Copies of the Final EIS may be obtained by writing to Mr. Glen Coffee at the Corps of Engineers, Mobile District, ATTN: CESAM–PD–E, 109 St. Joseph Street, Mobile, AL 36628–0001, or by facsimile at (334) 690–2721.

Dated: January 20, 1998.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA, (I,L&E).

[FR Doc. 98–1726 Filed 1–23–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

New York and New Jersey Harbor Navigation Feasibility Study

AGENCY: Corps of Engineers, Army, DOD.

ACTION: Notice and request for comments.

SUMMARY: The U.S. Army Corps of Engineers, New York District, seeks comments from interested individuals, groups, and businesses about the need for, and alternatives to, Federal participation in the deepening of navigation channels within the Port of New York and New Jersey. It will consider all comments in its formulation and selection of alternatives.

DATES: Comments must reach the New York District on or before 30 March 1998.

ADDRESSES: You may mail comments to the Study Manager, Flood Control & Navigation Section, Planning Division, New York District, U.S. Army Corps of Engineers, 26 Federal Plaza, New York, NY 10278–0090, or deliver them to Room 2151 at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal Holidays, or e-mail to thomas.shea@usace.army.mil. The telephone number is (212) 264–1060.

FOR FURTHER INFORMATION CONTACT: Thomas J. Shea III, Study Manager, Flood Control & Navigation Section, Planning Division, New York District, U.S. Army Corps of Engineers, (212) 264–1060. E-mail: thomas.shea@usace.army.mil.

SUPPLEMENTARY INFORMATION: This announces the initiation of a cost shared feasibility level study for determining whether Federal participation in navigation improvements in the Port of New York and New Jersey is justified. The study is being conducted in partnership among the State of New York acting through the New York State Urban Development Corporation d/b/a Empire State Development Corporation, the State of New Jersey Department of Commerce and Economic Development (Maritime Resources), The Port Authority of New York and New Jersey and the U.S. Army Corps of Engineers, New York District. The study is authorized by Section 435 of the Water Resources Development Act of 1996 (WRDA 96).

Planning studies of water resource problems are conducted in two phases by the U.S. Army Corps of Engineers in its Civil Works role. The first phase is the reconnaissance study, accomplished entirely at Federal expense. The second phase is the feasibility study, which is cost shared equally between the Federal Government and one or more non-Federal sponsors.

The Section 905b, WRDA 86 Analysis Fact Sheet was completed in April, 1997. The purpose of this analysis is three-fold: (1) determine whether the Federal Government should participate in further studies of the water resource problems; (2) determine the scope, duration and cost of any further studies; (3) identify one or more non-Federal sponsors willing to cost-share the studies. The analysis found that there should be sufficient economic benefits to justify deepening selected channels within the Port to 50 feet or more below mean low water and identified the non-Federal sponsors mentioned above for the feasibility study.

The feasibility phase will perform, in more detail, the engineering, economic and environmental evaluations necessary to identify the optimum channel depths to meet the existing and future needs of the Port of New York and New Jersey, with an emphasis on container and crude petroleum traffic. At its completion, a ''Feasibility Report'' containing a recommendation for construction, if justified and supported by a non-Federal sponsor, will be released. The report, including the necessary environmental documentation, will be submitted to the United States Congress for project authorization.

The Port of New York and New Jersey is the largest port on the East Coast, providing more than 166,000 port-related jobs, $20 billion in economic activity, and serving more than 17 million consumers in the states of New York and New Jersey. Through its intermodal links, the Port provides second day access to another 80 million consumers in the northeast and mid-western states. In 1995, the Port

received and shipped more than 44.8 million long tons of waterborne general cargo to all parts of the United States and throughout the world and received petroleum and related products from ports on the Atlantic and Gulf Coasts, the Caribbean, Africa and the Persian Gulf.

The Corps' New York District requests any pertinent information about the project area from any Federal, state, or local agencies, and the private sector. In particular, we request information on the type, amount, and location of waterborne commerce and ships calling on the Port and any projections of future commerce and size of ships. This information will be used to define the status of the Port, forecast the benefits of channel improvements, and determine potential Federal involvement in providing deeper, wider and/or realigned channels. The Corps also welcomes any assistance and suggestions concerning the conduct of this study.

John Sassi,

Chief, Planning Division.

[FR Doc. 98–1721 Filed 1–23–98; 8:45 am]

BILLING CODE 3710–06–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 1955.

DATES: Interested persons are invited to submit comments on or before February 25, 1998.

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, SW., 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: January 20, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Goals 2000 Comprehensive Local Reform Assistance.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 400.

Burden Hours: 12,000.

Abstract: Section 304(e) of the Goals 2000: Educate America Act authorizes the Secretary to award direct grants to LEAs in States that were not participating in Goals 2000 as of October 20, 1995, if the applicable SEA approves the LEAs' participation in Goals 2000 as of that date. Both the Oklahoma and Montana SEAs have approved LEA participation in this direct grant program. The Goals 2000 Act is designed to help States and communities develop and implement their own education reforms focused on challenging academic standards in order to increase student academic achievement.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (OMB Control No. 1890–0001). Therefore, this 30-day public comment period notice will be the only public comment notice published for this information collection.

[FR Doc. 98–1720 Filed 1–23–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Environmental Management; Environmental Management Advisory Board Renewal

Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (Public Law 92–463), and in accordance with Title 41 of the Code of Federal Regulations, section 101–6.1015(a), and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Environmental Management Advisory Board has been renewed for a two-year period beginning on January 17, 1998. The Board will provide advice to the Assistant Secretary for Environmental Management.

The purpose of the Board is to provide the Assistant Secretary for Environmental Management with advice and recommendations on Environmental Management projects and issues, such as program budget, strategic planning, risk, technology development, the National Environmental Policy Act, long-term nuclear stewardship, science initiatives, worker health and safety, and program cost effectiveness, from the perspective of affected groups and State Tribal, and local governments. Consensus recommendations to the Department of Energy from the Board on programmatic nationwide resolution of numerous difficult issues will help achieve the Department's objective of an integrated environmental restoration program.

Additionally, the renewal of the Environmental Management Advisory Board has been determined to be essential to the conduct of Department of Energy business and to be in the public interest in connection with the performance of duties imposed on the Department of Energy by law. The Board will operate in accordance with the

provisions of the Federal Advisory Committee Act, the Department of Energy Organization Act (Public Law 95–91), and rules and regulations issued in implementation of those Acts.

Further information regarding this Advisory Board may be obtained from Rachel Samuel at (202) 586–3279.

Issued in Washington, D.C. on January 16, 1998.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 98–1809 Filed 1–23–98; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1169–000]

Central Louisiana Electric Company, Inc.; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, Central Louisiana Electric Company, Inc., (CLECO), tendered for filing a service agreement under which CLECO will provide non-firm point-to-point transmission service to NESI Power Marketing, Inc., under its point-to-point transmission tariff.

CLECO states that a copy of the filing has been served on NESI Power Marketing, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 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 February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1687 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1170–000]

CLECO Energy, L.L.C.; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, CLECO Energy, L.L.C. (CLECO Energy), petitioned the Commission for acceptance of CLECO Energy 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.

CLECO Energy intends to engage in wholesale electric power and energy purchases and sales as a marketer. CLECO Energy is not in the business of generating or transmitting electric power. CLECO Energy is an affiliate of Central Louisiana Electric Company, Inc., a public utility subject to the Commission's jurisdiction under the Federal Power Act, 16 U.S.C. 791a, *et seq*.

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 February 2, 1998. 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 must file a motion to intervene. Copies of CLECO Energy's filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1688 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1179–000]

Cinergy Services, Inc., Notice of Filing

January 20, 1998.

Take notice that on December 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 Commonwealth Edison Company (Commonwealth).

Cinergy and Commonwealth are requesting an effective date of December 3, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1697 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1181–000]

Consumers Energy Company; Notice of Filing

January 20, 1998.

Take notice that on December 23, 1997, Consumers Energy Company (Consumers), tendered for filing service agreements for unbundled wholesale power service pursuant to the Consumers' Power Sales Tariff filed on December 31, 1996 and accepted for filing on September 12, 1997 in Docket No. ER97–964–000 with the following customers:

1. Commonwealth Edison Company
2. Electric Clearing House, Inc.
3. Williams Energy Services Company

Copies of the filed agreements were served upon the Michigan Public Service Commission and the respective customers.

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 February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1699 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1182–000]

Consumers Energy Company; Notice of Filing

January 20, 1998.

Take notice that on December 23, 1997, Consumers Energy Company (Consumers), tendered for filing executed service agreements for Non-Firm Point-to-Point Transmission Service pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996, by Consumers and The Detroit Edison Company (Detroit Edison) with the following transmission customers:

CMS Marketing, Services and Trading
Commonwealth Edison Company
Detroit Edison Merchant Operation
Duke Energy Trading & Marketing, LLC
Electric Clearinghouse, Inc.
Enron Power Marketing
Illinois Power Company
Louisville Gas & Electric Company
Minnesota Power & Light Company
Northern Indiana Public Service Company
NP Energy Inc.
PECO Energy Co.
Pennsylvania Power & Light Company
Public Service Electric and Gas Company
Virginia Electric and Power Company
Wabash Valley Power Association, Inc.

Copies of the filed agreements were served upon the Michigan Public Service Commission, Detroit Edison and the respective transmission customers.

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 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1700 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–40–000]

East Tennessee Natural Gas Company; Notice of Site Visit

January 20, 1998.

On January 27, 1998, the Office of Pipeline Regulation staff will conduct a site visit of the proposed East Tennessee Natural Gas Company Virginia Expansion project in Washington, Smyth, and Wythe Counties, Virginia. All parties may attend. Those planning to attend must provide their own transportation.

For information about where the site inspection will begin, please contact Paul McKee at (202) 208–1088.

Robert J. Cupina,

Deputy Director, Office of Pipeline Regulation.

[FR Doc. 98–1678 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1184–000]

Entergy Services, Inc.; Notice of Filing

January 20, 1998.

Take notice that on December 23, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Mississippi, Inc., an operating company subsidiary of Entergy Corporation, tendered for filing an Agreement between Entergy Mississippi, Inc., and South Mississippi Electric Power Association (SMEPA). Entergy Services states that the Agreement sets out an additional delivery point between Entergy Mississippi, Inc., and SMEPA.

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 February 2, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1702 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1185–000]

Entergy Services, Inc.; Notice of Filing

January 20, 1998.

Take notice that on December 23, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., submitted for filing the Sixth Amendment (Amendment) to the Power Coordination, Interchange and Transmission Agreement (PCITA), between Entergy Arkansas, Inc., and the City of Conway, Arkansas and a Notice of Cancellation of the Electric Peaking Power Service Agreement between Conway and Entergy Arkansas, dated August 28, 1985 (PPA). Entergy Services states that the Amendment adds terms and conditions governing the service provided under the PPA.

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 February 2, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1703 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–366–007]

Florida Gas Transmission Company; Notice of Report of Refunds

January 20, 1998.

Take notice that on January 14, 1998, Florida Gas Transmission Company (FGT) tendered for filing a refund report reflecting amounts refunded to its transportation customers on December 15, 1997 in compliance with a Commission Order dated September 24, 1997 under the referenced dockets.

FGT states that in accordance with the terms of the Commission's Order, FGT has refunded to each of its customers an amount, including interest, equal to the difference between: (1) the total payments actually made by each customer for services rendered to it during the period March 1, 1997 through October 31, 1997; and (2) the total payments that each customer would have made for such services if the rates paid by the customer during this period had equaled the refund rates. The refund rates are contained in 1) Appendix A, page 1 of the August 5, 1997 Settlement in the referenced dockets as approved by the Commission Order dated September 24, 1997, and 2) the tariff sheets set forth in FGT's November 12, 1997 ''Compliance Filing to Place Settlement Rates Into Effect,'' as approved by Commission Order dated January 12, 1998.

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 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 27, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1679 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1180–000]

Florida Power & Light Company; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, Florida Power & Light Company (FPL), tendered for filing a letter from the Executive Committee of the Western Systems Power Pool (WSPP), indicating that FPL had completed all the steps for pool membership. FPL requests that the Commission amend the WSPP Agreement to include it as a member. FPL requests an effective date of December 23, 1997, for the proposed amendment.

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 February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1698 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–8–008]

Granite State Gas Transmission, Inc.; Notice of Refund Report

January 20, 1998.

Take notice that on December 23, 1997, Granite State Gas Transmission, Inc., (Granite State) tendered for filing a report of refunds to its transportation service customers, pursuant to the Stipulation and Agreement approved by the Commission on October 20, 1997.

Granite State's report indicates that the refund period extends from April 1, 1997 when the motion rates became effective to November 1, 1997, when the Phase I settlement rates became effective. The report also indicates that on December 11, 1997, Granite State made refunds of $561,643.55 including interest calculated to that date.

Granite State notes that copies of its filing have been served on its firm and interruptible customers, and on the regulatory agencies of the states of Maine, Massachusetts and New Hampshire.

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 on or before January 27, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1680 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1166–000]

Idaho Power Company; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission Idaho Revision No. 1, Exhibit C, Service Agreement 96MS–96108 between Idaho Power Company and Bonneville Power Administration.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All motions or

protests should be filed on or before February 2, 1998. Protests will be considered by the Commission 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1684 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1176–000]

Long Island Lighting Company; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, Long Island Lighting Company (LILCO), filed an Electric Power Service Agreement between LILCO and North American Energy Conservation, Inc., entered into on December 9, 1997.

The Electric Power Service Agreement listed above was entered into under LILCO's Power Sales Umbrella Tariff. On November 3, 1997, LILCO proposed modifications to the Power Sales Umbrella Tariff in Docket No. OA98–5–000. Upon the Commission's approval of LILCO's proposed modifications, North American Energy Conservation, Inc., will take service subject to the Modified Power Sales Umbrella Tariff.

LILCO requests waiver of the Commission's sixty (60) day notice requirements and an effective date of December 9, 1997, for the Electric Power Service Agreement listed above because in accordance with the policy announced in Prior Notice and Filing Requirements Under Part II of the Federal Power Act, 64 FERC § 61,139, clarified and reh'g granted in part and denied in part, 65 FERC § 61,081 (1993), service will be provided under an umbrella tariff and the Electric Power Service Agreement is being filed either prior to or within thirty (30) days of the commencement of service. LILCO has served copies of this filing on the customer which is a party to the Electric Power Service Agreement and on the New York State Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 8888 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 February 2, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1694 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1183–000]

New Century Services, Inc.; Notice of Filing

January 20, 1998.

Take notice that on December 23, 1997, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively companies), tendered for filing an Umbrella Service Agreement under their Joint Open Access Transmission Service Tariff for Firm Point-to-Point Transmission Service between the Companies and Minnesota Power & Light Company.

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 Practice (18 CFR 385.211 and 18 CFR 385.214.) All such motions or protests should be filed on or before February 2, 1998. Protests will be considered 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1701 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1178–000]

Niagara Mohawk Power Corporation; Notice of filing

January 20, 1998.

Take notice that on December 22, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and DTE Energy Trading, Inc. This Transmission Service Agreement specifies that DTE Energy Trading, Inc., has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and DTE Energy Trading, Inc., to enter into separately scheduled transactions under which NMPC will provide transmission service for DTE Energy Trading, Inc., as the parties may mutually agree.

NMPC requests an effective date of December 4, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and DTE Energy Trading, Inc.

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 February 2, 1988. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1696 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1175–000]

Rochester Gas and Electric Corporation; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, Rochester Gas and Electric Corporation (RG&E) filed a Service Agreement between RG&E and The Power Company of America, L.P. (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of December 12, 1997, for The Power Company of America, L.P., Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

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 February 2, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1693 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1171–000]

Union Electric Company; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, Union Electric Company (UE), tendered for filing Service Agreements for Market Based Rate Power Sales between UE and the City of Columbia, Missouri and Tennessee Valley Authority. UE asserts that the purpose of the Agreements is to permit UE to make sales of capacity and energy at market based rates to the parties pursuant to UE's Market Based Rate Power Sales Tariff filed in Docket No. ER97–3664–000.

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 February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1689 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1172–000]

Union Electric Company; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, Union Electric Company (UE), the transmission provider, tendered for filing a Service Agreement with UE, the transmission customer, for Firm Point-to-Point Transmission Service. UE asserts that the purpose of the Agreement is for UE when it takes transmission service for itself in accordance with FERC Regulations, and pursuant to its Open Access Transmission Tariff filed in Docket No. OA96–50.

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 February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1690 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1173–000]

Union Electric Company; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, Union Electric Company (UE), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between UE and Engage Energy US, L.P. (EEU). UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to EEU pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

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 February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1691 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1167–000]

UtiliCorp United Inc.; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, UtiliCorp United Inc. (UtiliCorp) filed service agreements with Continental Energy Services for service under its Non-Firm Point-to-Point open access service tariff for its operating divisions, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

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 February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1685 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1168–000]

UtiliCorp United Inc.; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, UtiliCorp United Inc. (UtiliCorp) filed service agreements with Continental Energy Services 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.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 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 February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1686 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1164–000]

Virginia Electric and Power Company; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing Service Agreements for Firm Point-to-Point Transmission Service with Potomac Electric Power Company, Williams Energy Services Company, and Koch Energy Trading, Inc., under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide firm point-to-point service to the Transmission Customers under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon Potomac Electric Power Company, Williams Energy Services Company, and Koch Energy Trading, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1682 Filed 1–23–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1165–000]

Virginia Electric and Power Company; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing Service Agreements between Virginia Electric and Power Company and Wisconsin Power and Light Company and Horizon Energy Company under the FERC Electric Tariff (Original Volume No. 4), which was accepted by order of the Commission dated November 6, 1997 in Docket No. ER97–3561–001. Under the tendered Service Agreements, Virginia Power will provide services to Wisconsin Power and Light Company and Horizon Energy Company under the rates, terms and conditions of the applicable Service Schedules included in the Tariff. Virginia Power requests effective dates of the Service Agreements to be November 24, 1997, for Wisconsin Power and Light Company and December 22, 1997, for Horizon Energy Company.

Copies of the filing were served upon Wisconsin Power and Light Company and Horizon Energy Company, the Wisconsin Public Service Commission, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1683 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1174–000]

West Texas Utilities Company; Notice of Filing

January 20, 1998.

Take notice that on December 19, 1997, West Texas Utilities Company (WTU), submitted for filing a Control Area Services Agreement Among West Texas Utilities Company and Rayburn Country Electric Cooperative, Inc., and LG&E Power Marketing (the Agreement) pursuant to which WTU will sell a package of control area services to Rayburn Country Electric Cooperative, Inc. (Rayburn), and LG&WE Energy Marketing Inc. (formerly known as LG&E Power Marketing Inc.) (LPM).

WTU seeks an effective date of May 22, 1998. Accordingly, WTU seeks waiver of the Commission's notice requirements to permit WTU to file the Agreement more than 120 days in advance of the requested effective date. WTU has served copies of the filing on Rayburn, LPM and the Public Utility Commission of Texas.

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 February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1692 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1177–000]

Wisconsin Electric Power Company; Notice of Filing

January 20, 1998.

Take notice that on December 22, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement under its Coordination Sales Tariff (FERC Electric Tariff, Original Volume No. 2). Wisconsin Electric respectfully requests an effective date January 2, 1998. Wisconsin Electric is authorized to state that Tenaska Power Services Company joins in the requested effective date.

Copies of the filing have been served on Tenaska Power Services Company, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

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 February 2, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1695 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DR98–31–000, et al.]

Arizona Public Service Company, et al.; Electric Rate and Corporate Regulation Filings

January 16, 1998.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. DR98–31–000]

Take notice that on December 30, 1997, Arizona Public Service Company, filed an application for approval of depreciation rates pursuant to Section 302 of the Federal Power Act. The proposed depreciation rates are for accounting purposes only. Arizona Public Service Company requests that the Commission allow the proposed depreciation rates to become effective January 1, 1995.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Tucson Electric Power Company

[Docket No. ER98–1142–000]

Take notice that on December 19, 1997, Tucson Electric Power Company (TEP), tendered for filing the following service agreements 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 agreements to become effective as of the earliest date service commenced under the agreements. 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 November 19, 1997. Service under this agreement commenced on November 19, 1997.

2. Service Agreement for Firm Point-to-Point Transmission Service with Enron Power Marketing, Inc., dated November 28, 1997. Service under this agreement commenced on November 28, 1997.

3. Service Agreement for Firm Point-to-Point Transmission Service with Enron Power Marketing, Inc., dated November 28, 1997. Service under this agreement commenced on November 30, 1997.

4. Service Agreement for Firm Point-to-Point Transmission Service with Electric Clearinghouse, Inc., dated December 1, 1997. Service under this agreement commenced on December 1, 1997.

5. Service Agreement for Firm Point-to-Point Transmission Service with Tucson Electric Power Company, Contracts & Wholesale Marketing dated December 1, 1997. Service under this agreement commenced on December 1, 1997.

6. Service Agreement for Firm Point-to-Point Transmission Service with Tucson Electric Power Company, Contracts & Wholesale Marketing dated December 10, 1997. Service under this

agreement commenced on December 10, 1997.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. FirstEnergy System

[Docket No. ER98–1143–000]

Take notice that on December 19, 1997, FirstEnergy System filed Service Agreements to provide Non-Firm Point-to-Point Transmission Service for Delmarva Power & Light Company and Illinois Power Company, the Transmission Customers. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000. The proposed effective date under the Service Agreements is December 01, 1997.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of New Mexico

[Docket No. ER98–1144–000]

Take notice that on December 19, 1997, Public Service Company of New Mexico (PNM), submitted for filing an executed service agreement, dated December 3, 1997, for firm point-to-point transmission service and ancillary service, between PNM Transmission Development and Contracts (Transmission Provider) and PNM Wholesale Power Marketing (Transmission Customer), under the terms of PNM's Open Access Transmission Service Tariff. Under this Service Agreement, Transmission Provider provides to Transmission Customer reserved capacity from the Coronado Generating Station 500kV Switchyard (point of receipt) to the Palo Verde Generating Station 500kV Switchyard (point of Delivery) for the period beginning December 1, 1997 and ending April 30, 2001.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of New Mexico

[Docket No. ER98–1145–000]

Take notice that on December 19, 1997, Public Service Company of New Mexico (PNM), filed its Certificate of Concurrence in association with the filing by Tucson Electric Power Company (TEP), in the above-captioned docket, of the Amended Interconnection Agreement between PNM and TEP. This certificate of concurrence is being filed in lieu of the separate filing of the Amended Interconnection Agreement. The Amended Interconnection Agreement between PNM and TEP provides for the interconnected operation of the transmission systems of PNM and TEP and allows for the sharing of contingency reserves for emergencies between TEP and PNM.

The parties have requested a waiver of notice pursuant to 18 CFR 35.11 to permit the Amended Interconnection Agreement to become effective as of December 20, 1997.

Copies of this notice have been mailed to TEP and the New Mexico Public Utility Commission.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of New Mexico

[Docket No. ER98–1146–000]

Take notice that on December 19, 1997, Public Service Company of New Mexico (PNM), submitted for filing an executed service agreement, dated December 3, 1997, for firm point-to-point transmission service and ancillary service, between PNM Transmission Development and Contracts (Transmission Provider) and PNM Wholesale Power Marketing (Transmission Customer), under the terms of PNM's Open Access Transmission Service Tariff. Under this Service Agreement, Transmission Provider provides to Transmission Customer various amounts of reserved capacity from the Palo Verde Generating Station 500kV Switchyard (point of receipt) to the Westwing 345kV Switching Station (point of Delivery) for the period beginning December 1, 1997 and ending May 30, 2002.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Washington Water Power

[Docket No. ER98–1147–000]

Take notice that on December 19, 1997, The Washington Water Power Company (WWP), tendered for filing a letter terminating Service Agreement No. 69, previously filed by Washington Water Power, under the Commission's Docket No. ER97–1252–000 with Delhi Energy Services Inc., which is to be canceled by request of the power marketer due to its decision to exit the power marketing business.

Notice of the cancellation has been served upon the following: Mr. Brad Helton, Delhi Energy Services, Inc., Marketing Administrator 1700 Pacific Avenue, Dallas, Texas 75201.

WWP requests that this cancellation become effective December 1, 1997.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Kamps Propane, Inc.

[Docket No. ER98–1148–000]

Take notice that on December 19, 1997, Kamps Propane, Inc. (Kamps), petitioned the Commission for acceptance of Kamps 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.

Kamps intends to engage in wholesale electric poser and energy purchases and sales as a marketer. Kamps is not in the business of generating or transmitting electric power.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Indiana Gas and Electric Company

[Docket No. ER98–1151–000]

Take notice that on December 19, 1997, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing the following agreements concerning the provision of electric service to the City of Tell City, Indiana:

1. Agreement for the Supply of Electric Energy Between the City of Tell City, Indiana and Southern Indiana Gas and Electric Company.

2. Service Agreement for Network Integration Transmission Service.

3. Transmission Service Specifications For Network Integration.

4. Network Operating Agreement.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Kentucky Utilities Company

[Docket No. ER98–1152–000]

Take notice that on December 19, 1997, Kentucky Utilities Company (KU), tendered for filing an executed Contract for Electric Service with the Borough of Pitcairn (Pitcairn), and an executed service agreement with Pitcairn under KU's Power Services Tariff (Rate PS). KU requests effective dates of December 3, 1997.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Kentucky Utilities Company

[Docket No. ER98–1153–000]

Take notice that on December 19, 1997, Kentucky Utilities Company (KU), tendered for filing service agreements between KU and SCANA Energy Marketing, Inc., and Ohio Valley Electric Corporation under its Transmission Services Tariff (TS) and with SCANA Energy Marketing, Inc., under its Power Services (PS) Tariff.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Carolina Power & Light Company

[Docket No. ER98–1154–000]

Take notice that on December 19, 1997, Carolina Power & Light Company (CP&L), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service executed between CP&L and the following Eligible Transmission Customer, Tenaska Power Services and a Service Agreement for Short-Term Firm Point-to-Point Transmission Service with Tenaska Power Services. Service to each Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of New Mexico

[Docket No. ER98–1155–000]

Take notice that on December 19, 1997, Public Service Company of New Mexico (PNM), submitted for filing an executed service agreement, dated December 3, 1997, for firm point-to-point transmission service and ancillary service, between PNM Transmission Development and Contracts (Transmission Provider) and PNM Wholesale Power Marketing (Transmission Customer), under the terms of PNM's Open Access Transmission Service Tariff. Under this Service Agreement, Transmission Provider provides to Transmission Customer reserved capacity from the San Juan Generating Station 345kV Switchyard (point of receipt) to the Greenlee Switching Station 500kV Switchyard (point of Delivery) for the period beginning December 1, 1997 and ending December 31, 2008.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Duke Energy Corporation

[Docket No. ER98–1156–000]

Take notice that on December 19, 1997, Duke Power division of Duke Energy Corporation (Duke), tendered for filing a Notice of Cancellation of the Market-Based Service Agreement between Duke and Delhi Energy Services, Inc., Service Agreement No. 56 under Rate Schedule MR of Duke Energy Corporation, FERC Electric Tariff Original Volume No. 3.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. The Detroit Edison Company

[Docket No. ER98–1157–000]

Take notice that on December 19, 1997, The Detroit Edison Company (Detroit Edison), tendered for filing a Notice of Cancellation of optional Deviation Band Extension Service offered under Schedule 4 of the Open Access Transmission Tariff of The Detroit Edison Company, FERC Electric Tariff Original Volume No. 2, and the Joint Open Access Transmission Tariff of Consumers Energy Corporation and The Detroit Edison Company, FERC Electric Tariff Original Volume No. 1.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. The Detroit Edison Company

[Docket No. ER98–1158–000]

Take notice that on December 19, 1997, The Detroit Edison Company (Detroit Edison), filed an amendment to its Wholesale Power Sales Tariff (WPS–2) Tariff, FERC Electric Tariff Original Volume No. 3 (the WPS–2 Tariff). Detroit Edison proposes to amend the WPS–2 Tariff to permit Detroit Edison to sell, assign, or transfer transmission rights held by Detroit Edison to customers taking service under the WPS–2 Tariff. Detroit Edison requests that the revisions to the WPS–2 Tariff be accepted for filing effective as of a date 60 days after the date of filing or on the date on which the Commission issues an order accepting the revisions for filing, whichever is earlier.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. The Detroit Edison Company

[Docket No. ER98–1159–000]

Take notice that on December 19, 1997, The Detroit Edison Company (Detroit Edison), filed amendments to its Wholesale Power Sales Tariff (WPS–1) Tariff, FERC Electric Tariff Original Volume No. 4 (the WPS–1 Tariff). Detroit Edison proposes to amend the WPS–1 Tariff to permit Detroit Edison to sell, assign, or transfer transmission rights held by Detroit Edison to customers taking service under the WPS–1 Tariff. Detroit Edison also proposes to amend the WPS–1 Tariff's Form of Service Agreement to add a Form of Certificate of Concurrence to be executed by customers in the event they intend to engage in exchange transactions under the WPS–1 Tariff. Detroit Edison requests that the revisions to the WPS–1 Tariff be accepted for filing effective as of a date 60 days after the date of filing or on the date on which the Commission issues an order accepting the revisions for filing, whichever is earlier.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. The Detroit Edison Company

[Docket No. ER98–1160–000]

Take notice that on December 19, 1997, The Detroit Edison Company (Detroit Edison), tendered for filing Service Agreements for wholesale power sales transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–1), FERC Electric Tariff No. 4 (the WPS–1 Tariff), between Detroit Edison and the following Customers:

Customer	Date of serv. agreement
NIPSCO Energy Services, Inc.	June 26, 1997.
Southern Energy Trading and Marketing, Inc.	Aug. 19, 1996.

Detroit Edison requests that the Service Agreements be made effective as of February 17, 1998, a date sixty (60) days from the date of this filing.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Public Service Company of New Mexico

[Docket No. ER98–1161–000]

Take notice that on December 19, 1997, Public Service Company of New Mexico (PNM), submitted for filing an executed service agreement, dated December 3, 1997, for firm point-to-point transmission service and ancillary service, between PNM Transmission Development and Contracts (Transmission Provider), and PNM Wholesale Power Marketing (Transmission Customer), under the terms of PNM's Open Access Transmission Service Tariff. Under this Service Agreement, Transmission Provider provides to Transmission

Customer reserved capacity from the San Juan Generating Station 345 kV Switchyard (point of receipt) to the Coronado Generating Station 500 kV Switchyard (point of Delivery) for the period beginning December 1, 1997 and ending April 30, 2001.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Duke Energy Corporation

[Docket No. ER98–1162–000]

Take notice that on December 19, 1997, Duke Power, a division of Duke Energy Corporation (Duke), tendered for filing a Market Rate Service Agreement (the MRSA) between Duke and NP Energy, Inc., dated as of December 1, 1997. Duke requests that the MRSA be made effective as of December 1, 1997.

Comment date: January 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Southwest Power Pool

[Docket No. ER98–1163–000]

Take notice that on December 19, 1997, Southwest Power Pool (SPP), as agent for its participating member public utilities,[1] (Transmission Providers), and on behalf of all of its members, tendered for filing a Regional Open Access Transmission Tariff (Tariff), to be effective on April 1, 1998.

SPP states that the Tariff will supplant, in part, the Transmission Providers' currently filed tariffs by providing one-stop shopping for regional point-to-point short-term firm and non-firm transmission service at non-pancaked rates. Each individual Transmission Provider will continue to provide long-term firm and network transmission services under its individual open access tariff. SPP further states that the Tariff provides for rates designed on a MW-mile basis, using a methodology closely patterned after the MW-mile methodology that the Commission has approved for the Mid-Continent Area Power Pool.

Comment date: January 30, 1998, 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 these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1681 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–P

[1] SPS states that it submitted the filing pursuant to agency agreements executed with each of the following entities: Central & South West Services; Central Louisiana Electric Co.; Cit Utilities of Springfield; Empire District Electric Co.; Grand River Dam Authority; Kansas City Power & Light; OG&E Electric Services; Southwestern Power Administration; UtiliCorp United and Western Resources.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License

January 20, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Amendment of license allowing the licensee: To convey 13.7 acres of project lands for the construction and operation of a water pumping station on Bouldin Reservoir, a raw water pipeline, and a water treatment plant; and to permit the withdrawal of up to 14 million gallons per day from Bouldin Reservoir for municipal water supply.

b. Project No: 2146–079.

c. Date Filed: November 19, 1997.

d. Applicant: Alabama Power Company.

e. Name of Project: Coosa River Project.

f. Location: Elmore County, Alabama.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Jim Crew, Alabama Power Company-Hydro, Licensing, P.O. Box 2641, Birmingham, AL 35291–8180, (205) 257–4265.

i. FERC Contact: Jim Haimes, (202) 219–2780.

j. Comment Date: February 21, 1998.

k. Description of Project: The licensee proposes: (1) To grant an easement to the Five Star Water Supply District (District) for the construction of a raw water pumping station on Bouldin Reservoir and a 20-inch-diameter, 2,000-foot-long pipeline; (2) to convey fee title to a 12.7-acre parcel of project lands to the District for the construction and operation of a water treatment plant at the site; and (3) to implement an agreement allowing the District to withdraw up to 14 million gallons per day from Bouldin Reservoir for municipal water supply beginning in the year 2000.

1. 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, NE., Washington, DC 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 file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1754 Filed 1–23–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

January 21, 1998.

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: January 28, 1998, 10:00 a.m.

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

* Note—items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Acting Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

CONSENT AGENDA—HYDRO, 691ST MEETING—JANUARY 28, 1998, REGULAR MEETING (10:00 A.M.)

CAH–1.
DOCKET # P–2744, 028, N.E.W. HYDRO, INC.
CAH–2.
DOCKET # P–5984, 004, NIAGARA MOHAWK POWER CORPORATION
CAH–3.
OMITTED
CAH–4.
DOCKET # P–5, 036, THE MONTANA POWER COMPANY AND CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION
CAH–5.
DOCKET # P–3195, 067, SAYLES HYDRO ASSOCIATES
OTHER #S P–3195, 068, SAYLES HYDRO ASSOCIATES
CAH–6.
DOCKET # P–2113, 080, WISCONSIN VALLEY IMPROVEMENT COMPANY

CONSENT AGENDA—ELECTRIC

CAE–1.
DOCKET # ER98–895, 000, ENSERCH ENERGY SERVICES, INC.
CAE–2.
DOCKET # ER98–855, 000, WISCONSIN ELECTRIC POWER COMPANY
CAE–3.
DOCKET # ER96–1090, 000, MONTAUP ELECTRIC COMPANY
CAE–4.
DOCKET # ER97–707, 000, CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.
OTHER #S ER97–705, 000, PROMARK ENERGY, INC.
CAE–5.
DOCKET # ER97–4143, 002, AMERICAN ELECTRIC POWER SERVICE CORPORATION
CAE–6.
DOCKET # EL97–41, 001, MADISON GAS & ELECTRIC COMPANY V. WISCONSIN POWER & LIGHT COMPANY
CAE–7.
DOCKET # EC96–13, 002, IES UTILITIES, INC., INTERSTATE POWER COMPANY, WISCONSIN POWER & LIGHT COMPANY AND SOUTH BELOIT WATER, GAS & ELECTRIC COMPANY, ET AL.
OTHER #S ER96–1236, 002, IES UTILITIES, INC., INTERSTATE POWER COMPANY, WISCONSIN POWER & LIGHT COMPANY AND SOUTH BELOIT WATER, GAS & ELECTRIC COMPANY, ET AL.
ER96–2560, 002, IES UTILITIES, INC., INTERSTATE POWER COMPANY, WISCONSIN POWER & LIGHT COMPANY AND SOUTH BELOIT WATER, GAS & ELECTRIC COMPANY, ET AL.
CAE–8.
DOCKET # EL94–13, 002, ENTERGY SERVICES, INC. AND GULF STATES UTILITIES COMPANY
CAE–9.
DOCKET # OA97–261, 000, PENNSYLVANIA-NEW JERSEY-MARYLAND INTER-CONNECTION
OTHER #S EC96–28, 002, ATLANTIC CITY ELECTRIC COMPANY, BALTIMORE GAS AND ELECTRIC COMPANY AND DELMARVA POWER & LIGHT COMPANY, ET AL.
EC96–29, 002, PECO ENERGY COMPANY
EC97–38, 000, ATLANTIC CITY ELECTRIC COMPANY, BALTIMORE GAS AND ELECTRIC COMPANY AND DELMARVA POWER & LIGHT COMPANY, ET AL.
EL96–69, 002, ATLANTIC CITY ELECTRIC COMPANY, BALTIMORE GAS AND ELECTRIC COMPANY AND DELMARVA POWER & LIGHT COMPANY, ET AL.
EL97–44, 000, PENNSYLVANIA-NEW JERSEY-MARYLAND INTER-CONNECTION RESTRUCTURING
ER96–2516, 002, ATLANTIC CITY ELECTRIC COMPANY, BALTIMORE GAS AND ELECTRIC COMPANY AND DELMARVA POWER & LIGHT COMPANY, ET AL.
ER96–2668, 002, PECO ENERGY COMPANY
ER97–1082, 000, PENNSYLVANIA-NEW JERSEY-MARYLAND INTER-CONNECTION
ER97–1082, 001, PENNSYLVANIA-NEW JERSEY-MARYLAND INTER-CONNECTION
ER97–3189, 000, ATLANTIC CITY ELECTRIC COMPANY, BALTIMORE GAS AND ELECTRIC COMPANY AND DELMARVA POWER & LIGHT COMPANY, ET AL.
ER97–3273, 000, PENNSYLVANIA-NEW JERSEY-MARYLAND INTER-CONNECTION RESTRUCTURING
OA97–261, 001, PENNSYLVANIA-NEW JERSEY-MARYLAND INTER-CONNECTION
OA97–678, 000, PJM INTERCONNECTION, L.L.C.
CAE–10.
DOCKET # OA96–67, 001, MONTAUP ELECTRIC COMPANY
OTHER #S OA96–20, 001, WISCONSIN POWER AND LIGHT COMPANY
CAE–11.
DOCKET # NJ97–4, 000, NEW YORK POWER AUTHORITY
CAE–12.
OMITTED
CAE–13.
DOCKET # OA97–456, 000, BALTIMORE GAS AND ELECTRIC COMPANY
OTHER #S OA97–154, 000, FIRSTENERGY CORP., CENTERIOR ENERGY CORPORATION AND CLEVELAND ELECTRIC ILLUMINATING COMPANY, ET AL.
OA97–276, 000, PORTLAND GENERAL ELECTRIC COMPANY
OA97–292, 000, FIRSTENERGY CORP., CENTERIOR ENERGY CORPORATION AND CLEVELAND ELECTRIC ILLUMINATING COMPANY, ET AL.
OA97–308, 000, SOUTHERN INDIANA GAS AND ELECTRIC COMPANY
OA97–398, 000, SOUTHERN COMPANY SERVICES, ALABAMA POWER COMPANY, GEORGIA POWER COMPANY AND GULF POWER COMPANY, ET AL.
OA97–416, 000, SOUTH CAROLINA ELECTRIC AND GAS COMPANY
OA97–427, 000, LONG ISLAND LIGHTING COMPANY
OA97–436, 000, TUCSON ELECTRIC POWER COMPANY
OA97–450, 000, DUKE POWER COMPANY AND NANTAHALA POWER AND LIGHT COMPANY
OA97–461, 000, TAMPA ELECTRIC COMPANY
OA97–510, 000, CENTRAL ILLINOIS PUBLIC SERVICE COMPANY
OA97–592, 000, BALTIMORE GAS AND ELECTRIC COMPANY
OA97–595, 000, FIRSTENERGY CORP., CENTERIOR ENERGY CORPORATION AND CLEVELAND ELECTRIC ILLUMINATING COMPANY, ET AL.
OA97–673, 000, FIRST ENERGY CORP., CENTERIOR ENERGY CORPORATION AND CLEVELAND ELECTRIC ILLUMINATING COMPANY, ET AL.
OA98–6, 000, FIRSTENERGY CORP., CENTERIOR ENERGY CORPORATION AND CLEVELAND ELECTRIC ILLUMINATING COMPANY, ET AL.

CONSENT AGENDA—MISCELLANEOUS

CAM–1.
DOCKET # RM97–8, 000, INFORMATION AND REQUESTS

CONSENT AGENDA—GAS AND OIL

CAG–1.

DOCKET # RP97–406, 004, CNG TRANSMISSION CORPORATION
OTHER #S RP97–406, 000, CNG TRANSMISSION CORPORATION
RP97–406, 006, CNG TRANSMISSION CORPORATION
RP97–406, 007, CNG TRANSMISSION CORPORATION
RP98–65, 001, CNG TRANSMISSION CORPORATION
CAG–2.
DOCKET # RP98–84, 000, TENNESSEE GAS PIPELINE COMPANY
CAG–3.
DOCKET # RP98–92, 000, ANR PIPELINE COMPANY
CAG–4.
DOCKET # RP98–96, 000, GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP
CAG–5.
OMITTED
CAG–6.
DOCKET # RP98–103, 000, CNG TRANSMISSION CORPORATION
CAG–7.
OMITTED
CAG–8.
DOCKET # RP98–104, 000, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
CAG–9.
DOCKET # RP98–105, 000, WILLIAMS NATURAL GAS COMPANY
OTHER #S RP89–183, 076, WILLIAMS NATURAL GAS COMPANY
CAG–10.
OMITTED
CAG–11.
OMITTED
CAG–12.
OMITTED
CAG–13.
DOCKET # PR98–2, 000, MAGNOLIA PIPELINE CORPORATION
CAG–14.
DOCKET # RP96–272, 004, NORTHERN NATURAL GAS COMPANY
CAG–15.
DOCKET # RP98–8, 001, MISSISSIPPI RIVER TRANSMISSION CORPORATION
OTHER #S RP96–199, 007, MISSISSIPPI RIVER TRANSMISSION CORPORATION
RP96–199, 008, MISSISSIPPI RIVER TRANSMISSION CORPORATION
RP98–8, 002, MISSISSIPPI RIVER TRANSMISSION CORPORATION
CAG–16.
DOCKET # RP98–49, 000, KOCH GATEWAY PIPELINE COMPANY
CAG–17.
DOCKET # RP98–31, 002, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
OTHER #S RP98–31, 001, WILLISTON BASIN INTERSTATE PIPELINE COMPANY
CAG–18.
DOCKET # RP97–406, 003, CNG TRANSMISSION CORPORATION
OTHER #S RP96–144, 002 CNG, TRANSMISSION CORPORATION
CAG–19.
DOCKET # RP97–373, 008, KOCH GATEWAY PIPELINE COMPANY
CAG–20.
DOCKET # RP96–348, 004, PANHANDLE EASTERN PIPE LINE COMPANY
CAG–21.
DOCKET # RP97–1, 014, NATIONAL FUEL GAS SUPPLY CORPORATION
OTHER #S RP97–201, 009, NATIONAL FUEL GAS SUPPLY CORPORATION
CAG–22.
DOCKET # RP96–387, 003, WILLIAMS NATURAL GAS COMPANY
CAG–23.
DOCKET # IS97–9, 001, PLATTE PIPE LINE COMPANY
CAG–24.
DOCKET # RP94–120, 016, KOCH GATEWAY PIPELINE COMPANY
CAG–25.
DOCKET # RM97–6, 000, RECORDKEEPING FOR UNITS OF PROPERTY ACCOUNTING REGULATIONS FOR PUBLIC UTILITIES & LICENSEES, NATURAL GAS & OIL PIPELINE COMPANIES
CAG–26.
DOCKET # CP96–152, 006, KANSAS PIPELINE COMPANY AND RIVERSIDE PIPELINE COMPANY, L.P.
OTHER #S CP97–738, 003, TRANSOK, INC.
PR94–3, 007, KANSOK PARTNERSHIP
RP95–212, 006, KANSOK PARTNERSHIP, KANSAS PIPELINE PARTNERSHIP AND RIVERSIDE PIPELINE COMPANY, L.P.
RP95–395, 006, WILLIAMS NATURAL GAS COMPANY V. KANSAS PIPELINE OPERATING COMPANY, KANSAS PIPELINE PARTNERSHIP AND KANSOK PARTNERSHIP, ET AL.
CAG–27.
DOCKET # CP96–687, 001, IROQUOIS GAS TRANSMISSION SYSTEM, L.P.
CAG–28.
DOCKET # CP97–92, 002, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
OTHER #S CP97–92, 000, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CP97–92, 001, TRANSCONTINENTAL GAS PIPE LINE CORPORATION
CAG–29.
OMITTED
CAG–30.
DOCKET # CP98–62, 000, VIKING VOYAGEUR GAS TRANSMISSION COMPANY, L.L.C.
CAG–31.
DOCKET # CP96–492, 006, CNG TRANSMISSION CORPORATION
OTHER #S CP96–492, 007, CNG TRANSMISSION CORPORATION
CAG–32.
DOCKET # CP98–131, 000, VECTOR PIPELINE L.P.
CAG–33.
DOCKET # CP90–1512, 001, MOUNTAIN FUEL SUPPLY COMPANY
CAG–34.
DOCKET # CP97–636, 000, WESTERN GAS RESOURCES, INC.
OTHER #S CP97–620, 000, WILLIAMS NATURAL GAS COMPANY

HYDRO AGENDA

H–1.
OMITTED

ELECTRIC AGENDA

E–1.
RESERVED

OIL AND GAS AGENDA

I.
PIPELINE RATE MATTERS
PR–1.
DOCKET # RP97–369, 001, PUBLIC SERVICE COMPANY OF COLORADO AND CHEYENNE LIGHT FUEL AND POWER COMPANY
OTHER #S GP97–3, 001, AMOCO PRODUCTION COMPANY, ANADARKO PETROLEUM CORPORATION, MOBIL OIL CORPORATION, OXY USA, INC. AND UNION PACIFIC RESOURCES COMPANY
GP97–4, 001, KANSAS SMALL PRODUCER GROUP
GP97–5, 001, MESA OPERATING COMPANY
ORDER ON REHEARING.
PR–2A.
DOCKET # RP98–39, 001, NORTHERN NATURAL GAS COMPANY
OTHER #S RP98–38, 000, NATURAL GAS PIPELINE COMPANY OF AMERICA
RP98–40, 001, PANHANDLE EASTERN PIPE LINE COMPANY
RP98–42, 000, ANR PIPELINE COMPANY
RP98–43, 000, ANADARKO GATHERING COMPANY
RP98–44, 000, EL PASO NATURAL GAS COMPANY
RP98–52, 001, WILLIAMS NATURAL GAS COMPANY
RP98–53, 001, K N INTERSTATE GAS TRANSMISSION COMPANY
RP98–54, 001, COLORADO INTERSTATE GAS COMPANY
ORDER ON PROCEDURES.
PR–2B.
DOCKET # RP98–44, 000, EL PASO NATURAL GAS COMPANY
ORDER ON STATEMENT OF REFUNDS DUE.
PR–2C.
DOCKET # RP98–38, 000, NATURAL GAS PIPELINE COMPANY OF AMERICA
ORDER ON REQUEST FOR WAIVER.
II.
PIPELINE CERTIFICATE MATTERS
PC–1.
RESERVED

David P. Boergers,

Acting Secretary.

[FR Doc. 98–1905 Filed 1–22–98; 10:58 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed; Week of November 17 through November 21, 1997

During the Week of November 17 through November 21, 1997, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these

cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: January 15, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of November 17 through November 21, 1997]

Date	Name and location of applicant	Case No.	Type of submission
11/17/97	Tod Rockefeller Carlsbad, New Mexico.	VFA–0351	Appeal of an Information Request Denial. IF GRANTED: The October 14, 1997 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and Tod Rockefeller would receive access to certain DOE information.
11/18/97	INEEL Research Bureau, Troy, Idaho	VFA–0352	Appeal of an Information Request Denial. IF GRANTED: The October 24, 1997 Freedom of Information Request Denial issued by the Richland Operations Office would be rescinded, and INEEL Research Bureau would receive access to certain DOE information.
11/18/97	Personnel Security Hearing	VSO–0184	Request for Hearing under 10 CFR Part 710. IF GRANTED: An individual employed by a contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
11/18/97	Thomas T. Tiller, Oak Ridge, Tennessee.	VWA–0018	Request for Hearing under DOE Contractor Employee Protection Program. IF GRANTED: A hearing under 10 CFR Part 708 would be held on the complaint of an individual that reprisals were taken against him by management officials of Wackenhut Services, Inc. as a consequence of having disclosed safety/health concerns.
11/20/97	Information Focus on Energy, Gaithersburg, Maryland.	VFA–0353	Appeal of an Information Request Denial. IF GRANTED: The November 3, 1997 Freedom of Information Request Denial issued by the Office of the Inspector General would be rescinded, and Information Focus on Energy, Inc. would receive access to certain DOE information.
11/20/97	Personnel Security Hearing	VSO–0185	Request for Hearing under 10 CFR Part 710. IF GRANTED: An individual employed by a contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
11/20/97	William H. Payne, Albuquerque, New Mexico.	VFA–0354	Appeal of an Information Request Denial. IF GRANTED: The Albuquerque Operations Office would be required to issue a determination under the Freedom of Information Act and William H. Payne would receive access to certain DOE information.
11/21/97	Homesteaders ASC/Pajarito Plat, Los Alamos, New Mexico.	VFA–0355	Appeal of an Information Request Denial. IF GRANTED: The October 20, 1997 Freedom of Information Request Denial issued by Albuquerque Operations Office would be rescinded, and Homesteaders Association of the Pajarito Plateau would receive access to certain DOE information.

[FR Doc. 98–1796 Filed 1–23–98; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5953–9]

Agency Information Collection Activities up for Renewal: Facility Ground-Water Monitoring Requirements; Proposed Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Facility Ground-Water Monitoring Requirements, EPA ICR #959.09; OMB Control Number 2050–0033; expiration 5/31/98. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before March 27, 1998.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–98–GWIP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments may also be submitted electronically through the Internet to: rcradocket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–98–GWIP–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703–603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically.

The ICR is available on the Internet. Follow these instructions to access the information electronically:

WWW: http://www.epa.gov/epaoswer/hazwaste/corrective action

FTP: ftp.epa.gov

Login: anonymous
Password: your Internet address
Files are located in /pub/epaoswer

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register**. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800 424–9346 or TDD 800 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703 412–9810 or TDD 703 412–3323.

For more detailed information on specific aspects of this rulemaking, contact Hugh Davis, Office of Solid Waste 5303W, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (703) 308–8633, or davis.hugh@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which own or operate surface impoundments, waste piles, land treatment units, and landfills which manage hazardous waste regulated under the Resource Conversation and Recovery Act.

Title: Facility Ground-Water Monitoring Requirements, EPA ICR #959.09; OMB Control Number 2050–0033; expiration date 5/31/98.

Abstract: Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA) creates a comprehensive program for the safe management of hazardous waste. Section 3004 of RCRA requires owners and operators of facilities that treat, store, or dispose of hazardous waste to comply with standards established by EPA that are ''necessary to protect human health and the environment.'' Section 3005 provides for implementation of these standards under permits issued to owners and operators by EPA or authorized States. Section 3005 also allows owners and operators of facilities in existence when the regulations came into effect to comply with applicable notice requirements to operate until a permit is issued or denied. This statutory authorization to operate prior to permit determination is commonly known as ''interim status.'' Owners and operators of interim status facilities also must comply with standards set under Section 3004.

EPA promulgated ground-water monitoring standards for interim status facilities in 1980 (45 FR 33154 May 19, 1980), codified in 40 CFR Part 265, Subpart F, and for permitted facilities in 1982 (47 FR 32274 July 26, 1982), codified in 40 CFR Part 264, Subpart F. Both sets of standards establish programs for protecting ground water from releases of hazardous wastes from land disposal facilities with regulated units (these include surface impoundments, waste piles, land treatment units, and landfills).

The ground-water monitoring requirements for regulated units follow a tiered approach whereby releases of hazardous contaminants are first detected, then confirmed, and, if necessary, are required to be cleaned up. Each of these tiers requires collection and analysis of groundwater samples. Owners or operators that conduct groundwater monitoring are required to report information to the oversight agencies on releases of contaminants and to maintain records of ground-water monitoring data at their facilities. The goal of the ground-water monitoring program is to prevent and quickly detect releases of hazardous contaminants to groundwater, and to establish a program whereby any contamination is expeditiously cleaned up.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: For both permitted and interim status land disposal facilities, the estimated total annual hour burden for this information collection is 196,363 hours. The estimated total annual cost burden for this information collection is $67,303,862, which includes labor, capital, operations and maintenance, and purchased service costs. For 623 permitted land disposal facilities, the annual reporting hour burden is estimated to average 112.4 hours per response, and the annual record keeping hour burden is estimated to average 26.0 hours per response, regardless of whether the facility is performing detection monitoring, compliance monitoring or corrective action. For 1,024 interim status land disposal facilities, the annual reporting hour burden is estimated to average 74.7 hours per response, and the annual record keeping hour burden is estimated to average 32.8 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: January 20, 1998.

Matthew Hale,

Acting Director, Office of Solid Waste.

[FR Doc. 98–1759 Filed 1–23–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5953–8]

Notice of Information Collection Activities; Detailed Industry Questionnaire: Phase II Cooling Water Intake Structures

AGENCY: Environmental Protection Agency.

ACTION: Notice of information collection activities.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C.

3501 *et seq.*), this document announces that the United States Environmental Protection Agency (EPA) is planning to seek approval from the Office of Management and Budget (OMB) to administer an information collection request (ICR) entitled ''Detailed Industry Questionnaire: Phase II Cooling Water Intake Structures,'' EPA ICR 1838.01. Before the Agency submits the proposed ICR to OMB for review and approval, EPA is soliciting comments from the public, as described below, on the specific aspects of the Detailed Industry Questionnaire (Phase II) for facilities potentially subject to section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b).

DATES: Comments and requests for information must be received by EPA no later than March 27, 1998.

ADDRESSES: Address comments on the draft Detailed questionnaire to Ms. Deborah G. Nagle, U.S. EPA, Engineering and Analysis Division, Mail Code (4303), Office of Science and Technology, 401 M Street S.W., Washington, DC 20460. EPA will also accept comments electronically. The E-mail address for comments is ''nagle.deborah@epamail.epa.gov.'' Electronic comments must include the sender's name, address, and telephone number. There are five versions of the detailed questionnaire, which primarily reflect the diversity of industries from an economic viewpoint. They are: (1) Publicly Owned Utilities; (2) Major Privately Owned Electric Utilities; (3) Rural Electric Cooperatives; (4) Nonutility Power Producers; and (5) Manufacturers. A copy of each proposed detailed questionnaire can be obtained from the Internet at ''http://www.epa.gov/owm/new.htm.'' You must use ADOBE ACROBAT READER to read the document; the document is a PDF file. If you do not have Internet access, you may obtain a copy of the detailed questionnaire by sending a FAX to Deborah Nagle at (202) 260–7185 (be sure to identify the specific questionnaire of interest). The draft questionnaire that is being made available includes all pertinent instructions, information request questions, and definitions.

SUPPLEMENTARY INFORMATION:

Affected Entities: Entities potentially affected by this action are those which are subject to section 316(b) of the Clean Water Act. These entities include, among others, facilities in the following industry sectors: Utility Steam Electric Generation; Nonutility Steam Power Producers; Paper and Allied Products; Chemical and Allied Products; Petroleum and Coal Products; and Primary Metals. EPA also intends to collect information related to the regulatory burden of implementing final section 316(b) regulation on state governmental authorities that are responsible for issuing National Pollutant Discharge Elimination System permits. Impacts on these state government entities could include either increased costs as a result of additional efforts needed to implement a final section 316(b) rule or cost savings realized from using final section 316(b) regulations instead of facility-specific best professional judgment to establish permit requirements.

Title: Detailed Industry Questionnaire: Phase II Cooling Water Intake Structures.

Abstract: The U.S. Environmental Protection Agency (EPA) is currently developing regulations under section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b). Section 316(b) provides that any standard established pursuant to section 301 or 306 of the Clean Water Act (CWA) and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures shall reflect the best technology available (BTA) for minimizing adverse environmental impact.

Such impacts occur as a result of impingement (where fish and other aquatic life are trapped in cooling water intake screens) and entrainment (where aquatic organisms, eggs and larvae are sucked into the cooling system, through the heat exchanger, and then pumped back out). As the result of a lawsuit by a coalition of environmental groups headed by the Hudson Riverkeeper (*Cronin, et al.* v. *Reilly*, 93 Civ. 0314 (AGS)), the United States District Court, Southern District of New York entered a Consent Decree on October 10, 1995. The Consent Decree established a seven-year schedule for EPA to take final action with respect to regulations addressing impacts from cooling water intake structures.

To ensure that the regulations are based upon accurate information, EPA is conducting a variety of data-gathering activities. The detailed questionnaire represents one mechanism through which EPA is gathering background technical and cost data on cooling water intake structures. The proposed survey instrument will provide EPA with preliminary technical and economic data needed to help quantify the adverse environmental impacts from cooling water structures, evaluate the efficacy of control technologies, and determine the economic reasonableness of the final rule.

EPA has designed the detailed questionnaire to collect information on such topics as cooling water use within industry groups; cooling water intake structure location, design configurations, construction, and capacity; and other cooling water intake structure impingement and entrainment control technologies. These data will enable EPA to characterize cooling water intake structure operations across industry. The Agency is also collecting data on the types of intake water sources and environmental assessment data associated with cooling water intake structures. The Agency does not intend to rely completely on the environmental data collected through the proposed questionnaire to assess adverse environmental impacts (impingement and entrainment) or BTA efficacy. The Agency's intent is to use the environmental assessment data and BTA data from the questionnaire, in part, to identify potential facilities for on site sampling and analysis in order to collect more in depth data on adverse environmental impacts and BTA efficacy. Lastly, EPA is requesting facility and firm level economic data. These economic data will enable EPA to consider cooling water use across a broad variety of facility and firm sizes. The economic data will also enable EPA to carry out required economic analyses, including a Regulatory Impact Analysis (RIA), and requirements of the Small Business Regulatory Enforcement Fairness Act (SBREFA). EPA will consider both technical and economic factors when developing the final regulations.

The Agency has divided the potentially affected entities into five groups: (1) Publicly Owned Utilities; (2) Major Privately Owned Electric Utilities; (3) Rural Electric Cooperatives; (4) Nonutility Power Producers; and (5) Manufacturers. The first three groups (Publicly Owned Utilities, Major Privately Owned Electric Utilities, and Rural Electric Cooperatives) are collectively categorized as Electric Utilities. To help determine which questionnaire a facility may be required to complete, the two tables below describe, for the purposes of this questionnaire, the major distinguishing characteristics of each group. Table 1 differentiates between Electric Utilities, Nonutility Power Producers, and Manufacturers. If a facility is classified as an Electric Utility, table 2 is used to further classify the facility as a Publicly Owned Utility, Major Privately Owned Electric Utility, or Rural Electric Cooperative.

TABLE 1.—ELECTRIC UTILITY, NONUTILITY POWER PRODUCER, AND MANUFACTURER CHARACTERISTICS

Primary category	Major characteristics
(1) Electric Utility	• A corporation, person, agency, authority, or other legal entity or instrumentality that owns and/or operates facilities for the generation, transmission, distribution, or sale of electric energy primarily for use by the public. • Files forms listed in the Code of Federal Regulations, Title 18, Part 141.
(2) Nonutility Power Producers	• A corporation, person, agency, authority, or other legal entity or instrumentality that owns electric generating capacity and is not an electric utility. • Includes FERC (Federal Energy Regulatory Commission) Qualifying Cogenerators, FERC Qualifying Small Power Producers, and Other Nonutility Generators (including Independent Power Producers) without a designated franchised service area. • Does not file forms listed in the *Code of Federal Regulations,* Title 18, Part 141.
(3) Manufacturers	• All other industrial facilities which do not qualify as an Electric Utility or Nonutility Power Producer as defined above.

TABLE 2.—UTILITY SUBCATEGORY CHARACTERISTICS

Utility subcategory	Major characteristics
(1) Major Privately Owned Electric Utility	• Earns a return for investors; either distribute their profits to stock holders as dividends or reinvest the profits. • Is granted service monopoly in certain geographic areas. • Is regulated by State and sometimes Federal governments, which in turn approve rates that allow a fair rate of return on investment. • Most are operating companies that provide basic services for generation, transmission, and distribution.
(2) Publicly Owned Electric Utility	• Ownership is Federal, State, or local agencies (e.g., Federal Authorities, Municipals, Public Power Districts, State Authorities, Irrigation Districts). • Power not generated for profit. • Serves at cost; return excess funds to the consumers in the form of community contributions, economic and efficient facilities, and reduced rates.
(3) Rural Electric Cooperatives	• Owned by members (small rural farms and communities). • Provides service mostly to members only. • Incorporated under State law and directed by an elected board of directors which, in turn, selects a manager.

The detailed questionnaire will be administered under authority of section 308 of the Clean Water Act, 33 U.S.C. 1318; therefore, all recipients of the detailed questionnaire are required to complete and return the questionnaire to EPA. The survey instrument will be mailed after OMB approves the ICR. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The ICR that EPA intends to submit to OMB will include a discussion of the comments on the proposed detailed questionnaire that EPA has received to date and the comments received as the result of today's announcement. EPA solicits comment on all aspects of the detailed questionnaire, and specifically solicits comment on the following information collection functional areas:

(i) whether the proposed detailed questionnaire is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) the accuracy of the Agency's estimate of the burden of the proposed detailed questionnaire, including the validity of the methodology and assumptions used;

(iii) the detailed questionnaire's quality, utility, and clarity; and

(iv) minimization of the burden of the detailed questionnaire on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technology collection techniques or other forms of information technology collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The total national burden estimate for all parts of this detailed questionnaire is 272,800 hours. The burden estimates are based on EPA administering 1,705 detailed questionnaires. The Agency intends to conduct a census of the facilities within the Electric Utility category (this group did not receive a screener questionnaire), and to select a statistically valid sample of the nonutility power producers and manufacturers that received the screener questionnaire. The Agency anticipates administering the detailed questionnaire to 905 electric utility facilities, 500 nonutility power producer facilities, and 300 manufacturers. EPA estimates that each facility will require, on the average, 160 hours to complete the detailed questionnaire. Burden means the total time, effort or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information and transmit or otherwise disclose the information.

In developing the detailed questionnaire, EPA conducted a program of outreach to industry and other government entities with the objective of minimizing reporting burdens. The outreach program included distribution of the draft

detailed questionnaire to industry associations and environmental groups plus a meeting to discuss comments. EPA also made presentations at many professional and industry association meetings. The following are the industry associations that participated in the EPA outreach program: Utility Water Act Group, American Forest and Paper Association, American Iron and Steel Institute, American Petroleum Institute, Chemical Manufacturers Association, and Edison Electric Institute. EPA also requested comments on the detailed questionnaire from the Electric Power Research Institute. Environmental group outreach included the Hudson Riverkeeper, the New York and New Jersey Baykeeper and other interested environmental group representatives. Based on comments received from these early outreach activities, EPA decided to first administer a screener questionnaire (except to electric utilities) followed by a detailed questionnaire. The screener is designed to assist EPA in selecting an appropriate sample of facilities that employ cooling water intake structures to receive the detailed technical questionnaire. Electric utilities will not receive a screener questionnaire because of the large volume of publicly available data.

The Agency has coordinated extensively with the Energy Information Association (EIA) to determine what pertinent information is publicly available. EPA does not intend to request, in the detailed questionnaire, information that is publicly available. For that reason, the Agency has greatly reduced the financial and economic information burden on the electric utilities. The majority of the information EIA collects from nonutility power producers is confidential business information not available to EPA.

EPA significantly lowered the burden to industry by systematically reducing the number of industrial facilities to receive the detailed questionnaire from a possible 412,000 facilities to about 1,700 facilities. Based on water intake and cooling water use from the 1982 Census of Manufacturers, EPA identified six industrial sectors to receive the screener or the detailed questionnaire or both. These six industrial sectors are: Electric Utilities, Nonutility Power Producers, Chemicals & Allied Products, Primary Metals Industry, Petroleum & Coal Products, and Paper & Allied Products. Together, EPA estimates that these six sectors account for more than 99 percent of all cooling water withdrawals and include about 50,000 facilities. EPA limited the sample frame for electric utilities and nonutility power producers to only those facilities that have a prime mover which utilizes a steam cycle operation (a steam cycle operation requires cooling water). EPA also limited data collection to industrial subcategories which documented significant cooling water use, thereby further reducing the potential number of facilities to be surveyed to about 7,515. To help further refine the sample frame for the detailed questionnaire, EPA decided to administer a screener survey to five of the six industrial sectors (excluding electric utility). The Agency anticipates administering the screener to approximately 6,700 facilities. As stated earlier, EPA expects to administer the detailed survey to approximately 1,705 facilities. Limiting the survey sample frame as described above is not intended to limit the scope or applicability of the section 316(b) regulation.

Finally, EPA will maintain a temporary, no-charge telephone number that survey recipients may call to obtain assistance in completing the data collection surveys. EPA believes that the no-charge telephone number will greatly reduce burden by helping recipients to answer specific questions within the context of their individual operations.

Dated: January 19, 1998.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 98–1760 Filed 1–23–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5953–7]

EPA's National Drinking Water Contaminant Occurrence Data Base

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of a stakeholder meeting on the National Drinking Water Contaminant Occurrence Data Base.

SUMMARY: The Environmental Protection Agency (EPA) has scheduled a two-day public meeting on EPA's National Drinking Water Contaminant Occurrence Data Base. At the upcoming meeting, EPA is seeking input from stakeholders, including national and state representatives, environmental organizations, industry, the public, and other interested parties. The purpose of the meeting is to seek input from stakeholders on the design of the national drinking water contaminant occurrence data base to include such issues as data elements, data element standardization, reporting, storage, retrieval, use and access. EPA encourages the full participation of stakeholders throughout this process.

DATES: The stakeholder meeting on the National Drinking Water Contaminant Occurrence Data Base will be held on February 12, 1998 from 9:00–5:00 p.m. EST and on February 13 from 9:00–3:00 p.m. EST.

ADDRESSES: Resolve, Inc. (an EPA contractor) will provide logistical support for the stakeholders meeting. The meeting will be held at Resolve, Inc., 1255 23rd Street, NW, Suite 275, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: For general information about the meeting logistics, please contact Mr. Jeff Citrin at Resolve, Inc., 1255 23rd Street, NW, Suite 275, Washington, D.C. 20037; *phone:* (202) 944–2300; *fax:* (202) 338–1264, or *e-mail* at jcitrin@resolv.org.

Members of the public wishing to attend the meeting may register by phone by contacting Mr. Jeff Citrin by February 2, 1998. Those registered for the meeting will receive background materials prior to the meeting.

For other information on the National Drinking Water Contaminant Occurrence Data Base, please contact Charles Job at the U.S. Environmental Protection Agency, Phone: 202–260–7084, Fax: 202–260–3762, or e-mail at job.charles@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

A. Background on the National Drinking Water Contaminant Occurrence Data Base

The Safe Drinking Water Act, SDWA, as amended in 1996, states that: Not later than three years after the date of enactment of the Safe Drinking Water Act Amendments of 1996, the Administrator shall assemble and maintain a national drinking water contaminant occurrence data base using information on the occurrence of both regulated and unregulated contaminants in public water systems obtained under section 1445(a)(1)(A) or section 1445(a)(2) and reliable information from other public and private sources. The National Drinking Water Contaminant Occurrence Data Base is required to be developed by August 6, 1999.

B. Request for Stakeholder Involvement

EPA has convened this public meeting to hear the views of stakeholders on the next stage (i.e., design) of the National Drinking Water Contaminant Occurrence Data Base development. The EPA National Contaminant Occurrence Data Base (NCOD) project Team will soon be making final recommendations on the

data elements that will be the foundation for future regulated and unregulated contaminant occurrence data reporting. The data submitted using these data elements will provide the basis for the Administrator to determine whether or not to regulate contaminants in the future. For chemical contaminants, a series of meetings have been held with a diverse group of EPA, state, public water system, public health, consumer, and environmental groups, which identified a number of data elements that should be considered for reporting. The majority of the data elements are already in the structure of the EPA Safe Drinking Water Information System (SDWIS). A preliminary categorization of the remaining data elements indicates that some could be dropped because of potential duplication with other data elements, others could be derived from other data elements in the SDWIS structure, and the rest are new data elements. The new data elements are principally focused on: quality assurance, representativeness of the sample, laboratory information, sample location, and well information.

Additionally, the meeting will address such issues as:

1. What specific data element standards should be used?

2. How will electronic reporting by States, public water systems and/or laboratories best be accomplished?

3. What electronic platform(s) should be used to support the NCOD, recognizing public access as a major consideration in data base design?

4. What options for data retrieval should be considered?

5. In what ways will EPA use the data?

6. How should the data be analyzed?

7. What information should be available to the public?

The public is invited to provide comments on the issues listed above or other issues related to the National Drinking Water Contaminant Occurrence Data Base during the February 12–13, 1998 meeting.

Dated: January 21, 1998.

Cynthia Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 98–1762 Filed 1–23–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5953–5]

Meeting of the Small Community Advisory Subcommittee of the Local Government Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This meeting is the first for the Small Community Advisory Subcommittee of the Local Government Advisory Committee. Orientation, organization and agenda setting will be the focus of this gathering. The group takes up the work of an earlier advisory group known as the Small Towns Task Force. At this meeting, the subcommittee will hear presentations about the history and recommendations of the Small Towns Task Force. Part of the meeting will also be devoted to presentations about Federal Advisory committee operations, rules and regulations. The group will also develop a strategy to guide subsequent meetings. Responsibility for the Small Community Advisory Subcommittee of the Local Government Advisory Committee rests with the Office of Administrator, Office of Congressional and Intergovernmental Relations (OCIR) under the leadership of Joseph Crapa, Associate Administrator for Congressional and Intergovernmental Relations and Michael O'Connor, Deputy Associate Administrator for State and Local Relations. OCIR serves as the Agency's principal liaison with State and local government officials and the organizations which represent them.

From 3:00–3:30 p.m. on February 18, the Committee will hear comments from the public. Each individual or organization wishing to address the Committee will be allowed three minutes. Please contact the Designated Federal Officer (DFO) at the number listed below to schedule agenda time. Time will be allotted on a first come, first serve basis.

This is an open meeting and all interested persons are invited to attend. Meeting minutes will be available after the meeting and can be obtained by written request from the DFO. Members of the public are requested to call the DFO at the number listed below if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible. However, seating will be on a first come, first serve basis.

DATES: The meeting will begin at 8:30 a.m. on Tuesday, February 17 and conclude at 4:00 p.m. on February 18.

ADDRESSES: The meeting will be held at the Kansas City Marriott Downtown located at 200 West 12th Street in Kansas City, Missouri.

Requests for Minutes and other information can be obtained by writing to 401 M Street, S.W. (1502), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The DFO for this subcommittee is Steven Wilson. He is the point of contact for information concerning any Committee matters and can be reached by calling (202) 260–2294.

Steven Wilson,

Designated Federal Officer, Small Community Advisory Subcommittee of the Local Government Advisory Committee.

[FR Doc. 98–1761 Filed 1–23–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00521; FRL–5767–4]

Liquid Chemical Sterilant Products; Notice of Availability of PR Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is announcing the availability of Pesticide Regulation (PR) Notice 98–2, entitled ''Liquid Chemical Sterilant Products.'' The PR Notice advises applicants and registrants of new FIFRA provisions related to liquid chemical sterilants intended for use on critical or semi-critical medical devices. Interested parties may request a copy of this PR Notice and obtain further information as set forth in the Addresses unit of this notice.

ADDRESSES: The PR Notice is available from, by mail: Barbara Mandula, Antimicrobials Division (7510W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. The public record is filed in OPP's Docket Office under docket control number ''OPP–00521'', located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Mandula (7510W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Crystal Drive, Arlington, VA, (703) 308–

7378, fax: (703) 308–8481; e-mail: mandula.barbara@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability:

Internet

Electronic copies of this document and the PR Notice are available from the EPA Home Page at the Federal Register - Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

Fax on Demand

Using a faxphone call 202–401–0527 and select item (6107) for a copy of the PR Notice.

I. Purpose

The purpose of the PR Notice is to announce that liquid chemical sterilant products intended for use on critical or semi-critical medical devices are no longer regulated as ''pesticides'' by the Environmental Protection Agency (EPA), but as ''medical devices'' under the regulatory authority of the Food and Drug Administration (FDA). For the affected liquid chemical sterilants, EPA will no longer follow the procedures described in the Memorandum of Understanding (MOU) between EPA and FDA signed on June 4, 1993 and amended on June 20, 1994. The goal of this notice is to clarify the authorities of FDA and EPA as they apply to liquid chemical sterilants, thereby increasing the efficiency of regulatory processes affecting these products.

II. Applicability

The PR Notice applies to all manufacturers, formulators, producers, and registrants of liquid chemical sterilant products intended for use on critical or semi-critical medical devices, and to products with subordinate disinfectant claims, such as tuberculocidal or virucidal claims, which support a high level disinfectant use pattern for critical or semi-critical devices.

III. Contents of the PR Notice

This notice informs registrants of liquid chemical sterilant products how to ensure that their products remain in compliance with FIFRA requirements where FIFRA still applies, and how products no longer regulated under FIFRA will be treated by EPA. In particular, the affected products will no longer be permitted to bear both FDA- and EPA-regulated claims. This notice supersedes all provisions of PR Notice 94–4 with respect to liquid chemical sterilants, but retains the provisions of PR Notice 94–4 that apply solely to general purpose disinfectants.

List of Subjects

Environmental protection, Antimicrobials, Liquid chemical sterilants.

Dated: January 15, 1998.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 98–1766 Filed 1–23–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2249]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

January 20, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by February 10, 1998. See Section 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed by February 20, 1998.

Subject: Amendment of the Commission's Rules to Establish Competitive Service Safeguards for Local Exchange Carrier Provision of Commercial Mobile Radio Service. Implementation of Section 601(d) of the Telecommunications Act of 1996 (WT Docket No.96–162)

Number of Petitions Filed: 3.

Subject: Rules and Policies on Foreign Participation in the U. S. Telecommunications Market (IB Docket No. 97–142). Market Entry and Regulation of Foreign-Affiliated Entities (IB Docket No. 95–22)

Number of Petitions Filed: 7.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–1662 Filed 1–23–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: New collection.

Title: Occasional Qualitative Surveys.

OMB Number: New collection, number not yet assigned.

Annual Burden:

Estimated annual number of respondents: 5,000.

Estimated time per response: 1 hour.

Average annual burden hours: 5,000 hours.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4022, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before [insert date 30 days after date of publication in the Federal Register] to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The collection involves the occasional use of qualitative surveys to gather anecdotal information about regulatory burden, problems or successes in the bank supervisory process (including both safety-and-soundness and consumer-related exams), and similar concerns.

Dated: January 20, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–1674 Filed 1–23–98; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL TRADE COMMISSION

[Dkt. C–3723]

Boeing Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order involves the Boeing Company's acquisition of Rockwell International Corporation's aerospace and defense business and the competition in the markets for high altitude endurance unmanned air vehicles (''UAVs'') and space launch vehicles. The consent order, among other things, gives Teledyne Ryan, the prime contractor of one team, the opportunity to replace Boeing on that team, thereby protecting competition in the UAVs market. The consent order also establishes a ''firewall'' to prevent the flow of competitively sensitive information between Boeing's team and a division of Rockwell International Corporation's aerospace and defense business that is currently providing wings to the other teams, establishes a firewall that prevents Boeing from making any space launch vehicle manufacturer's non-public information available to its launch vehicle division, and allows Boeing to use such information only in its capacity as a propulsion system provider.

DATES: Complaint and Order issued March 5, 1997.[1]

FOR FURTHER INFORMATION CONTACT: George Cary, FTC/H–374, Washington, DC 20580. (202) 326–3741.

SUPPLEMENTARY INFORMATION: On Monday, December 16, 1996, there was published in the **Federal Register,** 61 FR 66038, a proposed consent agreement with analysis In the Matter of The Boeing Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, modified as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 98–1797 Filed 1–23–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File Nos. 972–3190; 972–3191; and 972–3192]

Grey Advertising, Inc.; Rubin Postaer and Associates, Inc.; and Foote, Cone & Belding Advertising, Inc.—Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreements.

SUMMARY: The consent agreements in these matters settle alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaints that accompany the consent agreements and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before March 27, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: David Medine, FTC/S–4429, Washington, DC 20580. (202) 326–3224.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreements containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreements, and the allegations in the complaints. An electronic copy of the full text of the consent agreement packages can be obtained from the FTC Home Page (for January 20, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Orders to Aid Public Comment

The Federal Trade Commission has accepted separate agreements, subject to final approval, to proposed consent orders from three advertising agencies—Grey Advertising, Inc. (''Grey''), Rubin Postaer and Associates, Inc. (''Rubin Postaer''), and Foote, Cone & Belding, Inc., (''FCB'') (collectively referred to as ''respondents'').

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

These matters concern automobile lease and/or credit advertisements at issue in the Federal Trade Commission's enforcement actions against Mitsubishi Motor Sales of America, Inc. (''Mitsubishi''), Dkt. No. C–3713, American Honda Motor Corporation, Inc. (''Honda''), Dkt. No. C–3711, and Mazda Motor of America, Inc. (''Mazda''), Dkt. No. C–3714. The complaints allege that Grey, Rubin Postaer, and FCB, the advertising agencies for Mitsubishi, Honda, and Mazda, respectively, created and disseminated automobile lease advertisements that violate the Federal Trade Commission Act (''FTC Act''), the Consumer Leasing Act (''CLA''), and Regulation M. The complaint against Grey also alleges that respondent Grey's automobile credit advertisements violated the FTC Act, the Truth in Lending Act (''TILA''), and Regulation Z.

Section 5 of the FTC Act prohibits false, misleading, or deceptive representations or omissions of material information in advertisements. In addition, Congress established statutory

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

disclosure requirements for lease and credit advertising under the CLA and TILA, respectively, and directed the Federal Reserve Board (''Board'') to promulgate regulations implementing such statutes—Regulations M and Z. *See* 15 U.S.C. 1667–1667e; 12 CFR part 213; 12 CFR part 226. On September 30, 1996, Congress passed revisions to the CLA that became optionally effective immediately and that have been implemented through the Board's recent revisions to Regulation M. *See* Title II, Section 2605 of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, Pub. L. No. 104–208, 110 Stat. 3009, 3009–473 (Sept. 30, 1996) (''revised CLA''); 61 FR 52,246 (October 7, 1996), 62 FR 15,364 (April 1, 1997), and 62 FR 16,053 (April 4, 1997) (together ''revised Regulation M'') (to be codified at 12 CFR part 213), as amended.

The complaints allege that each of the respondent's automobile lease advertisements represented that a particular amount stated as ''down'' is the total amount consumers must pay at the initiation of a lease agreement to lease the advertised vehicles. This representation is false, according to the complaints, because consumers must pay additional fees beyond the amount stated as ''down,'' such as a security deposit, first month's payment and/or an acquisition fee, to lease the advertised vehicles. The complaints allege that respondents knew or should have known that this representation was false or misleading. The complaints also allege that respondents knew or should have known that the failure to disclose adequately lease inception fees in their advertisements was deceptive. These practices, according to the complaints, constitute deceptive acts or practices in violation of section 5(a) of the FTC Act.

The complaints further allege that respondents' lease advertisements failed to disclose the terms of the offered lease in a clear and conspicuous manner, as required by the CLA and Regulation M. According to the complaints, respondents' television lease disclosures were not clear and conspicuous because they appeared on the screen in small type, against a background of similar shade, for a very short duration, and/or over a moving background. The Grey and Rubin Postaer complaints also allege that these respondents' fine print disclosures of lease terms in print advertisements were not clear and conspicuous. The complaints, therefore, allege that respondents' failure to disclose lease terms in a clear and conspicuous manner violates the CLA and Regulation M. These alleged practices would also violate the advertising disclosure requirements of the revised CLA and the revised Regulation M.

The Grey complaint also alleges that respondent Grey's credit advertisements represented that consumers can purchase the advertised vehicles at the terms prominently stated in the ad, such as a low monthly payment and/or a low amount ''down.'' This representation is false, according to the complaint, because consumers must also pay a final balloon payment of several thousand dollars, in addition to the low monthly payment and/or amount down, to purchase the advertised vehicles. The Grey complaint alleges that Grey knew or should have known that this representation was false or misleading. The Grey complaint also alleges that Grey knew or should have known that the failure to disclose adequately in its credit advertisements additional terms pertaining to the credit offer, including the existence of a final balloon payment of several thousand dollars and the annual percentage rate, was deceptive. These practices, according to the complaint, constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act.

The Grey complaint further alleges that respondent Grey's credit advertisements failed to disclose required credit terms in a clear and conspicuous manner, as required by the TILA and Regulation Z. According to the complaint, respondent's television advertisements contained credit disclosures that were not clear and conspicuous because they appeared on the screen in small type, against a background of similar shade, for a very short duration, and/or over a moving background. The complaint also alleges that this respondent's fine print disclosures of credit terms in print advertisements were not clear and conspicuous. The complaint, therefore, alleges that Grey's failure to disclose credit terms in a clear and conspicuous manner violates the TILA and Regulation Z.

The proposed consent orders contain provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future. Specifically, subparagraph I.A. of the proposed orders prohibits respondents, in any motor vehicle lease advertisement, from misrepresenting the total amount due at lease signing or delivery, the amount down, and/or the downpayment, capitalized cost reduction, or other amount that reduces the capitalized cost of the vehicle (or that no such amount is required). Subparagraph I.B. of the proposed orders also prohibits respondents, in any motor vehicle lease advertisement, from making any reference to any charge that is part of the total amount due at lease signing or delivery or that no such amount is due, not including a statement of the periodic payment, more prominently than the disclosure of the total amount due at lease inception. The ''prominence'' requirement prohibits the companies from running deceptive advertisements that highlight low amounts ''down,'' with inadequate disclosures of actual total inception fees. This ''prominence'' requirement for lease inception fees also is found in the revised Regulation M recently adopted by the Board.

Moreover, subparagraph I.C. of the proposed orders prohibits respondents, in any motor vehicle lease advertisement, from stating the amount of any payment or that any or no initial payment is required at consummation of the lease, unless the ad also states: (1) That the transaction advertised is a lease; (2) the total amount due at lease signing or delivery; (3) whether or not a security deposit is required; (4) the number, amount, and timing of scheduled payments; and (5) that an extra charge maybe imposed at the end of the lease term where the liability of the consumer at lease end is based on the anticipated residual value of the vehicle. The information enumerated above must be displayed in the motor vehicle lease advertisement in a clear and conspicuous manner. This approach is consistent with the lease advertising disclosure requirements of the revised CLA and the revised Regulation M.

Paragraph II of the proposed orders provides that lease advertisements that comply with the disclosure requirements of subparagraph I.C. of the orders shall be deemed to comply with section 184(a) of the CLA, as amended, or § 213.7(d)(2) of the revised Regulation M, as amended.

Paragraph III of the proposed orders provides that certain future changes to the CLA or Regulation M will be incorporated into the orders. Specifically, subparagraphs I.B. and I.C. will be amended to incorporate future CLA or Regulation M required advertising disclosures that differ from those required by the above order paragraphs. In addition, the definition of ''total amount due at lease signing or delivery,'' as it applies to subparagraph I.B. and I.C. only, will be amended in the same manner. The orders provide that all other order requirements, including the definition of ''clearly and conspicuously,'' will survive any such revisions.

Subparagraph IV.A of the proposed Grey order prohibits respondent Grey, in any closed-end credit advertisement involving motor vehicles, from misrepresenting the existence and amount of any balloon payment or the annual percentage rate; subparagraph IV.B also prohibits respondent Grey from stating the amount of any payment, including but not limited to any monthly payment, in any motor vehicle closed-end credit advertisement unless the amount of any balloon payment is disclosed prominently and in close proximity to the most prominent of the above statements.

Subparagraphs IV.C of the proposed Grey order also enjoins respondent from disseminating motor vehicle closed-end credit advertisements that state the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any periodic payment, including but not limited to the monthly payment, or the amount of any finance charge without disclosing, clearly and conspicuously, all of the terms required by Regulation Z, as follows: (1) The amount or percentage of the downpayment; (2) the terms of repayment, including but not limited to the amount of any balloon payment; and (3) the correct annual percentage rate, using that term or the abbreviation ''APR,'' as defined as Regulation Z and the Official Staff Commentary to Regulation Z. If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be clearly and conspicuously disclosed.

The information required by subparagraph I.C. (lease advertisements) and IV.C of the Grey order (credit advertisements) must be disclosed ''clearly and conspicuously'' as defined in the proposed orders. The ''clear and conspicuous'' definition requires that respondents present such lease or credit information within the advertisement in a manner that is readable (or audible) and understandable to a reasonable consumer. This definition is consistent with the ''clear and conspicuous'' requirements for advertising disclosures in the revised Regulation M and Regulation Z that require disclosures that consumers can see and read (or hear) and comprehend. Similar to prior Commission orders and statements interpreting Section 5's prohibition or deceptive acts and practices, these orders require respondents to include certain disclosures in advertising that are readable (or audible) and understandable to reasonable consumers.

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 98–1801 Filed 1–23–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[Dkt. C–3724]

Progressive Mortgage Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, the Ohio-based mortgage corporation and its president from misrepresenting any terms or conditions of financing, such as, the annual percentage rate and finance charges of consumer loans; the number, amount and timing of mortgage payments; and the total number of payments to repay consumer loans.

DATES: Complaint and Order issued March 10, 1997.[1]

FOR FURTHER INFORMATION CONTACT: John Mendenhall, FTC Cleveland Regional Office, Eaton Center, Suite 200, 1111 Superior Ave., Cleveland, Ohio 44114. (216) 522–4210.

SUPPLEMENTARY INFORMATION: On Tuesday, December 10, 1996, there was published in the **Federal Register**, 61 FR 65061, a proposed consent agreement with analysis In the Matter of Progressive Mortgage Corporation, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 98–1798 Filed 1–23–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[Dkt. C–3584]

Schwegmann Giant Super Markets, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens a 1995 consent order—that required the Louisiana-based corporation to divest several supermarkets in the New Orleans area—and this order modifies the consent order by replacing a provision requiring Schwegmann to obtain prior Commission approval for certain transactions, with a prior notice provision for any acquisition of retail supermarkets in the New Orleans area that Schwegmann makes through June 6, 2005. The Commission determined that the changed provisions are warranted and consistent with the Statement of FTC Policy Concerning Prior Approval and Prior Notice Provisions and therefore justified reopening the proceeding and modifying the order.

DATES: Consent order issued June 2, 1995. Modifying order issued February 24, 1997.[1]

FOR FURTHER INFORMATION CONTACT:

Daniel Ducore, FTC/S–2115, Washington, DC 20580. (202) 326–2526.

SUPPLEMENTARY INFORMATION: In the Matter of Schwegmann Giant Super Markets, Inc. The prohibited trade practices and/or corrective actions as set forth at 60 FR 35032, are changed, in part, as indicated in the summary.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 98–1799 Filed 1–23–98; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Modifying Order are available from the Commission's Public Reference Branch, H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

FEDERAL TRADE COMMISSION

[File No. 951–0083]

Sensormatic Electronics Corporation; and Checkpoint Systems, Inc.—Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreements.

SUMMARY: The consent agreements in these matters settle alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaints that accompany the consent agreements and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before March 27, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: William Baer or Michael Antalics, FTC/H–374, Washington, D.C. 20580. (202) 326–2932 or 326–2821.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreements containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreements, and the allegations in the complaints. An electronic copy of the full text of the consent agreement packages can be obtained from the FTC Home Page (for January 21, 1998), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Orders To Aid Public Comment

The Federal Trade Commission has accepted agreements to proposed consent orders from Sensormatic Electronics Corporation (''Sensormatic'') and Checkpoint Systems, Inc. (''Checkpoint''). Sensormatic's principal place of business is located at 951 Yamato Road, Boca Raton, Florida. Checkpoint's principal place of business is located at 101 Wolf Drive, Thorofare, New Jersey.

The proposed consent orders have been placed on the public record for 60 days for reception of comments by interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreements and the comments received, and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

Sensormatic and Checkpoint are the two largest manufacturers and sellers of electronic article surveillance (''EAS'') systems in the United States and the world. Their combined worldwide sales exceed 70 percent of total EAS industry sales.

EAS systems are used primarily by retailers to deter and detect shoplifting and employee theft. Bits of reactive metal or electronic transmitters called ''tags'' are attached to products sold in retail stores. When a product is purchased, the tag is removed or deactivated by the cashier. If a tag passes through an EAS system's sensors at a store exit without being deactivated, it sets off an alarm. EAS systems are also commonly found in libraries and video stores.

The complaint alleges that Sensormatic and Checkpoint entered a written agreement on June 27, 1993 to refrain from ''negative advertising or other negative selling, promotional activities or other communications with respect to the other party or the other party's products and services,'' including ''statements that the other party's products or services cause or may cause harm to customers, consumers or merchandise.'' The complaint further alleges that the respondents have construed the June 27, 1993 agreement to restrict comparative advertising relating to the performance and effectiveness of the proposed respondents' EAS systems.

The complaint alleges that the June 27, 1993 agreement deprives retailers, other customers who purchase EAS systems, and consumers of comparative information about the characteristics of EAS systems that they would find helpful. In particular, the complaint alleges that retailers and other EAS customers have an interest in obtaining comparative information relevant to their purchasing decisions. The complaint further alleges that certain information about EAS systems, such as the potential harm to retail products and information about possible interactions between certain medical devices and EAS equipment, is relevant to consumers. Finally, the complaint alleges that the June 27, 1993 agreement is an agreement among competitors to refrain from making truthful, non-deceptive claims, including comparisons, criticisms, or disparaging statements in advertising, and that this agreement constitutes an unfair method of competition in violation of Section 5 of the Federal Trade Commission Act.

On many occasions, the Commission has prohibited groups of horizontal competitors from agreeing to refrain from making truthful, non-deceptive claims, including comparisons, criticisms, or disparaging statements in advertising. The Commission has recognized that one of the benefits of competition is that competitors may be driven to provide consumers with information that makes for better educated, effective consumers.[1] The alleged conduct engaged in by Sensormatic and Checkpoint and the terms of the proposed orders are similar to the conduct alleged and the relief obtained in *Personal Protective Armor Association, Inc.*, 117 F.T.C. 104 (1994).

Sensormatic and Checkpoint have signed consent agreements containing the proposed consent orders. The proposed consent orders require Sensormatic and Checkpoint to declare null and void the negative advertising provision of the June 27, 1993 agreement. The proposed consent orders also prohibit Sensormatic and Checkpoint from entering into any agreement that prohibits, restricts, impedes, interferes with, restrains, places limitations on, or advises against engaging in truthful, non-deceptive advertising, comparative advertising, promotional and sales activities for twenty years after the date the order becomes final. In addition, the proposed consent orders require that Sensormatic and Checkpoint provide copies of the orders to their respective executives, and that Sensormatic and Checkpoint file annual compliance reports with the Federal Trade Commission.

[1] *See generally* Commission Policy Statement in Regard to Comparative Advertising, 16 CFR 14.15 (1997) (comparative advertising assists consumers in making rational purchase decisions, encourages product improvement or innovation, and can lead to lower market prices).

The purpose of this analysis is to facilitate public comment on the proposed orders, and it is not intended to constitute an official interpretation of the agreement and proposed orders or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 98–1802 Filed 1–23–98; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[Dkt. C–3743]

Tenet Healthcare Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order, among other things, requires Tenet Healthcare Corporation (''Tenet''), a California acute care hospital chain, to divest OrNda's French Hospital Medical Center and related assets and facilities by August 1, 1997. The consent order also requires Tenet to maintain the marketability and viability of French Hospital, pending the divestiture of French, and to notify the Commission before combining its acute care hospitals in San Luis Obispo County with any other acute care hospital in the area and before acquiring any Monarch stock.

DATES: Complaint and Order issued May 20, 1997.[1]

FOR FURTHER INFORMATION CONTACT: Robert Leibenluft, FTC/S–3115, Washington, DC 20580. (202) 326–3688.

SUPPLEMENTARY INFORMATION: On Wednesday, February 5, 1997, there was published in the **Federal Register**, 62 FR 5418, a proposed consent agreement with analysis In the Matter of Tenet Healthcare Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 98–1800 Filed 1–23–98; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0093]

Proposed Collection; Comment Request Entitled Transportation Discrepancy Report, SF 361

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of request for public comments regarding reinstatement to a previously approved OMB clearance (3090–0093).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Transportation Discrepancy Report, SF–361.

DATES: Comment Due Date: March 27, 1998.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Roger Sullins, Federal Supply Service (816) 926–2932.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0093 concerning Transportation Discrepancy Report, SF–361. This form is prepared by Government shippers or receivers to document loss, damage, or other discrepancy resulting from the movement of freight by commercial transportation companies.

B. Annual Reporting Burden

Respondents: 160; *annual responses:* 1; *average hours per response:* 1; *burden hours:* 160.

Copy of Proposal: A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW., Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: January 20, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–1770 Filed 1–23–98; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0058]

Proposed Collection; Comment Request Entitled Deposit Bond—Annual Sale of Government Personal Property

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of request for public comments regarding reinstatement to a previously approved OMB clearance (3090–0058).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Deposit Bond—Annual Sale of Government Personal Property.

DATES: Comment Due Date: March 27, 1998.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Andrea Dingle, Federal Supply Service, (703) 305–6190.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0058, concerning Deposit Bond—Annual Sale of Government Personal Property. This form is used by a bidder participating in sales of Government personal property whenever the sales invitation permits an annual type of

deposit bond in lieu of cash or other form of bid deposit.

B. Annual Reporting Burden

Respondents: 1,000; *annual responses:* 1; *average hours per response:* .25; *burden hours:* 250.

Copy of Proposal: A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street, NW., Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: January 20, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–1771 Filed 1–23–98; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0057]

Proposed Collection; Comment Request Deposit Bond Individual-Sale of Government Personal Property

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of request for public comments regarding reinstatement to a previously approved OMB clearance (3090–0057).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Deposit Bond Individual-Sale of Government Personal Property.

DATES: Comment Due Date: March 27, 1998.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Andrea Dingle, Federal Supply Service (703) 305–6190.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to reinstate information collection, 3090–0057 concerning Deposit Bond Individual-Sale of Government Personal Property. This form is used by a bidder participating in sales of Government personal property whenever the sales invitation permits an individual type of deposit bond in lieu of cash or other form of bid deposit.

B. Annual Reporting Burden

Respondents: 500; *annual responses:* 1; *average hours per response:* .25; *burden hours:* 125.

Copy of Proposal: A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405 or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: January 20, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–1772 Filed 1–23–98; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH).

Time and Date: 9 a.m.–4:30 p.m., February 11, 1998.

Place: The Washington Court, Montpelier Room, 525 New Jersey Avenue, NW, Washington, DC 20001–1527.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The BSC, NIOSH is charged with providing advice to the Director, NIOSH on NIOSH research programs. Specifically, the Board shall provide guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings, and disseminating results.

Matters to be Discussed: Agenda items include a report from the Director of NIOSH, research program planning, state surveillance activities, Workers' Family Protection Task Force, the NIOSH energy-related research program, NIOSH Metal Working Fluids Criteria Document, and future activities of the Board.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Bryan D. Hardin, Ph.D., Executive Secretary, BSC, NIOSH, Room 715–H, Hubert H. Humphrey Building, 200 Constitution Avenue SW, Washington, DC, 20201, telephone 202/205–8556, fax 202/260–4464, e-mail bdh1@cdc.gov.

Dated: January 20, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–1722 Filed 1–23–98; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0014]

Bio-Cide International, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Bio-Cide International, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acidified sodium chlorite solutions in processing water and ice intended for use in contact with seafood.

DATES: Written comments on the petitioner's environmental assessment by February 25, 1998.

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

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3074.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8A4568) has been filed by Bio-Cide International, Inc., c/o Keller and Heckman LLP, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in 21 CFR part 173 to provide for the safe use of acidified sodium chlorite solutions in processing water and ice intended for use in contact with seafood.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before February 25, 1998, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: January 7, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–1663 Filed 1–23–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0528]

Draft ''Guidance for Industry: Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use''

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Industry: Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use.'' After reviewing recent experience with fibrin sealant products in clinical studies conducted under Investigational New Drug (IND) regulations, the agency is proposing to accept applications for licensure of fibrin sealant products based on evidence from pivotal studies in which the primary endpoint is hemostasis effectiveness. As in the past, other endpoints such as wound healing or tissue sealing may serve as primary endpoints for pivotal studies, depending on the nature of the indications sought. This draft document will provide guidance to manufacturers of fibrin sealant products for the design of clinical trials intended to support licensure.

DATES: Written comments may be submitted at any time, however, comments should be submitted by April 27, 1998, to ensure their adequate consideration in preparation of the final document.

ADDRESSES: Submit written requests for single copies of the draft guidance document ''Guidance for Industry: Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use'' to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The draft guidance document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. Submit written comments on the draft guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Paula S. McKeever, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled ''Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use.'' This draft guidance document represents the agency's current thinking with regard to information on the efficacy studies to support marketing of licensure of fibrin sealant products manufactured for commercial use. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both. As with other guidance documents, FDA does not intend this draft document to be all-inclusive and cautions that not all information may be applicable to all situations. The draft guidance document is intended to provide information and does not set forth requirements.

II. Comments

This draft document is being distributed for comment purposes only, and is not intended for implementation as general guidance at this time. Interested persons may submit to the Dockets Management Branch (address above) written comments on the draft guidance document. Written comments may be submitted at any time, however, comments should be submitted by April 27, 1998, to ensure adequate consideration in preparation of the final document. Two copies of any comment are to be submitted, except individuals may submit one copy. Comments and request for copies should be identified with the docket number found in the brackets in the heading of this document. A copy of the draft guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the internet may obtain the draft document using the World Wide Web (WWW). For WWW access connect to CBER at ''http://www.fda.gov/cber/guidelines.htm''.

Dated: January 13, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

The text of the draft guidance is set forth below:

BILLING CODE 4160–01–F

Guidance for Industry

Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use

DRAFT - NOT FOR IMPLEMENTATION

This guidance document is being distributed for comment purposes only.

Draft released for comment on January 1998

Comments and suggestions regarding this draft document should be submitted by April 1998 to Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857. All comments should be identified with the docket number 97D-0528. For questions regarding this draft document, contact Paula McKeever (CBER), 301-827-6210.

U.S. Department of Health and Human Services
Food and Drug Administration
Center for Biologics Evaluation and Research (CBER)
January 1998

BILLING CODE 4160–01–C

Draft-Not for Implementation

Guidance for Industry [1]: Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use

I. Introduction

This document pertains to commercially-produced fibrin sealants composed of purified, virus-inactivated/removed human fibrinogen and human or bovine thrombin, with or without added components such as virus-inactivated/removed human factor XIII and/or aprotinin. Such products are currently available in Europe and Canada as hemostasis agents. Although manufacturers and clinicians in the United States have been actively engaged in the development and testing of fibrin sealants, no fibrin sealant product has been licensed in this country. This document outlines the agency's current position with regard to clinical data used to support licensure of safe and effective commercially-produced fibrin sealants in the United States.

II. Background

As early as 1909, surgeons were reporting the hemostatic properties of fibrin powder used in the operative field. In the 1940s, combinations of fibrinogen and thrombin were first utilized. The development of Cohn fractionation in the 1940s, and a method for cryoprecipitation of fibrinogen in the 1960s, led to the development of fibrin sealants in the 1970s. However, fibrinogen concentrates were found to transmit hepatitis and thus all U.S. licenses for Fibrinogen (Human) were revoked on December 7, 1977. Since that time, a number of manufacturers have been evaluating a new generation of virus-inactivated/removed fibrin sealants.

In 1994, the FDA co-sponsored a conference on the characteristics and clinical uses of fibrin sealants, held at the Uniformed Services University of the Health Sciences, Bethesda, Maryland (summarized in Transfusion 35:783–790, 1995). A number of academic investigators presented data from clinical trials in which fibrin sealants either reduced blood loss or reduced the time to achieve hemostasis. However, based on the available data, FDA representatives were of the opinion that a direct clinical benefit to patients treated with fibrin sealant should be demonstrated in a well-controlled clinical trial to support product licensure for a narrow indication.

Despite FDA's requests for well-controlled trials with patient outcomes as endpoints, many clinicians have been reluctant to conduct placebo-controlled trials in settings where they view the standard of care to be the use of fibrin sealant prepared on site from commercial bovine thrombin and various sources of fibrinogen. These clinicians consider the use of locally-prepared fibrin sealant to be of such benefit in controlling bleeding in confined or nearly inaccessible areas that a placebo-controlled trial would put the control patients at significant and unnecessary risk. However, locally-prepared fibrin sealants are not standardized or consistent, and the available sources of fibrinogen are not treated to inactivate or remove viruses.

III. Guidance

Based on clinical trial experience since 1994, FDA's Center for Biologics Evaluation and Research (CBER) proposes to consider, for licensure of commercially-produced fibrin sealants, data from pivotal studies in which the primary endpoint is hemostasis effectiveness. This review standard is similar to that used by the Center for Devices and Radiological Health, in clearing a number of commercial medical devices on the basis of clinical studies in which the primary endpoint was control of hemostasis within a specific time in a variety of clinical settings. CBER proposes that time to hemostasis could also serve as a primary endpoint for pivotal studies of fibrin sealants.

As in the past, CBER also encourages manufacturers to conduct well-controlled clinical trials using a variety of other endpoints, including blood loss, transfusion requirements, tissue sealing, and wound healing. Endpoints for such trials will be reviewed on a case-by-case basis. Manufacturers who demonstrate the safety and efficacy of their fibrin sealant preparations for specific indications may, upon FDA licensure, label and promote their products for these indications. FDA licensure for a given indication will denote that the specific formulation of fibrin sealant is safe and effective for that specific indication.

For fibrin sealant products containing multiple biologic components, the contribution of each component may be demonstrated in a non-clinical setting appropriate to the indication(s) sought, although the overall efficacy of multiple-component fibrin sealant products should be demonstrated in clinical trials. Proposals to utilize in vitro and/or animal studies to support the inclusion of multiple biologic components into a fibrin sealant product should be discussed with CBER.

The following points are proposed for review of pivotal clinical trials of fibrin sealant products:

1) Fibrin sealant products should be tested in settings and under conditions where they would normally be expected to be used in clinical practice.

2) Fibrin sealant products may be tested against a placebo, a cleared hemostatic device, or other control, as appropriate.

3) Efficacy of fibrin sealant products may be tested by using either hemostasis endpoints or other measures of clinical benefit, depending on the indications sought.

IV. Comments

The agency will review all submitted comments and consider them in the preparation of any final guidance document. Two copies of any comment should be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments received are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

[FR Doc. 98–1664 Filed 1–23–98; 8:45 am]

BILLING CODE 4160–01–F

[1] This draft guidance document represents the FDA's current thinking on efficacy studies to support marketing of fibrin sealant products manufactured for commercial use. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements fo the applicable statute, regulations, or both. For additional copies of this guidance, contact the Office of Communication, Training and Manufacturers Assistance, HFM–40, Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448. Send one self-addressed adhesive label to assist that office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. Persons with access to the INTERNET may obtain the document using the World Wide Web (WWW) by connecting to CBER at ''http//www.fda.gov/cber/guidelines.htm''.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

HCFA–2005-NC

RIN 0938–AI39

Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 1998

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice with Comment Period.

SUMMARY: Section 4732 of the Balanced Budget Act of 1997 (Public Law 105–33) amended the Social Security Act to provide for two additional eligibility groups of low-income Medicare beneficiaries for whom Medicaid payment can be made for Medicare Part B premiums during the period beginning January 1998 and ending December 2002. This notice announces the Federal fiscal year 1998 State allotments that are available to pay Medicare Part B premiums for these two new eligibility groups and describes the methodology used to determine each State's allotment.

DATES: *Effective Date:* This is a major rule under 5 U.S.C. section 804(2). As indicated in the preamble of this notice, pursuant to section 5 U.S.C. section 553(b)(B), for good cause we find that prior notice and comment procedures are unnecessary and impracticable. Pursuant to 5 U.S.C. section 808(2), this notice is effective January 1, 1998, for

allotments for payment of Medicare Part B premiums for individuals in calendar year 1998 from the allocation for fiscal year 1998.

Comment Date: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on March 27, 1998.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2005–NC, P.O. Box 7517, Baltimore, MD 21207–0517, or

If you prefer, you may deliver your written comments (one original and three copies to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or

Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–2005–NC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after the publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW, Washington DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 37194, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8.00. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su__docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest (no password required). Dial-in users should use communications software and modem to call (202) 512-1661; type swais, then login as guest (no password required).

FOR FURTHER INFORMATION CONTACT: Miles McDermott, (410) 786–3722

SUPPLEMENTARY INFORMATION:

I. Background

Section 1902 of the Social Security Act (the Act) sets forth the requirements for State plans for medical assistance. Prior to August 5, 1997, section 1902(a)(10)(E) of the Act specified that the State Medicaid plan must provide for Medicare cost-sharing for three eligibility groups of low-income Medicare beneficiaries. These three groups included qualified Medicare beneficiaries (QMBs), specified low-income Medicare beneficiaries (SLMBs), and qualified disabled and working individuals (QDWIs).

A QMB is an individual entitled to Medicare Part A with income at or below the Federal poverty line and resources below $4,000 for an individual and $6,000 for a couple. A SLMB is an individual who meets the QMB criteria, except that his or her income is between a State established level (at or below the Federal poverty line) and 120 percent of the Federal poverty line. A QDWI is an individual who is entitled to enroll in Medicare Part A, whose income does not exceed 200 percent of the Federal poverty line for a family of the size involved, whose resources do not exceed twice the amount allowed under the Supplementary Security Income (SSI) program, and who is not otherwise eligible for Medicaid. The definition of Medicare cost-sharing at section 1905(p)(3) of the Act includes payment for premiums for Medicare Part B.

Section 4732 of the Balanced Budget Act of 1997 (BBA), enacted on August 5, 1997, amended section 1902(a)(10)(E) of the Act to require States to provide for Medicaid payment of the Medicare Part B premiums for two additional eligibility groups of low-income Medicare beneficiaries, referred to as qualifying individuals (QIs). Specifically, a new section 1902(a)(10)(E)(iv)(I) of the Act is added, under which States must pay the full amount of the Medicare Part B premium for selected qualifying individuals who would be QMBs but for the fact that their income level is at least 120 percent but less than 135 percent of the Federal poverty line for a family of the size involved. These individuals cannot otherwise be eligible for medical assistance under the approved State Medicaid plan.

The second group of QIs, added under section 1902(a)(10)(E)(iv)(II) of the Act, includes Medicare beneficiaries who would be QMBs except that their income is between 135 percent and 175 percent of the Federal poverty line for a family of the size involved, who are not otherwise eligible for Medicaid under the approved State plan. These QIs are eligible for a portion of Medicare cost-sharing consisting only of a percentage of the increase in the Medicare Part B premium attributable to the shift of Medicare home health coverage from Part A to Part B (as provided in section 4611 of the BBA).

The BBA also added a new section 1933 to the Act to provide for Medicaid payment of Medicare Part B premiums for QIs. (The previous section 1933 is redesignated as section 1934.) Section 1933(a) specifies that a State plan must provide, through a State plan amendment, for medical assistance to pay for the cost of Medicare cost-sharing on behalf of qualifying individuals who are selected to receive assistance.

Section 1933(b) of the Act sets forth the rules that States must follow in selecting QIs and providing payment for Medicare Part B premiums. Specifically, the State must permit all qualifying individuals to apply for assistance and must select individuals on a first-come, first-served basis (that is, the State must select QIs in the order in which they apply). Under section 1933(b)(2)(B) of the Act, in selecting persons who will receive assistance in years after 1998, States must give preference to those individuals who received assistance as QIs, QMBs, SLMBs, or QDWIs in the last month of the previous year and who continue to be (or become) QIs. Under section 1933(b)(4), persons selected to receive assistance in a calendar year are entitled to receive assistance for the remainder of the year, but not beyond, as long as they continue to qualify. The fact that an individual is selected to receive assistance at any time during the year does not entitle the individual to continued assistance for any succeeding year. Because the State's allotment is limited by law, section 1933(b)(3) of the Act provides that the State must limit the number of QIs so that the amount of assistance provided during the year is approximately equal to the State's allotment for that year.

Section 1933(c) of the Act limits the total amount of Federal funds available for payment of Part B premiums each fiscal year and specifies the formula that is to be used to determine an allotment for each State from this total amount. For States that execute a State plan amendment in accordance with section 1933(a) of the Act, a total of $1.5 billion is allocated over 5 years as follows: $200 million in FY 1998; $250 million in FY 1999; $300 million in FY 2000; $350 million in FY 2001; and $400 million in FY 2002.

The Federal matching rate for Medicaid payment of Medicare Part B premiums for qualifying individuals is 100 percent for expenditures up to the amount of the State's allotment. No Federal matching funds are available for expenditures in excess of the State allotment amount. Administrative expenses associated with the payment of Medicare Part B premiums for QIs remain at the 50 percent matching level and are not part of the State's allotment.

The amount appropriated for each fiscal year is to be allocated among States according to the formula set forth in section 1933(c)(2) of the Act. The formula provides for an amount to each State that is to be based on each State's share of the Secretary's estimate of the ratio of: (1) an amount equal to the sum of (a) twice the total number of individuals who meet all but the income requirements for QMBs, whose incomes are at least 120 percent but less than 135 percent of the Federal poverty line, and who are not otherwise eligible for Medicaid, and (b) the total number of individuals in the State who meet all but the income requirements for QMBs, whose incomes are at least 135 percent but less than 175 percent of the Federal poverty line, and who are not otherwise eligible for Medicaid, to (2) the sum of all of these individuals under item (1) for all eligible States.

II. Provisions of this Notice

This notice announces the availability of individual State allotments for Federal fiscal year 1998 for the Medicaid payment of Medicare Part B premiums for qualifying individuals identified under sections 1902(a)(10)(E)(iv) (I) and (II) of the Act.

In this notice, we are not applying precisely the statutory formula to determine the individual State allotments. A precise application of the allocation formula in the statute would require us to determine State-specific estimates of the number of individuals who:

- Are entitled to Medicare Part A;
- Have incomes in the poverty level ranges specified;
- Have assets not exceeding twice the amount allowed under the SSI program; and
- Would not be eligible for Medicaid but for the provisions of section 1902(a)(10)(E) of the Act regarding QIs.

Section 4732(c)(2) of the BBA allows HCFA to take an estimate of the ration of the relevant numbers. We have not been able to locate any available current data that would permit us to directly produce the estimates specified in the statute. As an alternative to direct measurement, we believe that estimates might be derived from models of income, assets, and State Medicaid eligibility. Estimates could be constructed using available data sources; however such an approach would be very time-consuming and resource-intensive and may still not produce credible State-level estimates. Consequently, we are approximating the required estimates by using data from the U.S. Census Bureau on the number of individuals who, according to its March Current Population Survey (CPS), are Medicare beneficiaries, have incomes in the appropriate ranges, and are not enrolled in Medicaid.

In order to reduce the variability of State-level estimates derived from CPS data, we have used a moving average of the most recent 3 years of available data. For the FY 1998 allotments shown in the table below, we have averaged CPS data for the years 1994 through 1996. Specifically, the Federal fiscal year 1998 allotments have been calculated as follows:

A_T=Total amount to be allocated

$M1_i$=3-year average of the number of Medicare beneficiaries in state i who are not enrolled in Medicaid and whose incomes are at least 120 percent but less than 135 percent of Federal poverty line

$M2_i$=3-year average of the number of Medicare beneficiaries in State i who are not enrolled in Medicaid and whose incomes are at least 135 percent but less than 175 percent of Federal poverty line.

Then, the allotment reserved for State *i* is determined by the following formula:

$$A_i = \left[\frac{2 \cdot M1_i + M2_i}{\sum_j \left(2 \cdot M1_j + M2_j\right)} \right] \cdot A_T.$$

The resulting allotments are shown by State in the table below.

ESTIMATED STATE ALLOTMENTS FOR MEDICAID PAYMENTS OF MEDICARE PART B PREMIUMS

State	(a) M1[1]	(b) M2[2]	(c) [2×(a)]+(b)	State share of (c) (percent)	State FY 98 allocation (in thousands)
AK	0	2	2	0.03	$63
AL	36	65	137	2.14	4,283
AR	21	37	79	1.23	2,470
AZ	18	50	86	1.34	2,688
CA	99	311	509	7.96	15,911
CO	13	33	59	0.92	1,844
CT	13	65	91	1.42	2,845
DC	2	3	7	0.11	219
DE	4	9	17	0.27	531
FL	89	270	448	7.00	14,004
GA	42	102	186	2.91	5,814
HI	4	9	17	0.27	531
IA	15	49	79	1.23	2,470
ID	4	15	23	0.36	719
IL	75	167	317	4.95	9,909
IN	25	92	142	2.22	4,439
KS	13	41	67	1.05	2,094
KY	18	91	127	1.98	3,970
LA	27	56	110	1.72	3,439
MA	37	83	157	2.45	4,908

ESTIMATED STATE ALLOTMENTS FOR MEDICAID PAYMENTS OF MEDICARE PART B PREMIUMS—Continued

State	(a) M1[1]	(b) M2[2]	(c) [2×(a)]+(b)	State share of (c) (percent)	State FY 98 allocation (in thousands)
MD	25	72	122	1.91	3,814
ME	7	27	41	0.64	1,282
MI	44	122	210	3.28	6,565
MN	18	55	91	1.42	2,845
MO	30	81	141	2.20	4,408
MS	26	42	94	1.47	2,938
MT	8	16	32	0.50	1,000
NC	58	110	226	3.53	7,065
ND	5	11	21	0.33	656
NE	10	26	46	0.72	1,438
NH	7	17	31	0.48	969
NJ	51	118	220	3.44	6,877
NM	10	29	49	0.77	1,532
NV	7	19	33	0.52	1,032
NY	92	271	455	7.11	14,223
OH	56	167	279	4.36	8,721
OK	26	47	99	1.55	3,095
OR	22	53	97	1.52	3,032
PA	82	213	377	5.89	11,785
RI	7	18	32	0.50	1,000
SC	27	52	106	1.66	3,314
SD	5	9	19	0.30	594
TN	39	56	134	2.09	4,189
TX	78	221	377	5.89	11,785
UT	4	18	26	0.41	813
VA	19	81	119	1.86	3,720
VT	4	7	15	0.23	469
WA	9	67	85	1.33	2,657
WI	10	56	76	1.19	2,376
WV	19	39	77	1.20	2,407
WY	2	4	8	0.13	250
Total	1362	3674	6398	100.00	200,000

[1] Three-year average of number (000) of Medical beneficiaries in State who are not enrolled in Medicaid but whose incomes are at least 120 but less than 135 of Federal Poverty Line.

[2] Three-year average of number (000) of Medicare beneficiaries in State who are not enrolled in Medicaid but whose incomes are at least 135 but less than 175 of Federal Poverty Line.

III. Waiver of Advance Public Comment and 30-Day Delay in Effective Date

We ordinarily publish an advance notice in the **Federal Register** for a notice containing substantive rules to provide a period for public comment. However, we may waive that procedure if we find good cause that notice and comment are impractical, unnecessary, or contrary to the public interest. In addition, we also normally provide a delay of 30 days in the effective date. However, if adherence to this procedure would be impractical, unnecessary, or contrary to public interest, we may waive the delay in the effective date.

We are adopting this notice as a final with comment period without publication of a proposed notice because of the need to notify individual States in advance of the limitations with Federal matching funds in their Medicaid expenditures for payment of Medicare Part B premiums for qualifying individuals. Publication of a proposed notice with a 60-day comment period prior to publication of a final notice would, we believe, be contrary to the public interest. The law is specific regarding the total amount available for Medicare Part B premiums for qualifying individuals and the formula that is to be used to determine individual State allotments. Therefore, we find good cause to waive issuance of a proposed notice and to issue the notice as final.

Also, because States can begin making payments for Medicare Part B premiums for qualifying individuals as early as January 1, 1998, we are not making the effective date of the notice the usual 30 days after publication. For the reasons discussed above, we find good cause to waive the usual 30-day delay.

Although we are publishing this as a final notice, we are providing a 60-day period for public comment. Because of the large number of items of correspondence we normally receive, we are not able to acknowledge or respond to the comments individually. However, if we decide that changes are necessary as a result of our consideration of timely comments, we will issue an additional notice and respond to the comments in that notice.

IV. Effect of the Contract with America Advancement Act

Normally, under 5 U.S.C. section 801, as added by section 251 of Public Law 104–121, the effective date of a major rule is delayed 60 days for Congressional review. This has been determined to be a major rule under 5 U.S.C. section 804(2). However, as indicated in section III of this notice with comment period, we have found that good cause exists to dispense with prior notice and comment procedures since they are unnecessary and impracticable under the circumstances. Pursuant to 5 U.S.C. section 808(2), a rule shall take effect at such time as the Federal agency promulgating the rule determines if it finds, for good cause, that prior notice and comment procedures are unnecessary or impracticable. Accordingly, under the exemption provided in 5 U.S.C. section

808(2), this notice with comment period is effective January 1, 1998, for allotments for payments of Medicare Part B premiums for individuals in calendar year 1998 from the allotment for fiscal year 1998.

V. Regulatory Impact Statement

We have examined the impact of this notice with comment period as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered to be small entities.

This notice with comment period implements provisions of the Balanced Budget Act of 1997 to allocate, among the States, Federal funds to provide Medicaid payment for Medicare Part B premiums for two additional groups of low-income Medicare beneficiaries. The total amount of Federal funds available during a Federal fiscal year and the formula for determining individual State allotments are specified in the law. We have applied the statutory formula for the State allotments except for the use of specified data. Because the data specified in the law were not currently available, we have used comparable data from the U.S. Census Bureau on the number of possible qualifying individuals in the States.

We believe that the statutory provisions implemented in this notice with comment period will have a positive effect on States and individuals. Federal funding at the 100 percent matching rate is available for Medicare cost-sharing for Medicare Part B premium payments for qualifying individuals and a greater number of low-income Medicare beneficiaries will be eligible to have their Medicare Part B premiums paid under Medicaid.

Section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined and certify that this notice with comment period will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this notice with comment period was reviewed by the Office of Management and Budget.

Authority: Sections 1902(a)(10), 1933 of the Social Security Act (42 U.S.C. 1396a), and Public Law 105–33.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: December 12, 1997.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: January 13, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–1675 Filed 1–23–98; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute on Drug Abuse (NIDA) Initial Review Group and Special Emphasis Panel meetings.

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: Neurophysiology and Neuroanatomy Research Subcommittee.
Date: February 9–11, 1998.
Time: 8:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Gamil Debbas, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Human Development Research Subcommittee.
Date: February 10, 1998.
Time: 9:00 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Kesinee Nimit, M.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Name of Committee: Basic Behavioral Science Research Subcommittee.
Date: February 10–12, 1998.
Time: 8:30 a.m.
Place: Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, VA 22209.
Contact Person: Mark Swieter, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–2620.

Name of Committee: Epidemiology and Prevention Research Subcommittee.
Date: February 10–12, 1998.
Time: 8:30 a.m.
Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Raquel Crider, Ph.D., Scientific Review Administrator, Office Of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Name of Committee: Molecular, Cellular and Chemical Neurobiology Research Subcommittee.
Date: February 10–12, 1998.
Time: 8:30 a.m.
Place: Ritz-Carlton Hotel at Pentagon City, 250 South Hayes Street, Arlington, VA 22202.
Contact Person: Rita Liu, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Name of Committee: NIDA Special Emphasis Panel (Molecular, Cellular and Chemical Neurobiology).
Date: February 12, 1998.
Time: 9:00 a.m.
Place: Ritz-Carlton Hotel at Pentagon City, 250 South Hayes Street, Arlington, VA 22202.
Contact Person: Mary C. Custer, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Neuropharmacology Research Subcommittee.
Date: February 17–19, 1998.
Time: 8:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Syed Husain, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Treatment Research Subcommittee.
Date: March 2–4, 1998.
Time: 8:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Kesinee Nimit, M.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Name of Committee: NIDA Special Emphasis Panel (Training and Career Development).
Date: March 2–4, 1998.
Time: 8:30 a.m.

Place: Residence Inn by Marriott, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mark Swieter, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–2620.

Name of Committee: Health Service Research Subcommittee.

Date: March 3–4, 1998.

Time: 8:30 a.m.

Place: Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Raquel Crider, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Name of Committee: AIDS Biomedical and Clinical Research Subcommittee.

Date: March 10–11, 1998.

Time: 8:30 a.m.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Gamil Debbas, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: NIDA Special Emphasis Panel (Centers).

Date: March 17, 1998.

Time: 8:30 a.m.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Mary C. Custer, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: AIDS Behavioral Research Subcommittee.

Date: March 17–18, 1998.

Time: 8:30 a.m.

Place: Sheraton-National Hotel, 900 South Orme Street, Arlington, VA 22204.

Contact Person: Khursheed Asghar, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–42, Telephone (301) 443–2620.

The meetings will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The 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, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs.)

Dated: January 16, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1711 Filed 1–23–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: February 12, 1998.

Time: 8:30 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: W. Gregory Zimmerman, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–1340.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: February 13, 1998.

Time: 8:30 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: W. Gregory Zimmerman, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–1340.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: January 16, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1712 Filed 1–22–98; 11:41 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 meetings of the National Institute of Mental Health Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: Services Research Review Committee.

Date: February 10–February 11, 1998.

Time: 8:30 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Gavin T. Wilkom, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–1340.

Committee Name: Clinical Neuroscience and Biological Psychopathology Review Committee.

Date: February 11–February 13, 1998.

Time: 9 a.m.

Place: One Washington Circle, One Washington Circle, NW., Washington, DC 20037.

Contact Person: Maureen L. Eister, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936.

Committee Name: Neuropharmacology and Neurochemistry Review Committee.

Date: February 12–February 13, 1998.

Time: 8:30 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Donna Ricketts, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936.

Committee Name: Violence and Traumatic Stress Review Committee.

Date: February 12–February 13, 1998.

Time: 8:30 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Sheri L. Schwartzback, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–6470.

Committee Name: Social and Group Processes Review Committee.

Date: February 12–February 13, 1998.

Time: 8:30 a.m.

Place: The Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Tarsha Johnson, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–6470.

Committee Name: Health Behavior and Prevention Review Committee.

Date: February 18, 1998.

Time: 8:30 a.m.

Place: One Washington Circle, One Washington Circle, NW., Washington, DC 20037.

Contact Person: Monica F. Woodfork, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–6470.

Committee Name: Psychobiology, Behavior, and Neuroscience Review Committee.

Date: February 19–February 20, 1998.

Time: 8:30 a.m.

Place: Bethesda Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Deborah A. DeMasse, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936.

Committee Name: Child/Adolescent Development, Risk, and Prevention Review Committee.
Date: February 19–February 20, 1998.
Time: 9 a.m.
Place: Embassy Suites Hotel, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Phyllis D. Artis, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–6470.

Committee Name: Cognitive Functional Neuroscience Review Committee.
Date: February 19–February 20, 1998.
Time: 8 a.m.
Place: One Washington Circle, One Washington Circle, N.W., Washington, DC 20037.
Contact Person: Regina Davis, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936.

Committee Name: Child Psychopathology and Treatment Review Committee.
Date: February 19–February 20, 1998.
Time: 8:30 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Richard Johnson, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–1340.

Committee Name: Molecular, Cellular, and Developmental Neurobiology Review Committee.
Date: February 23–February 24, 1998.
Time: 8:30 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Donna Ricketts, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936.

Committee Name: Clinical Centers and Special Projects Review Committee.
Date: February 25–February 27, 1998.
Time: 8:30 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: W. Gregory Zimmerman, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–4868.

Committee Name: Perception and Cognition Review Committee.
Date: February 26–February 27, 1998.
Time: 9 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Regina M. Thomas, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–6470.

Committee Name: Mental Health Small Business Research Review Committee.
Date: March 2–March 3, 1998.
Time: 8:30 a.m.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Yolanda M. White, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–1340.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: January 16, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1713 Filed 1–23–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code, Appendix 2), notice is hereby given of the following National Institute of General Medical Sciences Initial Review Group (IRG) meeting:

Name of IRG: Biomedical Research and Research Training.
Date: March 12–13, 1998.
Time: March 12—8:00 a.m.–6:00 p.m., March 13—8:00 a.m.–adjournment.
Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.
Contact Person: Drs. Carole Latker and Irene Glowinski, Scientific Review Administrators, NIGMS, Natcher Building—Room 1AS–13, Bethesda, Maryland 20892, Telephone: 301–594–3663.
Purpose/Agenda: To evaluate and review research training grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers (MARC); and 93.375, Minority Biomedical Research Support (MBRS)], National Institutes of Health)

Dated: January 16, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1716 Filed 1–23–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following National Institute of General Medical Sciences Initial Review Group (IRG) meeting:

Name of IRG: MARC Review Subcommittee Meeting.
Date: February 19–20, 1998.
Time: February 19—8:30 a.m.–5:00 p.m. February 20—8:30 a.m.—adjournment.
Place: National Institutes of Health, Natcher Conference Center, Conf. Room A, Bethesda, Maryland 20892.
Contact Person: Dr. Richard Martinez, Scientific Review Administrator, NIGMS, Natcher Building—Room 1AS–19G, Bethesda, Maryland 20892, Telephone: 301–594–2849.
Purpose/Agenda: To evaluate and review research training grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers (MARC); and 93.375, Minority Biomedical Research Support (MBRS)], National Institutes of Health)

Dated: January 16, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1717 Filed 1–23–98; 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 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 meetings:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel (Telephone Conference Call).

Date: February 10, 1998.

Time: 2:00 p.m.

Place: National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892.

Contact Person: Dr. Katherine Woodbury-Harris/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 I SBIR Contract Proposal(s).

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: March 13, 1998.

Time: 10:00 a.m.

Place: Holiday Inn, Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Phone: (202) 338–4600.

Contact Person: Dr. Lillian Pubols, Chief, Scientific Review Branch, NINDS, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

Purpose/Agenda: To review and evaluate a grant application.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: January 16, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1718 Filed 1–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting of the Biomedical Library Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on March 4–5, 1998, convening at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on March 4 will be open to the public from 8:30 a.m. to approximately 11 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Sharee Pepper at 301–496–4253 two weeks before the meeting.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., and sec. 10(d) of Pub. L. 92–463, the meeting on March 4, will be closed to the public for the review, discussion, and evaluation of individual grant applications from 11 a.m. to approximately 5 p.m., and on March 5 from 8:30 a.m. to adjournment. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of person privacy.

Dr. Sharee Pepper, Health Scientist Administrator, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–4253, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health.)

Dated: January 16, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1714 Filed 1–23–98; 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 meetings that are being held to review grant applications:

NEUROLOGICAL SCIENCES INITIAL REVIEW GROUP

Study section/contact person	February–March 1998 meetings	Time	Location
Neurology A, Dr. Joe Marwah, 301–435–1253	Mar. 4–6	8:30 a.m	Regency Plaza at Hotel Circle, San Diego, CA.
Neurology B–2, Dr. Herman Teitelbaum, 301–435–1254.	Mar. 4–6	8:30 a.m	Regency Plaza at Hotel Circle, San Diego, CA.

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: January 16, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–1715 Filed 1–23–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C.

Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–0525.

(1) Substance Abuse Prevention and Treatment Block Grant—45 CFR Part 96; Extension With No Change

This interim final rule provides guidance to States regarding the Substance Abuse Prevention and Treatment Block Grant legislation. The rule implements the reporting and recordkeeping requirements of 42 U.S.C. 300x 21–35 & 51–64 by specifying the content of the States' annual report on and application for block grant funds. The reporting burden hours will be counted towards the total burden for the FY 1999 SAPT Block Grant Application Format for which separate OMB approval will be requested. The total annual reporting and recordkeeping burden estimate is shown below:

	No. of respondents	Responses/ respondent	Hours/response	Total hour burden
Reporting Burden—45 CFR 96				
Annual Report:				
96.122(f)	60	1	152	9120
96.134(d)	60	1	16	960
State Plan:				
96.122(g)	60	1	162	9720
96.124(c)(1)	60	1	40	2400
96.127(b)	60	1	8	480
96.131(f)	60	1	8	480
96.133(a)	60	1	80	4800
Waivers [1]:				
96.132(d)	60	1	16	960
96.134(b)	60	1	40	2400
96.135(d)	60	1	8	480
Total Reporting Burden	60	1	530	31,800
Recordkeeping Burden—45 CFR 96				
96.129(a)(13)	60	1	16	960

[1] For the purpose of burden calculation, it is assumed that all States would apply for each waiver. In reality it expected that only a small number will apply.

(2) Tobacco Regulation for Substance Abuse Prevention and Treatment—45 CFR 96; Extension With No Change

This final rule provides guidance to States regarding compliance with section 1926 of the Public Health Service Act related to sale and distribution of tobacco to minors. The final rule implements section 1926 by specifying the content of the State's annual report on the provisions of the rule and application for block grant funds. The reporting burden shown below represents the average total hours to assemble, format, and produce the block grant provision on minors' access to tobacco, in accordance with the requirements of 45 CFR 96. These burden hours will be counted towards the total burden for the FY 1999 SAPT Block Grant Application Format for which separate approval will be requested.

	No. of respondents	Responses/ respondent	Hours/response	Total hour burden
Annual Report:				
96.122(f)	59	1	0	[1] 0
96.130(e)(1–3)	59	1	15	885
State Plan:				
96.122(g)(21)	0	0	0	[2] 0
96.130(e)(4, 5)	59	1	14	826
96.130(g)	59	1	5	295
Total			34	2,006

[1] This section describes requirements for the first applicable year which has passed for all States. Therefore, no burden is associated with this section.
[2] This section duplicates the information collection language in section 96.130(e). The burden is shown for 96.130(e).

Written comments and recommendations concerning the proposed information collection should be sent on or before February 25, 1998 to: Daniel Chenok, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 19, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–1723 Filed 1–23–98; 8:45 am]

BILLING CODE 4162–20–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration, Agency Information Collection Activities Under Emergency Review by the Office of Management and Budget (OMB)

The Substance Abuse and Mental Health Services Administration has

submitted the following request (see below) for emergency OMB review under the Paperwork Reduction Act (44 U.S.C. Chapter 35). OMB approval has been requested by February 1, 1998. A copy of the information collection plans may be obtained by calling the SAMHSA Reports Clearance Officer on (301) 443–0525.

Title: Questions for Callers to NCADI in Response to ONDCP Media Campaign.

OMB Number: 0930–new.

Frequency: On occasion.

Affected public: Individuals.

Number of respondents: 36,750.

Estimated time per respondent: 40 seconds.

Total burden hours: 404.

In order to monitor the volume of calls to the National Clearing House on Drug and Alcohol Information (NCADI) generated by Phase I of ONDCP's National Youth Anti-Drug Media Campaign, SAMHSA will ask callers to NCADI several questions to determine how the caller got the NCADI number, the age of the caller and whether the caller plans to use requested materials with a child. The information collected will help NCADI prepare for the nationwide phase of the ONDCP campaign.

Written comments and recommendations concerning the proposed information collection should be sent within one week of this notice to: Daniel Chenok, Office of Information and Regulatory Affairs, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 19, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–1724 Filed 1–23–98; 8:45 am]

BILLING CODE 4162–20–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. 4281–N–01]

Delegation of Authority

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: This notice delegates to the Assistant Secretary for Community Planning and Development the Secretary's authority to designate two additional urban Empowerment Zones, pursuant to 26 U.S.C. § 1391, as amended by Title IX, Subtitle F, Chapter 1, Section 951 (Additional Empowerment Zones) of the Taxpayer Relief Act of 1997, Public Law 105–34, 111 Stat. 885, approved August 5, 1997.

EFFECTIVE DATE: January 7, 1998.

FOR FURTHER INFORMATION CONTACT: Michael T. Savage, Deputy Director, Office of Economic Development, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 7136, Washington, D.C. 20410–0400, Telephone Number (202) 708–2290. Persons with hearing or speech impairments may also utilize HUD's TTY Number at (202) 708–1455 or the Federal Information Relay Service's TTY Number at (800) 877–8339. Aside from the ''800'' number, the telephone and TTY numbers listed are not toll-free.

SUPPLEMENTARY INFORMATION: Title XIII, Subchapter C, Part I, Section 1391 (Empowerment Zones, Enterprise Communities and Rural Development Investment Areas) of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, 107 Stat. 543, approved August 10, 1993, codified as 26 U.S.C. § 1391, *et seq.*, authorized the designation of an aggregate of nine Empowerment Zones and 95 Enterprise Communities. Under this Act, the Secretary of Housing and Urban Development was authorized to designate up to six urban Empowerment Zones and up to 65 urban Enterprise Communities, and the Secretary of Agriculture was authorized to designate up to three rural Empowerment Zones and up to 30 rural Enterprise Communities.

On December 21, 1994, President Clinton announced the urban areas that were designated by the department of Housing and Urban Development as Empowerment Zones and Enterprise Communities, and the rural areas that were designated by the Department of Agriculture as Empowerment Zones and Enterprise Communities. On that date, President Clinton also announced the designation of two Supplemental Empowerment Zones and four Enhanced Enterprise Communities. In a notice published in the **Federal Register** on February 23, 1995 at 60 FR 10018, the Department of Housing and Urban Development announced the jurisdictions designated as urban Empowerment Zones, urban Supplemental Empowerment Zones, urban Enhanced Enterprise Communities, and urban Enterprise Communities.

Title IX, Subtitle F, Chapter 1, Section 951 (Additional Empowerment Zones) of the Taxpayer Relief Act of 1997, Public Law 105–34, 111 Stat. 885, approved August 5, 1997, amended 26 U.S.C. § 1391 to allow the Secretary of Housing and Urban Development to designate two additional urban Empowerment Zones. This Act also increased from 750,000 to one million the maximum aggregate population of all urban Empowerment Zones. The designation of the two additional urban Empowerment Zones is to be made within 180 days of the August 5, 1997 enactment of the Act, and will not take effect before January 1, 2000.

Accordingly, the Secretary delegates authority as follows:

Section A. Authority Delegated

The Secretary of the Department of Housing and Urban Development delegates to the Assistant Secretary for Community Planning and Development the authority to designate two additional urban Empowerment Zones, pursuant to 26 U.S.C. § 1391, as amended by Title IX, Subtitle F, Chapter 1, Section 951 (Additional Empowerment Zones) of the Taxpayer Relief Act of 1997, Public Law 105–34, 111 Stat. 885, approved August 5, 1997.

Section B. Authority Excepted

The authority delegated under Section A does not include the power to sue or be sued.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. § 353(d).

Dated: January 7, 1998.

Andrew Cuomo,

Secretary of Housing and Urban Development.

[FR Doc. 98–1676 Filed 1–23–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–1060–00–24 1A]

Wild Horse and Burro Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of meeting.

SUMMARY: The Bureau of Land Management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands.

DATES: The advisory board will meet on February 9, 1998, from 7:30 a.m. to 5:30 p.m. local time. On February 10, 1998,

the advisory board will participate in a field trip from 5:00 a.m. to 4:30 p.m. local time.

Submit written comments no later than close of business February 13, 1998.

ADDRESSES: The advisory board will meet in the Reno Hilton, Reno, Nevada.

Send written comments to Bureau of Land Management, WO–610, Mail Stop 406 LS, 1849 C Street, NW, Washington, DC 20240. See **SUPPLEMENTARY INFORMATION** section for electronic access and filing address.

FOR FURTHER INFORMATION CONTACT: Mary Knapp, Wild Horse and Burro Public Affairs Specialist, (202) 452–5176. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8:00 a.m. and 4:00 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Public Meeting

Under the authority of 43 CFR part 1784, the Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the Director of the BLM, the Secretary of Agriculture, and the Chief, Forest Service, on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands. The tentative agenda for the meeting is:

Monday, February 9, 1998

—Welcome by BLM Nevada State Director Bob Abbey and BLM Director Pat Shea;
—Fact-finders reports on specific issues related to the wild horse and burro program;
—Discussion of science issues;
—Updates on several reports reviewing the wild horse and burro program;
—Report on the adoption program; and
—Presentation of comments by members of the public.

Tuesday, February 10, 1998

—Field trip to the Kama Mountain Herd Management Area to observe a gather and the immuno-contraception process.

The meeting is open to the public. The advisory board will make detailed minutes of the meeting. BLM will make the minutes available to interested parties who contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Under the Federal advisory committee management regulations (41 CFR 101–6.1015(b)(2)), in exceptional circumstances an agency may give less than 15 days notice of a committee meeting if the reasons for doing so are included in the committee meeting notice published in the **Federal Register**. In this case, BLM made commitments with regard to scheduling the first meeting of the advisory committee based on the approval of the charter within a time frame. Delays in obtaining approval of the charter, which required the signature of two Cabinet secretaries, will result in publication of the meeting notice 14 days prior to the committee meeting.

II. Public Comment Procedures

Members of the public may make oral statements to the advisory board on February 9, 1998 at the appropriate point in the agenda, which is anticipated to occur at 3:30 p.m. local time. Persons wishing to make statements should register with BLM by noon on February 9, 1998, at the meeting location. Depending on the number of speakers, the advisory board may limit the length of presentations. Speakers should address specific wild horse and burro-related topics listed on the agenda. Speakers must submit a written copy of their statement to the address listed in the **ADDRESSES** section or bring a written copy to the meeting.

Participation in the advisory board meeting is not a prerequisite for submittal of written comments. BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. BLM appreciates any and all comments, but those most useful and likely to influence decisions on management and protection of wild horses and burros are those that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations. Except for comments provided in electronic format, commenters should submit two copies of their written comments where feasible. BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, we intend to make them available in their entirety, including your name and address (or your e-mail address if you file electronically). However, if you do not want us to release your name and address (or e-mail address) in response to a FOIA request, you must state this prominently at the beginning of your comment. We will honor your wish to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organization or businesses, will be released in their entirety, including names and addresses (or e-mail addresses).

Electronic Access and Filing Address

Commenters may transmit comments electronically via the Internet to: mknapp@wo.blm.gov. Please submit comments as an ASCII file and void the use of special characters or encryption. Please include the identifier ''WH&B'' in the subject of your message and your name and address in the body of your message.

Dated: January 22, 1998.

Pat Shea,

Director, Bureau of Land Management.

[FR Doc. 98–1832 Filed 1–23–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–020–05–1430–01: G–0078]

Realty Action; Oregon

AGENCY: Bureau of Land Management (BLM), DOI.

ACTION: Notice of Realty Action, Lease of Public Land in Harney County, Oregon.

SUMMARY: The following described public land is being considered for lease under Section 302 of the Federal Land Policy and Management Act of 1976, (43 U.S.C. 1732), at not less than fair market value.

Willamette Meridian

T.20S., R.29E.,
Sec. 34, S½NE¼SE¼SE¼SW¼, SE¼SE¼SE¼SW¼.

The area described aggregates 3.75 acres, more or less, in Harney County, Oregon.

The purpose of the lease would be to authorize a longstanding occupancy use. The term of the proposed lease would be for the lifetime of the proponents, Alan and Ethel Bossuot, who own improvements on the property. The improvements include a cabin, outbuildings, a bridge and corrals, which have existed on the property for at least 40 years. The improvements were originally placed on public land inadvertently by the Bossuots and their predecessors. For these reasons, the land would not be offered for lease on a competitive basis.

The lease would be subject to Federal, State, and local ordinances applicable to

the premises in addition to other conditions deemed necessary to protect the public interest.

The proposal conforms with the Three Rivers Resource Management Plan. Based on a review of this plan and other factors, the land has been determined suitable for lease under the above cited authority.

DATES: For a period of 45 days from the date of publication of this notice in the **Federal Register** interested persons may submit comments regarding the proposed lease to the Three Rivers Resource Area Manager at the address described below. Comments will be considered in the NEPA analysis to be prepared for this proposal.

ADDRESSES: Comments should be submitted to the Three Rivers Resource Area Manager, HC 74–12533, Hwy 20 West, Hines, Oregon 97738.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this proposal is available from Craig M. Hansen, Area Manager or Skip Renchler, Realty Specialist, Three Rivers Resource Area at the above address, phone (541) 573–4400.

Dated: January 14, 1998.

Craig M. Hansen,

Area Manager.

[FR Doc. 98–1706 Filed 1–23–98; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

National Park Service

Whiskeytown Unit, Whiskeytown-Shasta-Trinity National Recreation Area; Operation of Marina Services

SUMMARY: The National Park Service will shortly be releasing a concession Prospectus to continue the operation of marina services at the Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area located in northern California. The existing business includes related services such as food, merchandise, and camping and is located in two separate sections of the Whiskeytown Unit. Most services are provided seasonally from approximately the last week in May to the first week in September. The annual gross receipts average about $500,000. The new contract will be for 10 years and will require an improvement program estimated to cost about $178,800. There is an existing concessioner that has operated satisfactorily under the existing contract and has a right of preference in renewal.

SUPPLEMENTARY INFORMATION: The cost for purchasing a Prospectus is $30.00. Parties interested in obtaining a copy should send a check or money order, NO CASH, payable to ''National Park Service'' to the following address: National Park Service, Pacific Great Basin Support Office, Office of Concession Program Management, 600 Harrison Street, Suite 600, San Francisco, California 94107–1372, ''Mail Room Do Not Open''.

Please include a mailing address indicating where to send the prospectus. Inquiries may be directed to Ms. Teresa Jackson, Office of Concession Program Management at (415) 427–1369.

Dated: January 12, 1998.

John J. Reynolds,

Regional Director, Pacific West Region.

[FR Doc. 98–1733 Filed 1–23–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement; Backcountry and Wilderness Plan for Joshua Tree National Park, California; Extension of Public Comment Period

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190 as amended), the National Park Service, Department of the Interior, has prepared a Draft Environmental Impact Statement assessing alternatives for, and potential impacts of, a proposed Backcountry and Wilderness Management Plan for Joshua Tree National Park, California. In deference to public interest expressed to date from local governmental agencies, organizations, and other interested parties, the original 90 day public comment period has been extended for one month. Written comments on the draft document must now be received or post-marked not later than February 28, 1998, and should be directed to the Superintendent, Joshua Tree National Park, 74485 National Park Drive, Twentynine Palms, California, 92277.

Dated: January 15, 1998.

Patricia L. Neubacher,

Acting Regional Director, Pacific West.

[FR Doc. 98–1734 Filed 1–23–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Denali National Park and the Chairperson of the Denali Subsistence Resource Commission announce a forthcoming meeting of the Denali National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Call to order by the Chair.
(2) Roll call and confirmation of quorum.
(3) Superintendent's welcome and introductions.
(4) Approval of minutes of last meeting.
(5) Additions and corrections to the agenda.
(6) New Business:
  a. Review federal subsistence programs.
  b. Individual customary and traditional determination process.
  c. Natural and cultural resource studies.
  d. Agency reports.
(7) Old Business:
  a. Draft Subsistence Management Plan.
  b. ATC access.
  c. Harvest reports.
(8) Public and other agency comments.
(9) Set time and place of next SRC meeting.
(10) Adjournment.

DATES: The meeting will be held Friday, February 13, 1998. The meeting will begin at 9 a.m. and end at 6 p.m.

LOCATION: The meeting will be held at North Star Inn, Conference Room, Healy, Alaska.

FOR FURTHER INFORMATION CONTACT: Steve Martin, Superintendent or Hollis Twitchell, Subsistence Coordinator, Denali National Park, PO Box 9, Denali Park, Alaska 99755. Phone (907) 683–2294.

SUPPLEMENTARY INFORMATION:

The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Paul R. Anderson,

Regional Director.

[FR Doc. 98–1736 Filed 1–23–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Mississippi River Coordinating Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Mississippi River Coordinating Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE, TIME, AND ADDRESS: Wednesday, February 18, 1998; 6:30 p.m. to 9 p.m.; Council Chambers, Metropolitan Council, 230 East Fifth Street, St. Paul, Minnesota.

An agenda for the meeting will be available by January 30, 1998. Contact the Superintendent of the Mississippi National River and Recreation Area (MNRRA) at the address listed below. Public statements about matters related to the MNRRA will be taken.

FOR FURTHER INFORMATION CONTACT:

Superintendent JoAnn Kyral, Mississippi National River and Recreation Area, 175 East Fifth Street, Suite 418, St. Paul, Minnesota 55101 (612–290–4160).

SUPPLEMENTARY INFORMATION: The Mississippi River Coordinating Commission was established by Pub. L. 100–696, dated November 18, 1988.

Dated: January 14, 1998.

David N. Given,

Deputy Regional Director, Midwest Region.

[FR Doc. 98–1732 Filed 1–23–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 17, 1998. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by February 6, 1998.

Carol D. Shull,

Keeper of the National Register.

Alaska

Valdez-Cordova Borough-Census Area

Valdez Trail--Copper Bluff Segment (Valdez Trail MPS)
Milepost 106.5, Richardson Hwy,
Copper City vicinity, 98000077

Arizona

Pima County

Barrio El Hoyo,
Roughly bounded by Cushing St., Sixth Ave., Twenty-Second St., and US–10,
Tucson, 98000079

Yavapai County

Cottage Hotel,
Jct. of First St. and Shoeny Ave.,
Seligman, 98000080

Colorado

Denver County

Nordlund House,
330 Birch St.,
Denver, 98000081

Florida

Escambia County

Barrancas National Cemetery
(Civil War Era Cemeteries MPS)
80 Hovey Rd.,
Pensacola, 98000083

Leon County

Three Stars,
1111 Paul Russell Rd.,
Tallahassee, 98000082

Kansas

Harvey County

Mennonite Settler Statue, The,
Athletic Park Dr.,
Newton, 98000084

Kentucky

Bath County

Ramey Mound,
Address Restricted,
Sharpsburg vicinity, 98000089

Boyle County

Clifton Baptist Church Complex,
Clifton Rd., 1 mi. NE of KY 52,
Clifton vicinity, 98000085

Forkland School and Gymnasium,
Jct. of KY 37 and Curtis Rd.,
Gravel Switch vicinity, 98000086

Penn's Store,
0.1 mi. W of KY 243, on Boyle-Casey County line,
Gravel Switch vicinity, 98000094

Fayette County

Mt. Horeb Archeological District,
Address Restricted,
Lexington vicinity, 98000088

Rockefeller Mound,
Address Restricted,
Lexington vicinity, 98000087

Madison County

Cornelison Mound,
Address Restricted,
Ruthton vicinity, 98000090

Coy Site Complex,

Address Restricted,
Richmond vicinity, 98000091

Robbins Mound,
Address Restricted,
Ruthton vicinity, 98000092

Montgomery County

Wright—Greene Mound Complex,
Address Restricted,
Mount Sterling vicinity, 98000093

Massachusetts

Bristol County

Fisher—Richardson House,
354 Willow St.,
Mansfield, 98000096

Middlesex County

James, Joseph K., House
(Somerville MPS)
83 Belmont St.,
Somerville, 98000095

New Jersey

Cape May County

Beesley, Thomas, Jr., House,
605 NJ 9 N,
Middle Township, 98000098

Hunterdon County

New Market—Linvale-Snydertown Historic District,
Roughly along NJ 31, Linvale, Snydertown, and Woodsville Rds.,
East and West Amwell Townships, 98000097

Morris County

Smith, Bridget, House,
124 Randolph Ave.,
Mine Hill Township, 98000099

Ohio

Preble County

Camden City Hall and Opera House,
54 W. Central Ave.,
Camden, 98000100

Ross County

Mace, Henry, House,
17380 OH 104 N,
Chillicothe vicinity, 98000101

Texas

Bexar County

St. Mark's Episcopal Church,
315 E. Pecan St.,
San Antonio, 98000103

Tarrant County

Fort Worth Club Building—1916,
608-610 Main St.,
Fort Worth, 98000102

[FR Doc. 98–1757 Filed 1–23–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Availability of a Plan of Operations and Environmental Assessment for a Plan of Operations, Texas Energy and Environmental, Inc. Plan of Operations for the Dunn-McCampbell ''A'' Lease, Padre Island National Seashore, Kleberg County, Texas

The National Park Service has received from Texas Energy and Environmental, Inc., a Plan of Operations for the existing wells and production facilities on the Dunn-McCampbell ''A'' Lease at Padre Island National Seashore, Kleberg County, Texas.

Pursuant to § 9.52(b) of Title 36 of the Code of Federal Regulations, part 9, subpart B (36 CFR 9B); the Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas. Copies of the documents are available from the Superintendent, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, Texas 78418, and will be sent upon request.

John E. Miller,

Superintendent, Padre Island National Seashore.

[FR Doc. 98–1735 Filed 1–23–98; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–74]

Certain Rotatable Photograph and Card Display Units, and Components Therefor; Notice of Rescission of Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has rescinded the exclusion order previously issued in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: T. Spence Chubb, Supervisory Attorney, Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2575.

AUTHORITY: The authority for rescinding the exclusion order in this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in § 210.76 of the Commission's rules of practice and procedure, 19 CFR 210.76 (1997).

SUPPLEMENTARY INFORMATION: The Commission issued its exclusion order in this investigation on November 21, 1980, based upon a finding that section 337 had been violated by several entities. The order directed the exclusion from entry into the United States of products that infringed two U.S. patents, a registered trademark, and a common law trademark. The two patents at issue have since expired. The Commission has recently obtained information that the complainants are no longer in business and have no interest in maintaining the two trademarks that are covered by the exclusion order. Accordingly, the Commission determined under section 337(k)(1), 19 U.S.C. 1337(k)(1), that the conditions that led to the issuance of the exclusion order no longer exist. The Commission has also determined to waive the procedural provisions of 19 CFR 210.76 for rescission of Commission orders.

Copies of the Commission's order and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

Issued: January 16, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–1740 Filed 1–23–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *A. Steiert & Sons, Inc.*, Civ. A. No. 98–0104, was lodged on January 9, 1998, with the United States District Court for the Eastern District of Pennsylvania. The consent decree resolves the claims of the United States under Sections 106(a), 107(a), and 113(g)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), for reimbursement of response costs incurred at the North Penn Area 2 Superfund Site located in Hatfield Township, Montgomery County, Pennsylvania and for declaratory judgment as to liability that will be binding in actions to recover further response costs related to the Site. The consent decree obligates A. Steiert & Sons, Inc. to pay $58,000 in reimbursement of response costs incurred and to be incurred by EPA in responding to contamination at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C., 20530, and should refer to *United States* v. *A. Steiert & Sons, Inc.*, DOJ Ref. # 90–11–3–805A.

The consent decree may be examined at the office of the United States Attorney, 616 Chestnut Street, Philadelphia, Pennsylvania 19106; the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA; and at the Consent Decree Library, 1120 G Street, NW 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $7.00 (25 cents per page reproduction cost), payable to the Consent Decree library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–1707 Filed 1–23–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Consent Decree Under The Clean Water Act

Notice is hereby given that a consent decree in *United States* v. *Atlantic Pipeline Co. And Sun Pipeline Co.* Civil

Action No. 96–583 (W.D. Pa.), was lodged with the United States District Court for the Western District of Pennsylvania on December 30, 1997.

In this action the United States sought civil penalties under Section 311(b)(3) of the Clean Water Act, 33 U.S.C. § 1321(b)(3) for a discharge of gasoline from a pipeline into a pond and unnamed tributary of the West Branch of Richard Run near the Village of Robinson, Pennsylvania in May 1994. The consent decree provides that the defendants will pay a civil penalty of $40,000 to the United States. The defendants have already paid a civil penalty of $40,000 to the Commonwealth of Pennsylvania regarding the subject discharge.

The Department of Justice will accept written comments relating to the proposed Consent Decree for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044 and refer to *United States* v. *Atlantic Pipeline Co. And Sun Pipeline Co.*, DJ Ref. #90–5–1–1–4317.

Copies of the proposed Consent Decree may be examined at the Office of the United States Attorney, Western District of Pennsylvania, 633 U.S. Post Office and Courthouse, Pittsburgh, PA 15219; the Region III Office of the Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the Consent Decree may also be obtained in person or by mail at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202–624–0892). When requesting a copy by mail, please enclose a check in the amount of $3.75 (twenty-five cents per page reproduction costs) payable to the ''Consent Decree Library.''

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 98–1709 Filed 1–23–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that a proposed Settlement Order in *United States* v. *City and County of San Francisco, CA, et al.*, No. 97–10030–ST (D. Oregon), was lodged on September 30, 1997, with the United States District Court for the District of Oregon. With regard to the Defendants, the Consent Decree resolves a claim filed by the United States on behalf of the United States Environmental Protection Agency (''EPA'') pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, *as amended,* 42 U.S.C. §§ 9601, *et seq.*

The United States entered into the Settlement Order in connection with the Environmental Pacific Corporation Site located in Amity, Yamill County, Oregon, approximately 42 miles southwest of Portland. The Settlement Order provides that the Settling Defendant will reimburse the United States a total of $815.89 for past costs incurred by the United States at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Settlement Order. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City and County of San Francisco, CA, et al.*, DOJ Ref. #90–11–2–1080B.

The proposed Settlement Order may be examined at the office of the United States Attorney, 888 SW. 5th Avenue, Portland, Oregon 97204; the Region 10 office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy refer to the referenced case and enclose a check in the amount of $5.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section.

[FR Doc. 98–1708 Filed 1–23–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Privatized Corrections Contracting Mandate

AGENCY: Federal Bureau of Prisons, Department of Justice.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

Proposed Action: The U.S. Department of Justice, Federal Bureau of Prisons (Bureau) has been given the responsibility for accommodating within the Federal Prison system inmates currently housed by the District of Columbia's Department of Corrections (DCDC). In doing so, the Bureau has been mandated by Congress in the D.C. Revitalization Act to seek private contractors to accommodate a portion of the DCDC's inmate population. Over the next several months, the Bureau will prepare Request for Proposals to be sent to prospective contractors requesting proposals to house in private contract facilities approximately 2,200 DCDC sentenced felons by December 31, 1999 and at least 50 percent of all DCDC sentenced felons by September 30, 2003.

To ensure compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau is undertaking preparation of a Program Draft Environmental Impact Statement (DEIS). Topics to be studied as part of the DEIS include, but are not limited to: services, cultural resources, land uses, social and economic factors, hazardous materials, air and noise quality, among others. In furtherance of NEPA, the Bureau will host a Scoping Meeting which all interested persons are invited to attend. The purpose of this Scoping Meeting is to afford the public, regulatory agency representatives, and elected officials an opportunity to learn about and voice their interests and environmental concerns regarding the Bureau's implementation of the required privatization action.

The Scoping Meeting is being held to provide for timely public comments and understanding of Federal plans and programs with possible environmental consequences required by NEPA. The Scoping Meeting will be held 7:00 P.M., Wednesday, January 28, 1998 at St. Luke's Church (church hall meeting room), 4925 East Capitol Street, SE., Washington, DC.

Alteratives: In developing the DEIS, the options of ''no action'' and

''alternative sites'' for the proposed facility will be fully and thoroughly examined.

Scoping Process: During the preparation of the DEIS, there will be numerous other opportunities for public involvement.

DEIS Preparation: Public notice will be given concerning the availability of the DEIS for public review and comment.

Address: Questions concerning the proposed action and the DEIS can be answered by: David J. Dorworth, Chief, Site Selection & Environmental Review Branch, Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20534, Telephone: (202) 514–6470, Telefacsimile: (202) 616–6024, ddorworth@BOP.gov.

Dated: January 21, 1998.

Jeff B. Ratliff,

Acting Chief, Site Selection and Environmental Review Branch.

[FR Doc. 98–1794 Filed 1–23–98; 8:45 am]

BILLING CODE 4410–05–M

DEPARTMENT OF LABOR

Employment and Training Administration

Revised Schedule of Remuneration for the UCX Program

Under Section 8521(a)(2) of title 5 of the United States Code, the Secretary of Labor is required to issue from time to time a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the military services. The schedules are used to calculate the base period wages and benefits payable under the program of Unemployment Compensation for Ex-servicemembers (UCX Program).

The revised schedule published with this Notice reflects increases in military pay and allowances which were effective in January 1998.

Accordingly, the following new Schedule of Remuneration, issued pursuant to 20 CFR 614.12, applies to ''First Claims'' for UCX which are effective beginning with the first day of the first week which begins after April 4, 1998.

Pay grade	Monthly rate
(1) Commissioned Officers:	
0–10	$11,402
0–9	11,364
0–8	10,462
0–7	9,457
0–6	8,082
0–5	6,773
0–4	5,556
0–3	4,491
0–2	3,586
0–1	2,713
(2) Commissioned Officers With Over 4 Years Active Duty As An Enlisted Member Or Warrant Officer:	
0–3E	5,146
0–2E	4,282
0–1E	3,549
(3) Warrant Officers:	
W–5	6,035
W–4	5,154
W–3	4,309
W–2	3,666
W–1	3,176
(4) Enlisted Personnel:	
E–9	4,672
E–8	3,958
E–7	3,457
E–6	3,026
E–5	2,588
E–4	2,156
E–3	1,897
E–2	1,791
E–1	1,571

The publication of this new Schedule of Remuneration does not revoke any prior schedule or change the period of time any prior schedule was in effect.

Signed at Washington, DC., on January 15, 1998.

Raymond J. Uhalde,

Acting Assistant Secretary of Labor.

[FR Doc. 98–1787 Filed 1–23–98; 8:45 am]

BILLING CODE 4510–30–M

PENSION AND WELFARE BENEFITS ADMINISTRATION

[Application No. D–10429]

Notice of Proposed Individual Exemption to Amend and Replace Prohibited Transaction Exemption (PTE) 96–14 Involving Morgan Stanley & Co. Incorporated (MS&Co) and Morgan Stanley Trust Company (MSTC), Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Notice of proposed individual exemption to modify and replace PTE 96–14.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed individual exemption which, if granted, would amend and replace PTE 96–14 (61 FR 10032, March 12, 1996). PTE 96–14, as clarified by a Notice of Technical Correction dated June 4, 1996 (61 FR 28243), permits the lending of securities to MS&Co and to any other U.S. registered broker-dealers affiliated with MSTC (the Affiliated Broker-Dealers; collectively, the MS Broker-Dealers) by employee benefit plans with respect to which the MS Broker-Dealer who is borrowing such securities is a party in interest or for which MSTC acts as directed trustee or custodian and securities lending agent. In addition, PTE 96–14 permits MSTC to receive compensation in connection with securities lending transactions. These transactions are described in a notice of pendency that was published in the **Federal Register** on August 11, 1995 at 60 FR 41118. PTE 96–14 is effective as of March 12, 1996.

If granted, the proposed exemption would replace PTE 96–14 but would incorporate by reference the facts, representations and virtually all of the conditions that are contained in the notice, the final exemption and the technical correction. However, Condition (9) of PTE 96–14, which has been redesignated herein as Condition (12), would be amended. Condition (9) of PTE 96–14 provides that—

> Only plans whose total assets have a market value of at least $50 million will be permitted to lend securities to the MS Broker-Dealers. In the case of 2 or more plans maintained by a single employer or controlled group of employers, the $50 million requirement may be met by aggregating the assets of such plans if the assets are commingled for investment purposes in a single master trust;

The applicants have requested that this condition be modified to allow two or more plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Plans) as well as two or more plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Plans), whose assets are invested in a single, commingled investment vehicle that is managed by a fiduciary which is independent of the MS Broker-Dealers, to aggregate their assets within the pooled investment vehicle in order to satisfy the $50 million investment threshold for lending securities to MS Broker-Dealers. However, the fiduciary exercising investment discretion over the pooled vehicle, particularly if the fiduciary is an outside manager, must possess some minimum level of investor sophistication by satisfying an ''outside business'' test.

In addition, the Department has decided to revise certain of the conditions contained in PTE 96–14. In this regard, the Department has added several new conditions to the pendency notice relating to such matters as disclosures, compensation, outside

borrowers and recordkeeping. The Department has also modified certain of the existing conditions and provided definitions of the terms ''affiliate'' and ''control.''

The proposed exemption would affect participants and beneficiaries of, and fiduciaries with respect to plans engaging in securities lending transactions with the MS Broker-Dealers.

EFFECTIVE DATE: If granted, the proposed exemption would be effective as of March 12, 1996.

DATES: Written comments and requests for a public hearing should be received by the Department on or before March 27, 1998.

ADDRESSES: All written comments and requests for a public hearing (preferably, three copies) should be sent to the Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Application No. D–10429. The application pertaining to the proposed exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 219–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption that would amend and replace PTE 96–14. PTE 96–14 provides an exemption from certain prohibited transaction restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1) of the Code. The proposed exemption was requested in an application filed on behalf of MS&Co and MSTC (collectively, the Applicants) pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this proposed exemption is being issued solely by the Department.

Specifically, PTE 96–14 provides exemptive relief from sections 406(a)(1)(A) through (D) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, with respect to the lending of securities to MS&Co and to any other MS Broker-Dealers by employee benefit plans with respect to which the MS Broker-Dealer who is borrowing such securities is a party in interest or for which MSTC acts as a directed trustee or custodian and securities lending agent and to the receipt of compensation by MSTC in connection with these transactions, provided certain enumerated conditions are met.

Subsequent to the granting of PTE 96–14, the Applicants informed the Department that the specific wording of Condition (9) of the exemption would preclude master trusts, group trusts, bank collective investment funds, insurance company pooled separate accounts and other commingled investment vehicles from lending securities to the MS Broker-Dealers unless each plan participating therein had assets with an aggregate fair market value of at least $50 million. However, the Applicants note that Representation 25 of the Summary of Facts and Representations of the proposed exemption states that the intent of the $50 million restriction is to ensure that any lending to the MS Broker-Dealers will be monitored by an independent fiduciary of above average experience and sophistication in matters relating to securities lending. To the extent that the purpose of this restriction is to ensure the sophistication of the fiduciary who is making the lending decision on behalf of plans, the Applicants believe that the commingled investment vehicles whose total assets have an aggregate market value of at least $50 million and which are managed by a fiduciary who is independent of the MS Broker-Dealers should also be permitted to lend securities to such broker-dealers, provided that such commingled entities have not been formed for the sole purpose of making loans of securities. Although the Department agrees with the Applicant, it has proposed certain additional requirements for pooled arrangements involving the assets of either Related Plans or Unrelated Plans. These additional requirements are as follows:

A. Related Plans

With respect to two or more plans, which are maintained by the same employer, controlled group of corporations or employee organization, whose assets are invested in a master trust or any other form of plan asset look-through entity, which entity is engaged in securities lending arrangements with the MS Broker-Dealers, the Department notes that the $50 million threshold may be satisfied by aggregating the assets of the investing plans within the pooled vehicle. In this regard, the Department also notes that an employer may retain an independent investment manager to manage all or a portion of plan assets invested in a master trust. Under these circumstances, the fiduciary must have total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

B. Unrelated Plans

For two or more plans which are not maintained by the same employer, controlled group of corporations or employee organization, whose assets are invested in a group trust or other plan asset look-through entity, which entity is engaged in securities lending arrangements with the MS Broker-Dealers, the $50 million threshold will apply to the aggregate assets of such entity so long as the fiduciary responsible for making the investment decision on behalf of the group trust or other plan assets look-through entity is not the sponsoring employer, a member of the controlled group of corporations, the employee organization, or an affiliate, and has full investment responsibility [1] with respect to the plan assets invested therein. Also, the fiduciary must have total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

Accordingly, Condition (9) of PTE 96–14, which has been redesignated herein as Condition (12), has been revised to read as follows:

(12) Only plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to the MS Broker-Dealers; provided however that—

(a) In the case of two or more plans which are maintained by the same employer,

[1] For purposes of this exemption, the term ''full investment responsibility'' means that the fiduciary responsible for making the investment decision has and exercises discretionary management authority over all of the assets of the group trust or other plan assets look-through entity.

controlled group of corporations or employee organization (the Related Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with the MS Broker-Dealers, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that, if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million, or

(b) In the case of two or more plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with the MS Broker-Dealers, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Is neither the sponsoring employer, a member of the controlled group of corporations, the employee organization, nor an affiliate,

(ii) Has full investment responsibility with respect to plan assets invested therein, and

(iii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million;

(In addition, none of the entities described above must be formed for the sole purpose of making loans of securities.)

As previously noted, in addition to the foregoing modifications, the Department has determined to revise certain of the conditions contained in PTE 96–14. In this regard, the Department has revised or added new conditions in Section I of the proposal pertaining to (a) The arm's length nature of each loan of securities by a client-plan to an MS Broker-Dealer (Condition 2); (b) approval of the general terms of the securities loan agreement by an independent fiduciary (Condition 3); (c) disclosures concerning the financial condition of the MS Broker-Dealer (Condition 7); (d) the compensation paid to a client-plan for lending securities (Condition 8); (e) indemnification and holding harmless of the client-plan by the MS Broker-Dealer against all losses, damages, liabilities, costs and expenses (Condition 10); (f) a requirement that MSTC will not make a securities loan to any MS Broker-Dealer on any day on which the market value of the securities proposed to be loaned, when added to the market value of all client-plan securities subject to outstanding loans to MS Broker-Dealers, exceeds 50 percent of the market value of all client-plan securities that are subject to securities loans, including the market value of securities proposed to be loaned to the MS Broker-Dealer (Condition 13); (g) the receipt of monthly reports by a client-plan's independent fiduciary relating to securities lending transactions engaged in by the client-plan (Condition 16); and (h) a general recordkeeping requirement that is to be complied with by MS&Co and its affiliates (Section II). In addition, the Department has defined the terms ''affiliate'' and ''control'' in Section III.

The new or revised language, which has been incorporated herein, appears in the Summary of Facts and Representations underlying PTE 96–14 as well as in the original exemption application. For language that did not appear in these documents, the Department consulted with the Applicants before making the revisions. This new or modified language is set forth as follows:

Section I. Covered Transactions

(New or Revised Conditions)

(2) The terms of each loan of securities by a client-plan to the MS Broker-Dealer will be at least as favorable to such plan as those of a comparable arm's length transaction between unrelated parties;

(3) Any arrangement for MSTC to lend plan securities to the MS Broker-Dealers will be approved in advance by a plan fiduciary who is independent of MSTC and the MS Broker-Dealers; (In this regard, the independent fiduciary also will approve the general terms of the securities loan agreement between the client-plan and the MS Broker-Dealer, the specific terms of which are negotiated and entered into by MSTC which will act as a liaison between the lender and the borrower to facilitate the lending transaction.)

(7) Prior to entering into a loan agreement, the MS Broker-Dealer will furnish its most recent publicly-available audited and unaudited financial statements to MSTC, which, in turn, will provide the statements to the client-plan before the plan is asked to approve the terms of the loan agreement. The loan agreement will contain a requirement that the MS Broker-Dealer must promptly notify lenders at the time of a loan of any material adverse changes in its financial condition since the date of the most recently furnished financial statements. If any such changes have taken place, MSTC will not make any further loans to the MS Broker-Dealer unless an independent fiduciary of the client-plan approves the loan in view of the changed financial condition;

(8) In return for lending securities, the client-plan either will —

(a) Receive a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan, or

(b) Have the opportunity to derive compensation through the investment of cash collateral; (Under such circumstances, the client-plan may pay a loan rebate or similar fee to the borrowing MS Broker-Dealer, if such fee is not greater than the fee the client-plan would pay in a comparable arm's length transaction with an unrelated party.)

(10) The MS Broker-Dealer will indemnify and hold harmless each lending client-plan against any and all losses, damages, liabilities, costs and expenses (including attorney's fees) incurred by such plan in connection with the lending of securities to the MS Broker-Dealers;

(13) No loan of securities will be made by MSTC as securities lending agent to any MS Broker-Dealer on any day on which the market value of the securities proposed to be loaned, when added to the market value of all client-plan securities subject to outstanding loans to MS Broker-Dealers, exceeds 50 percent of the market value of all client-plan securities subject to securities loans, including the market value of securities proposed to be loaned to the MS Broker-Dealer. (For purposes of this paragraph, market value shall be determined in U.S. dollars, based on the last preceding business day's closing prices of the securities and the last preceding business day's closing foreign exchange rates, if applicable.);

(16) Each client-plan will receive monthly reports with respect to securities lending transactions so that an independent fiduciary of a client-plan may monitor such transactions with the MS Broker-Dealer;

Section II. General Conditions

(1) The MS Broker-Dealers will maintain, or cause to be maintained, for a period of six years from the date of such transactions, in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described in paragraph (2) to determine whether the conditions of the exemption have been met, except that—

(a) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the MS Broker-Dealers, the records are lost or destroyed prior to the end of the six year period, and

(b) No party in interest other than the MS Broker-Dealers shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required below by paragraph (2);

(2) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (1) are unconditionally available at their customary location during normal business hours by—

(a) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission (the SEC),

(b) Any fiduciary of a participating client-plan or any duly authorized representative of such fiduciary, and

(c) Any contributing employer to any participating client-plan or any duly authorized employee representative of such employer;

(3) None of the persons described above in paragraphs (b)-(c) of paragraph (2) are authorized to examine the trade secrets of MS&Co or its affiliates or commercial or financial information which is privileged or confidential.

Section III. Definitions.

For purposes of this proposed exemption,

(1) An ''affiliate'' of a person includes—

(a) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(b) Any officer, director, or partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and

(c) Any corporation or partnership of which such other person is an officer, director or partner.

(2) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

Notice To Interested Persons

Notice of the proposed exemption will be mailed by first class mail to each plan participating in securities lending arrangements with the MS Broker-Dealers within 30 days of the publication of the notice of pendency in the **Federal Register**. The notice will contain a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2). The supplemental statement will inform interested persons of their right to comment on and/or to request a hearing with respect to the pending exemption. Written comments and hearing requests are due within 60 days of the publication of the proposed exemption the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption can be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) This proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This proposed exemption, if granted, is subject to the express condition that the Summary of Facts and Representations set forth in the notice of proposed exemption relating to PTE 96–14, as amended by this notice, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within 30 days after the publication of this proposed exemption in the **Federal Register**. All comments will be made a part of the record. Comments received will be available for public inspection with the referenced applications at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990).

Section I. Covered Transactions

If the exemption is granted, the restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective March 12, 1996, to the lending of securities to Morgan Stanley & Co. Incorporated (MS&Co) and to any other U.S. registered broker-dealers affiliated with Morgan Stanley Trust Company (the Affiliated Broker-Dealer; collectively, the MS Broker-Dealers) by employee benefit plans with respect to which the MS Broker-Dealer who is borrowing such securities is a party in interest or for which Morgan Stanley Trust Company (MSTC) acts as directed trustee or custodian and securities lending agent and to the receipt of compensation by MSTC in connection with these transactions, provided that the following conditions are met:

(1) Neither MS&Co nor MSTC will have any discretionary authority or control over a client-plan's assets involved in the transaction or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets;

(2) The terms of each loan of securities by a client-plan to the MS Broker-Dealer will be at least as favorable to such plan as those of a comparable arm's length transaction between unrelated parties;

(3) Any arrangement for MSTC to lend plan securities to the MS Broker-Dealers will be approved in advance by a plan fiduciary who is independent of MSTC and the MS Broker-Dealers; [2] (In this regard, the independent fiduciary also will approve the general terms of the securities loan agreement between the client-plan and the MS Broker-Dealer, the specific terms of which will be negotiated and entered into by MSTC which will act as a liaison between the lender and the borrower to facilitate the lending transaction.)

(4) A client-plan may terminate the arrangement at any time without penalty on five business days notice;

(5) The client-plans will receive collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, bank letters of credit or other collateral permitted under PTE

[2] The Department, herein, is not providing exemptive relief for securities lending transactions engaged in by primary lending agents, other than MSTC, beyond that provided pursuant to Prohibited Transaction Exemption (PTE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987) and PTE 82–63 (47 FR 14804, April 6, 1982).

81–6 (46 FR 7527, January 23, 1981) or any successor, from the MS Broker-Dealers by physical delivery, book entry in a securities depository, wire transfer or similar means by the close of business on or before the day the loaned securities are delivered to the MS Broker-Dealers;

(6) The market value of the collateral will initially equal at least 102 percent of the market value of the loaned securities and, if the market value of the collateral falls below 100 percent, the MS Broker-Dealers will deliver additional collateral on the following day such that the market value of the collateral will again equal 102 percent;

(7) Prior to entering into a loan agreement, the MS Broker-Dealer will furnish its most recent publicly-available audited and unaudited financial statements to MSTC, which, in turn, will provide the statements to the client-plan before the plan is asked to approve the terms of the loan agreement. The loan agreement will contain a requirement that the MS Broker-Dealer must promptly notify lenders at the time of a loan of any material adverse changes in its financial condition since the date of the most recently furnished financial statements. If any such changes have taken place, MSTC will not make any further loans to the MS Broker-Dealer unless an independent fiduciary of the client-plan approves the loan in view of the changed financial condition;

(8) In return for lending securities, the client-plan either will—

(a) Receive a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan, or

(b) Have the opportunity to derive compensation through the investment of cash collateral. (Under such circumstances, the client-plan may pay a loan rebate or similar fee to the borrowing MS Broker-Dealer, if such fee is not greater than the fee the Client Plan would pay in a comparable arm's length transaction with an unrelated party.)

(9) All procedures regarding the securities lending activities will, at a minimum, conform to the applicable provisions of Prohibited Transaction Exemption (PTE) 81–6 and PTE 82–63 (47 FR 14804, April 6, 1992);

(10) The MS Broker-Dealer will indemnify and hold harmless each lending client-plan against any and all losses, damages, liabilities, costs and expenses (including attorney's fees) incurred by such plan in connection with the lending of securities to the MS Broker-Dealers;

(11) The client-plan will receive the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions;

(12) Only plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to the MS Broker-Dealers; provided, however that—

(a) In the case of two or more plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with the MS Broker-Dealers, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that, if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million, or

(b) In the case of two or more plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with the MS Broker-Dealers, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Is neither the sponsoring employer, a member of the controlled group of corporations, the employee organization, nor an affiliate,

(ii) Has full investment responsibility with respect to plan assets invested therein, and

(iii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million; (In addition, none of the entities described above must be formed for the sole purpose of making loans of securities.)

(13) No loan of securities will be made by MSTC as securities lending agent to any MS Broker-Dealer on any day on which the market value of the securities proposed to be loaned, when added to the market value of all client-plan securities subject to outstanding loans to MS Broker-Dealers, exceeds 50 percent of the market value of all client-plan securities subject to securities loans, including the market value of securities proposed to be loaned to the MS Broker-Dealer. (For purposes of this paragraph, market value shall be determined in U.S. dollars, based on the last preceding business day's closing prices of the securities and the last preceding business day's closing foreign exchange rates, if applicable.);

(14) With regard to the ''exclusive borrowing'' agreement, the MS Broker-Dealer will directly negotiate the agreement with a plan fiduciary who is independent of the MS Broker-Dealers and MSTC, and such agreement may be terminated by either party to the agreement at any time;

(15) Prior to any plan's approval of the lending of its securities to an MS Broker-Dealer, a copy of this exemption (and the notice of pendency) will be provided to the client-plan;

(16) Each client-plan will receive monthly reports with respect to securities lending transactions so that an independent fiduciary of a client-plan may monitor such transactions with the MS Broker-Dealer;

Section II. General Conditions

(1) MS Broker-Dealers will maintain, or cause to be maintained, for a period of six years from the date of such transactions, in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described in paragraph (2) to determine whether the conditions of this exemption have been met, except that —

(a) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the MS Broker-Dealers, the records are lost or destroyed prior to the end of the six year period, and

(b) No party in interest other than the MS Broker-Dealers shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for

examination as required below by paragraph (2);

(2) Notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (1) are unconditionally available at their customary location during normal business hours by —

(a) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission (the SEC),

(b) Any fiduciary of a participating client-plan or any duly authorized representative of such fiduciary, and

(c) Any contributing employer to any participating client-plan or any duly authorized employee representative of such employer;

(3) None of the persons described above in paragraphs (b)-(c) of paragraph (2) are authorized to examine the trade secrets of MS&Co or its affiliates or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this proposed exemption,

(1) An ''affiliate'' of a person includes—

(a) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(b) Any officer, director, or partner, employee or relative (as defined in section 3(15) of the Act) of such other person; and

(c) Any corporation or partnership of which such other person is an officer, director or partner.

(2) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

EFFECTIVE DATE: If granted, this proposed exemption will be effective as of March 12, 1996.

The availability of this proposed exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 96–14, refer to the proposed exemption, grant notice and technical correction notice which are cited above.

Signed at Washington, D.C., this 21st day of January, 1998.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 98–1789 Filed 1–23–98; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 98–04; Exemption Application No. D–10472, et al.]

Grant of Individual Exemptions; Pentair Retirement Savings and Stock Incentive Plan (the Plan), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Pentair Retirement Savings and Stock Incentive Plan (the Plan) Located in St. Paul, MN

[Prohibited Transaction Exemption No. 98–04; Application No. D–10472]

Exemption

The restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the past sale by the Plan (the Sale) of the Plan's remaining interest (the Interest) in two guaranteed investment contracts (the GICs) of Confederation Life Insurance Company (CL) to Pentair, Inc. (Pentair), the sponsoring employer and a party in interest with respect to the Plan; provided the following conditions were met:

(1) the Sale was a one-time transaction for cash;

(2) the Plan received no less than the fair market value of the Interests at the time of the Sale;

(3) the Plan and its participants and beneficiaries have not incurred any expenses or any losses from the Sale; and

(4) any future distributions from the GICs that exceed the consideration paid by Pentair to the Plan for the Interests shall be paid to the Plan and allocated to the respective accounts of the affected Plan participants.

EFFECTIVE DATE: This proposed exemption will be effective on June 13, 1997.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of Proposed Exemption published on November 24, 1997, at 62 FR 62639.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department,

telephone (202) 219–8881. (This is not a toll-free number.)

Robert H. Herzog Profit Sharing Plan (the Plan) Located in Santa Barbara, California

[Prohibited Transaction Exemption 98–05; Exemption Application No. D–10494]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale (the Sale) of a certain residential condominium (the Property) by the Plan [1] to Robert H. Herzog (Mr. Herzog), a disqualified person with respect to the Plan, provided that the following conditions are met:

(a) The Sale is a one-time transaction for cash;

(b) The terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party;

(c) The Plan receives the fair market value of the Property at time of the Sale; and

(d) The Plan is not required to pay any commissions, costs or other expenses in connection with the Sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 24, 1997 at 62 FR 62641.

FOR FURTHER INFORMATION CONTACT: Mr. James Scott Frazier of the Department, telephone (202) 219–7222. (This is not a toll-free number.)

CoreStates GIC and BIC Fund (the Fund) Located in Philadelphia, Pennsylvania

[Prohibited Transaction Exemption No. 98–06; Application No. D–10522]

Exemption

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale (the Sale) by the Fund of the Fund's remaining interest in two Guaranteed Investment Contracts (the GICs) of Confederation Life Insurance Company (CL) to CoreStates Bank, N.A. (the Bank), a party in interest with respect to the Fund; provided (1) the Sale was a one-time transaction for cash, (2) the Fund received no less than the fair market value of the GICs at the time of the Sale, (3) the Fund and its participants and beneficiaries did not incur any costs or expenses with respect to the Sale, and (4) any future distributions from the GICs that exceed the consideration paid to the Fund by the Bank in the Sale shall be paid to the Fund and allocated to the respective accounts of the affected employee benefit plans.

EFFECTIVE DATE: This exemption will be effective as of December 31, 1997.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of Proposed Exemption published on November 24, 1997, at 62 FR 62641.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 21st day of January, 1998.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 98–1791 Filed 1–23–98; 8:45 am]

BILLING CODE 4510–29–P

[1] Because Mr. Herzog is the only participant in the Plan, there is no jurisdiction under 29 CFR § 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting; Notice of Previously Held Emergency Meeting

TIME AND DATE: 2:24 p.m., Wednesday, January 21, 1998.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, Virginia 22314–3428.

STATUS: Closed.

MATTER CONSIDERED:

1. The ERB Report and Possible Personnel Actions Resulting From That Report. Closed pursuant to exemptions (2) and (6).

The Board voted unanimously that Agency business required that a meeting be held with less than the usual seven days advance notice, that it be closed to the public, and that earlier announcement of this was not possible.

The Board voted unanimously to close the meeting under the exemptions stated above. Acting General Counsel James Engel certified that the meeting could be closed under those exemptions.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304,

Becky Baker,

Secretary of the Board.

[FR Doc. 98–1959 Filed 1–22–98; 3:01 pm]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

Cancellation of Proposed Generic Communication Control Rod Insertion Problems

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of cancellation.

SUMMARY: The Nuclear Regulatory Commission (NRC) is canceling a bulletin supplement that requests addressees to take actions to ensure the continued operability of the control rods. The proposed bulletin supplement was endorsed by the Committee to Review Generic Requirements (CRGR) and subsequently published in the **Federal Register** for public comment (62 FR 27629, May 20, 1997). The NRC considered comments received from interested parties in the final evaluation of the proposed bulletin supplement. Furthermore, the staff has received substantial additional data and data analysis from fuel manufacturers and owner's groups regarding the incomplete rod insertion (IRI) issue. Licensees, as well as fuel manufacturers and owner's groups, have informed the NRC of efforts to eliminate the IRI problem, including redesign of the fuel assemblies and improved core management. The staff expects these efforts to be successful, and the staff will follow this issue by monitoring plant operations through normal inspections and reporting activities.

FOR FURTHER INFORMATION CONTACT: Margaret S. Chatterton, (301) 415–2889.

Dated at Rockville, MD, this 13th day of January 1998.

David B. Matthews,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–1751 Filed 1–23–98; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Notice of modifications to an existing system of records and the addition of new routine uses to that and another existing system of records.

SUMMARY: The purpose of this document is to publish notice of modifications to existing system of records USPS 050.040, Finance Records—Uniform Allowance Program and the addition of new routine uses to that system and to system of records USPS 050.020, Finance Records—Payroll System. The modifications to USPS 050.040 are prompted by changes in the Postal Service's procedures for providing monetary allowances to postal employees purchasing authorized uniforms. The modifications to USPS 050.020 are prompted by requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193). That Act requires agencies to report new-hire and wage data to the Department of Health and Human Services which will use the data to locate individuals to establish paternity and enforce child support obligations.

DATES: Any interested party may submit written comments on the proposed amendments and additions. This proposal will become effective without further notice on March 27, 1998, unless comments received on or before that date result in a contrary determination.

ADDRESSES: Written comments on this proposal should be mailed or delivered to: PAYROLL ACCOUNTING/RECORDS, UNITED STATES POSTAL SERVICE, 475 L'ENFANT PLAZA SW RM 8831, WASHINGTON DC 20260–5243.

Copies of all written comments will be available at the above address for public inspection and photocopying between 8:00 a.m. and 4:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Betty E. Sheriff, (202) 268–2608.

SUPPLEMENTARY INFORMATION: Pursuant to recent changes in the Postal Service uniform program, the Postal Service will disclose data from its system USPS 050.040, Finance Records—Uniform Allowance Program to contractors who provide uniform distribution and postal payment card services.

The Postal Service uniform program requires certain employees to wear prescribed uniforms in performing their duties. These employees are entitled to a uniform allowance to purchase authorized uniform items which meet Postal Service specifications. As a result of recent changes in the uniform allowance program, employees will purchase uniform items from a centralized distribution firm using a purchasing card issued by a financial institution. The proposed system modifications support those changes by expanding the ''system location'' to include contractor facilities and by adding a routine use permitting disclosure to contract distribution firms and financial institutions to provide uniform items and purchasing card services, respectively.

Pursuant to Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the Postal Service will disclose data from its system USPS 050.020, Finance Records—Payroll System to the Office of Child Support Enforcement (OCSE), Administration for Children and Families, Department of Health and Human Services (DHHS) for use in its Federal Parent Locator System (FPLS) and Federal Tax Offset System, DHHS/OCSE No. 09–90–0074. Information on this system was last published at 61 FR 38754, July 25, 1996.

FPLS is a computerized network through which states may request location information from federal and state agencies to find non-custodial parents and/or their employers for purposes of establishing paternity and securing support. Effective October 1, 1997, the FPLS will be enlarged to include the Directory of New Hires, a database containing information on employees commencing employment, quarterly wage data on private and public sector employees, and information on unemployment compensation benefits. Effective October 1, 1998, the FPLS will be expanded to include a Federal Case Registry. The Federal Case Registry will contain abstracts on all participants involved in child support enforcement cases. When the Federal Case Registry is instituted, its files will be matched on an ongoing basis against the files in the National Directory of New Hires to determine if an employee is a participant in a child support case anywhere in the country. If the FPLS identifies a person as being a participant in a state child support case, that state will be notified of the participant's current employer. State requests to the FPLS for location information will also continue to be processed after October 1, 1998.

The data to be disclosed by the Postal Service to the FPLS include employee name, social security number, address, date of birth, and employment information such as date of hire and work location.

In addition, names and social security numbers submitted by the Postal Service to the FPLS will be disclosed by the OCSE to the Social Security Administration for verification to ensure that the social security number provided is correct. The data disclosed by the Postal Service to the FPLS also will be disclosed by the OCSE to the Secretary of the Treasury for verifying claims for the advance payment of earned income tax credit or to verify an employment claim on a tax return.

Addition of the routine uses to USPS 050.020 and USPS 050.040 is proposed in accordance with the Privacy Act (5 U.S.C. 552a(b)(3)). The Privacy Act permits the disclosure of information about individuals without their consent for a routine use when the information's use will be compatible with the purpose for which the information was originally collected. Data within USPS 050.040 is kept for the purpose of funding the procurement of uniforms. Disclosure of

this information to financial institutions and uniform distribution firms, each providing services related to purchasing uniform items, is consistent and compatible with that purpose. Similarly, since the proposed uses of the data within USPS 050.020 are required by Public Law 104–193, they are necessary and proper uses and therefore compatible uses which meet Privacy Act requirements.

The system modifications and additions are not expected to have any undue effect on individual privacy rights. The modifications to USPS 050.040 do not alter the scope or character of information collected by the system. The contract financial institutions and uniform distribution firms have been made subject to the Privacy Act in accordance with subsection (m) and are required to apply appropriate protections subject to the audit and inspection of the Postal Inspection Service. Records within USPS 050.040 and 050.020 continue to be kept in a secured environment, with automated data processing physical and administrative security and technical software applied to data on computer media. Paper records are kept in a secured area of post offices and are made available internally on an official need-to-know basis.

Postal Service records disclosed to the OCSE will be accomplished by Connect:Direct, hardcopy medium, or other means ensuring the security of the data. The FPLS will ensure the data's integrity to the greatest extent practicable by validating names and social security numbers with Social Security Administration records and the Postal Service will be notified of any invalid, incomplete, and corrected social security numbers.

USPS Privacy Act system 050.020 was last published in its entirety in the **Federal Register** on December 4, 1992 (57 FR 57515–57519) and was amended on November 22, 1993 (58 FR 61718–61719) and June 12, 1996 (61 FR 29774). USPS Privacy Act system 050.040 was last published in its entirety in the **Federal Register** on October 26, 1989 (54 FR 43669–43670). The Postal Service proposes amending these systems as shown below.

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System, 050.020.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

[Change to read:]

General routine use statements a, b, c, d, e, f, g, h, j, k, l, and m listed in the prefatory statement at the beginning of the Postal Service's published system notices apply to this system. Other routine uses are as follows:

* * * * *

[Add the following:]

33. Disclosure of information about current or former postal employees may be made to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System (FPLS) and Federal Tax Offset System for locating individuals and identifying their income sources to establish paternity, establish and modify orders of support, and for enforcement action.

34. Disclosure of information about current or former postal employees may be made to the Social Security Administration for verifying social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement.

35. Disclosure of information about current or former postal employees may be made to the Department of the Treasury for purposes of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return.

USPS 050.040

SYSTEM NAME:

Finance Records—Uniform Allowance Program, 050.040.

SYSTEM LOCATION:

[Change to read:]

Postal facilities employing personnel entitled to uniform allowances and the Information Service Center, St. Louis, MO, and contractor facilities where necessary to perform uniform supply and postal purchasing card services.

* * * * *

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

[Change to read:]

Name, Social Security number, home address; uniform code, designation code, and pay location; account balance and invoices and other information relating to the uniform item(s) purchase.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

[Change to read:]

General routine use statements a, b, c, d, e, f, g, h, j, k, l, and m listed in the prefatory statement at the beginning of the Postal Service's published system notices apply to this system. Other routine uses are as follows:

* * * * *

[Add the following:]

3. Disclosure of information about current or former employees may be made to a financial institution under contract with the Postal Service to provide purchasing card services with respect to the purchase of uniform items.

4. Disclosure of information about current or former employees may be made to a distribution firm under contract with the Postal Service to provide fulfillment services with respect to the purchase of uniform items.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–1669 Filed 1–23–98; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26815]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

January 16, 1998.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public References.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 9, 1998, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

National Fuel Gas Company et al. (70–9153)

National Fuel Gas Company (''NFG''), a gas registered holding company, and each of its wholly owned subsidiaries, National Fuel Gas Distribution Corporation (''Distribution''), a gas utility company, and NFG's nonutility subsidiaries, National Fuel Gas Supply Corporation (''Supply''), Utility Constructors, Inc. (''UCI''), Highland Land & Minerals, Inc. (''Highland''), Leidy Hub, Inc. (''Leidy''), Horizon Energy Development, Inc. (''Horizon''), Data-Track Account Services, Inc. (''Data-Track'') and Seneca Independence Pipeline Company (''Seneca Independence''), each of 10 Lafayette Square, Buffalo, New York 14203, Seneca Resources Corporation (''Seneca Resources''), Niagara Independence Marketing Company (''Niagara Marketing'') and Niagara Energy Trading Inc. (''Niagara Energy''), each of 1201 Louisiana Street, Suite 400, Houston, Texas 77002, and National Fuel Resources, Inc. (''NFR'') of 165 Lawrence Bell Drive, Suite 120, Williamsville, New York 14221 (collectively, ''Applicants''), have filed an application-declaration (''Application'') under sections 6(a), 7, 9(a), 10, 12(b), 12(f), 32 and 33 of the Act, and rule 53 under the Act requesting authorization to engage in various financing and related transactions for the period from the effective date of an order in this matter through December 31, 2002 (''Authorization Period''). The Applicants, other than NFG, are sometimes referred to collectively as ''Subsidiaries.''

The authorization would be subject to the following conditions: (1) with respect to long-term debt financing activities (a) NFG's long-term debt must be rated investment grade by at least one nationally recognized statistical rating organization, as that term is used in Rule 15c3–1(c)(2)(vi)(F) under the Securities Exchange Act of 1934 and (b) NFG's common equity, as reflected in its most recent Form 10–K or Form 10–Q, does not fall below 30% of its consolidated capitalization; (2) the effective cost of money for debt may not exceed 300 basis points over the interest rate on U.S. Treasury securities of a comparable term; (3) the effective cost of money for preferred stock and other fixed income securities may not exceed 500 basis points over the interest rate on 30-year U.S. Treasury securities; (4) the maturity of debt may not be more than 50 years; (5) issuance expenses in connection with an offering of securities, including any underwriting fees, commissions or other similar compensation, may not exceed 5% of the principal or total amount of the securities being issued; and (6) the aggregate amount of external debt and equity financing to be issued by NFG during the Authorization Period will not exceed (a) $750 million of short-term borrowings outstanding at any one time and (b) $2 billion of long-term debt and equity outstanding at any one time, excluding any common stock issued under the NFG Rights Plan.[1] The value of debt securities will equal the aggregate principal amount of the debt securities while the value of equity securities will equal the consideration received by NFG at the time the equity securities are issued. In addition, proceeds from the sale of securities by NFG in external financing transactions will be used by NFG for general corporate purposes including (i) the financing of capital expenditures of NFG and its Subsidiaries, (ii) the financing of inventories and other working capital requirements, (iii) the acquisition, retirement or redemption of securities issued by NFG that qualifies for the exemption in rule 42 or a successor rule and/or (iv) investments in exempt wholesale generators (''EWGs''), as defined in section 32 of the Act, foreign utility companies (''FUCOs''), as defined in section 33 of the Act, and energy-related companies and gas related companies, each as defined in rule 58. Any deviation from these conditions would require further Commission approval.

The proposed transactions and the proposed participation of the various Applicants are described below.

1. External Financing by NFG

NFG proposes to issue and sell short-term securities, with a term not to exceed 270 days, aggregating not more than $750 million outstanding at any one time during the Authorization Period. NFG also proposes to issue and sell long-term securities aggregating not more than $2 billion outstanding at any one time through the Authorization Period. Securities may be issued through underwriters or dealers, directly to a limited number of purchasers or a single purchaser,[2] through agents, in exchange for securities of other companies, the acquisition of which is separately authorized by the Commission or exempt under section 32, 33 or 34 or rule 58, as applicable, and/or through compensation, benefits and incentive plans, customer stock purchase plans and dividend reinvestment plans (collectively, ''Stock Issuance Plans''). NFG also proposes to engage in interest rate swaps and similar hedging instruments.

a. Short-term Debt

NFG proposes to issue short-term debt, consisting of borrowings under its credit facilities and the issuance of commercial paper and/or other forms of short-term financing. NFG represents that in no case will the outstanding balance of all short-term borrowings exceed $750 million during the Authorization Period. With respect to its short-term borrowings, NFG proposes that the authorizations requested in this proceeding supersede the short-term borrowing authorization contained in Commission order, dated December 28, 1995 (''December 1995 Order'').[3]

Commercial paper will be sold by NFG in domestic or foreign commercial paper markets directly or through dealers and placement agents at prevailing discount rates or prevailing coupon rates at the date of issuance for commercial paper of comparable quality and terms. NFG anticipates that the commercial paper will then be resold at

[1] The terms and conditions of this authorization are contained in Holding Co. Act Release No. 26532 (June 12, 1996).

[2] If underwriters are used in the sale of the securities, these securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale. The securities may be offered to the public either through underwriting syndicates (which may be represented by managing underwriters) or directly by one or more underwriters acting alone. The securities may be sold directly by NFG or through agents designated by NFG from time to time. If dealers are used in the sale of any securities, these securities will be sold to the dealers and any dealer may then resell the securities to the public at fixed prices or varying prices to be determined by the dealer at the time of resale. NFG may also sell securities to agents acting as principal. These agents may sell the securities to the public at fixed prices or varying prices to be determined by the agent at the time of resale. If equity securities are being sold in an underwritten offering, NFG may grant the underwriters an over-allotment option permitting the purchase from NFG of additional equity securities (an additional 15% under present guidelines), at the same price as the equity securities then being offered, for the sole purpose of covering over-allotments.

Securities issued by NFG may be sold under ''delayed delivery contracts'' which permit the underwriters or agents to locate buyers who will agree to buy the securities at an agreed price on the trade date but accept delivery at a later date. Debt securities may also be sold through the use of medium-term notes and similar programs or in transactions under which securities are sold to initial purchasers and then resold by the initial purchasers (typically, investment banks or similar institutions) in transactions covered by rule 144A or another exemption under the Securities Act of 1933 (''Securities Act'') or under Regulation S under the Securities Act.

[3] *See* Holding Co. Act Release No. 26443.

a discount to corporate and institutional investors, which may include commercial banks, insurance companies, pension funds, investment trusts, mutual funds, foundations, colleges and universities, finance companies and nonfinancial corporations. Foreign commercial paper may also be sold to individual investors.

Back-up lines of credit for 100% of the outstanding amount of commercial paper are generally required by credit rating agencies. NFG currently has a committed credit facility which provides support for its commercial paper program.

NFG proposes to establish credit facilities with banks and/or other financial institutions and to issue and sell, from time to time, short-term notes. These notes will bear interest at rates comparable to, or lower than, those available through other forms of short-term borrowing with similar terms requested in this proceeding, and will have a term of not more than 270 days. NFG requests authority to incur, as necessary, commitment or similar fees not to exceed one-half of one percent (.50%) of the average daily credit facility available, and/or compensating balances not to exceed twenty percent (20%) of the credit facility established.

NFG further requests authorization to amend its commercial paper program or credit facilities without further Commission authorization, provided that the term of any borrowing under the program or facility does not extend beyond 270 days from its date of issuance or borrowing.

NFG states that it may engage in other types of short-term financing, which would include bank borrowings and other short-term securities issued under a mortgage or indenture, as it deems appropriate at the time of issuance. The term of these short-term borrowings will not exceed 270 days.

b. Long-term Securities

NFG proposes to issue and sell long-term securities which would consist of any combination of long-term debt, debt having terms in excess of 270 days, common stock, preferred stock or other equity securities. The aggregate principal amount of long-term debt securities and the value of the consideration received from the issuances of equity securities under the Application during the Authorization Period will not exceed $2 billion at any one time outstanding.

Long-term debt securities would include, but not be limited to, debentures, convertible debt, subordinated debt, medium-term notes, bank borrowings and securities with call or put options. Long-term debt securities would have the designation, aggregate principal amount, maturity, interest rate(s) or methods of determining the same, interest payment terms, redemption provisions, non-refunding provisions, sinking fund terms, conversion or put terms, U.S. dollar or foreign currency denominations, security and subordination provisions, and other terms and conditions as NFG may determine at the time of issuance. Medium-term notes would be issued under the Indenture, dated as of October 15, 1994, between NFG and The Bank of New York, Trustee, as amended (''Indenture''). Debentures and other long-term securities may be issued under the Indenture or under a mortgage or other indenture.

Equity securities would include common stock (including the rights with respect to such common stock), including common stock issued by Stock Issuance Plans under prior Commission orders [4] during the Authorization Period and future Stock Issuance Plans authorized by the Commission, preferred stock, other preferred securities, options and/or warrants convertible into common or preferred stock and common and/or preferred stock issued upon the exercise of convertible debt, rights, options, warrants and/or similar securities.

From time to time during the Authorization Period, NFG may adopt other similar Stock Issuance Plans. For instance, a direct stock purchase plan with a dividend reinvestment feature that allows sales to persons not already shareholders may be implemented. NFG proposes to issue shares of common stock under existing plans and similar plans or plan funding arrangements it may adopt and to engage in other sales of is shares of common stock for reasonable business purposes without the requirement of prior Commission authorization during the Authorization Period. With respect to issuances of long-term securities, NFG proposes that the authorizations requested in this proceeding supersede the authorizations contained in the Existing Common Stock Authorizations, except that the grants of common stock and rights to purchase common stock under the 1997 Award and Option Plan may be issued through December 12, 2006.[5]

c. Hedging Transactions

NFG proposes to enter into hedging transactions (''Hedge Program'') related to all or a portion of existing or anticipated financing, including floating rate debt or fixed rate debt, using interest rate swaps, caps, floors, collars, ceilings, options and forwards (collectively, ''Derivative Transactions'') with counterparties during the Authorization Period, in notional (i.e., principal) amounts aggregating not in excess of the amount of debt outstanding at any one time.

NFG proposes to use two different swap strategies. Under one swap strategy, NFG would agree to make payments of interest to a counterparty, payable periodically. The interest would be payable at a variable or floating rate index and would be calculated on a notional amount. In return, the counterparty would agree to make payments to NFG based upon the same notional amount and at an agreed upon fixed interest rate. This would be a ''floating-to-fixed swap'' on NFG's part. Under another swap strategy, NFG would pay a fixed interest rate and receive a variable interest rate on a notional amount. This would be a ''fixed-to-floating swap'' on NFG's part.

NFG also proposes to enter into an anticipatory interest rate hedging program (''Anticipatory Hedge Program'') using Derivative Transactions within a limited time prior to the issuance of short- or long-term debt securities. The Hedge Program will be used to fix and/or limit the interest rate risk exposure of any new issuance through: (1) a forward sale of exchange-traded U.S. Treasury futures contracts, U.S. Treasury securities and/or a forward swap (each a ''Forward Sale''); (2) the purchase of put options on U.S. Treasury securities (''Put Options Purchase''); (3) a Put Options Purchase in combination with the sale of call options on U.S. Treasury securities (''Zero Cost Collar''); or (4) some combination of a Forward Sale, Put Options Purchase and/or Zero Cost Collar.

The program may be executed on-exchange (''On-Exchange Trades'') with brokers through the opening of futures and/or options positions traded on the Chicago Board of Trade, the opening of over-the-counter positions with one or more counterparties (''Off-Exchange Trades'') or a combination of On-Exchange-Trades and Off-Exchange-Trades'') or a combination of On-Exchange-Trades and Off-Exchange-Trades. NFG will determine the optimal

[4] *See* Holding Co. Act Release Nos. 26670 (Feb. 18, 1997) (''February 1997 ORder''), 26655 (Jan. 24, 1997), 26394 (Oct. 19, 1995), 26261 (Mar. 30, 1995), 26176 (Nov. 30, 1994), 25753 (Mar. 5, 1993) and 24793 (Dec. 28, 1988) (collectively, ''Existing Common Stock Authorizations'').

[5] The 1997 Award and Option Plan under the February 1997 Order authorizes awards granting the right to purchase up to 1,900,000 shares of common stock through December 12, 2006.

structure of the Anticipatory Hedge Program at the time of execution. NFG may decide to lock in interest rates and/or limit its exposure to interest rate increases. All open positions under the Anticipatory Hedge Program will be closed on or prior to the date of the new issuance and NFG will not, at any time, take possession of the underlying U.S. Treasury securities.

All transactions entered into under the Hedge Program will be bona fide hedges and will meet the criteria established by the Financial Accounting Standards Board in order to qualify for hedge accounting treatment, and NFG will comply with the financial disclosure requirements associated with hedging transactions.

NFG proposes that the authorizations requested in this proceeding with respect to hedging transactions, including the Hedge Program and the Anticipatory Hedge Program, supersede the authorizations to engage in hedging transactions contained in the December 1995 Order.

d. Other Securities

In addition to the specific securities for which NFG seeks authorization in this proceeding, NFG also proposes to issue other types of securities (''Other Securities'') that it deems appropriate during the Authorization Period. NFG requests that the Commission reserve jurisdiction over the issuance of Other Securities. NFG also undertakes that it will file a post-effective amendment in this proceeding describing the general terms of the proposed Other Securities and obtain a supplemental order of the Commission authorizing the issuances of Other Securities.

2. Intrasystem Financing by Subsidiaries

The Subsidiaries propose various financing transactions between NFG and the Subsidiaries and among the Subsidiaries.

a. Money Pool

Under the December 1995 Order, NFG, Distribution, Supply, Seneca Resources, Highland, Leidy, Horizon, Data-Track, NFR and UCI (''Current Money Pool Participants'') were authorized to engage in a money pool arrangement (''Money Pool'') through December 31, 2000. The Current Money Pool Participants now propose to continue to participate in, and incur short-term borrowings from, the Money Pool through the Authorization Period. NFG proposes to add Seneca Independence, Niagara Marketing and Niagara Energy as new participants to the Money Pool. NFG further proposes that the authorizations requested in this proceeding with respect to the Money Pool supersede the authorizations for the current Money Pool contained in the December 1995 Order.

At certain times during the year, NFG and certain Subsidiaries generate surplus funds. Each Subsidiary may contribute excess funds to the Money Pool from time to time. The Applicants propose that the Subsidiaries borrow short-term funds from the Money Pool and that the maximum amount of Money Pool borrowings outstanding for each Subsidiary will be determined by NFG and the Subsidiaries in accordance with business needs. Subsidiary borrowings from the Money Pool would be used to provide financing for general corporate purposes, including the temporary financing of inventories and other working capital requirements and construction spending.

NFG will administer the Money Pool and coordinate the system's short-term borrowings but cannot borrow surplus funds generated by the Subsidiaries. NFG will match, to the extent possible, the short-term cash surpluses and borrowing requirements of the Subsidiaries.

The sources of funding for the Money Pool may consist of surplus funds of NFG and/or of its Subsidiaries, proceeds from NFG's sale of commercial paper, borrowings under credit facilities, borrowings by NFG from banks or other financial institutions and/or issuances of other securities. Amounts borrowed by NFG under the $750 million short-term borrowing authorization requested in this proceeding would be included in the Money Pool.

Subsidiary requests for short-term loans will be met first from available surplus funds of the other Subsidiaries, and then from NFG corporate funds, if available. In the event these sources of funds are insufficient, borrowings outside the system will be made by NFG through the issuance and sale of commercial paper, borrowings under credit facilities, other borrowing facilities with banks or other financial institutions and/or issuances of other securities. These borrowings will not exceed $750 million during the Authorization Period.

The interest rate on Subsidiary borrowings consisting solely of internal funds from the Money Pool will be the same rate charged on high-grade unsecured 30-day commercial paper sold through dealers by major corporate issuers. Borrowings consisting wholly or in part of funds obtained through the sale of commercial paper or borrowings from banks or other financial institutions will pay interest at a rate equal to NFG's net cost for these borrowings.

The Applicants state that none of the internal subsidiary funds (surplus funds of the Subsidiaries available in the Money Pool) will be used for the acquisition of an interest in an EWG or a FUCO except (a) investment by Horizon of up to $150 million and (b) investment by NFR or through a subsidiary, if formed, of up to $25 million.

b. Internal Nonutility Securities

National requests on behalf of the Subsidiaries, other than Distribution (''Nonutility Subsidiaries''), authorization to issue and sell securities of any type that are not otherwise exempt or authorized by Commission order (''Internal Nonutility Securities'') to NFG and other Nonutility Subsidiaries during the Authorization Period. NFG requests that the Commission reserve jurisdiction over the issuances of Internal Nonutility Securities. NFG also undertakes that it will file a post-effective amendment in this proceeding describing the general terms of the proposed Internal Nonutility Securities and obtain a supplemental order of the Commission authorizing the issuances of Internal Nonutility Securities.

3. External Financing by Subsidiaries

NFG also requests authorization for the Nonutility Subsidiaries to issue and sell securities of any type that are not otherwise exempt or authorized by Commission order, including guarantees (collectively, ''External Nonutility Securities''), to persons other than NFG, including banks, insurance companies and other financial institutions during the Authorization Period. NFG requests that the Commission reserve jurisdiction over the issuance of External Nonutility Securities. NFG also undertakes that it will file a post-effective amendment in this proceeding describing the general terms of the proposed External Nonutility Securities and obtain a supplemental order of the Commission authorizing the issuances of External Nonutility Securities.

Distribution also proposes to issue and sell debt securities of any type that are not otherwise exempt or authorized by Commission order to persons other than NFG, including banks, insurance companies and other financial institutions, in an aggregate principal amount which will not exceed $250 million during the Authorization Period.

4. Financing Entities

NFG and the Nonutility Subsidiaries propose to organize new corporations, trusts, partnerships or other entities created for the purpose of facilitating financings. These entities will issue to third parties interests in such entities or other securities authorized or issued under an exemption. Additionally, request is made for: (a) The issuance of debentures or other evidences of indebtedness by NFG or Nonutility Subsidiaries to a financing entity in return for the proceeds of the financing, and (b) the acquisition by NFG and Nonutility Subsidiaries of voting interests or equity securities issued by the financing entity to establish such Applicant's ownership of the financing entity. NFG and the Nonutility Subsidiaries also propose to enter into guarantees and expense agreements with the corresponding financing entities, under which they would agree to pay all amounts payable relating to the securities issued by the financing entity. The amount of any guarantees provided to financing entities will not exceed $250 million in the aggregate at any one time during the Authorization Period.

5. Guarantees by National

NFG is currently authorized to guarantee up to $500 million of obligations under Commission order dated November 12, 1993 (HCAR No. 25922) (''November 1993 Order''). NFG now proposes to guarantee securities of, and provide other forms of credit support with respect to obligations of, its Subsidiaries in an aggregate amount not to exceed $2 billion at any time during the Authorization Period. The $2 billion of guarantees is in addition to any financing requested in the Application. The terms and conditions of any guarantee will be negotiated on a case by case basis as the need arises. NFG proposes that the guarantee authorization requested in this proceeding supersede and replace the guarantee authorization granted in the November 1993 Order.

Guarantees and other forms of credit support provided by NFG on behalf of any EWG, FUCO or rule 58 company will be subject to the limitations of rule 53 or rule 58, as applicable.

6. Acquisition of EWGs, FUCOs and Rule 58 Companies

NFG proposes to use some or all of the proceeds of the financings for which authorization is requested in this proceeding to invest in EWGs and FUCOs in an aggregate amount which, when added to NFG's aggregate investment, as defined in rule 53(a)(1), would not exceed 50% of NFG's consolidated retained earnings, as defined in rule 53(a)(1). NFG proposes that the authorization to invest in EWGs and FUCOs requested in this Application supersede the authorization applicable to EWG and FUCO investments contained in Commission order dated August 29, 1995 (HCAR No. 26364).

NFG also proposes to use some or all of the proceeds of the financings for which authorization is requested in this proceeding to make investments in energy-related companies and gas-related companies under rule 58.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–1677 Filed 1–23–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22999; 812–10678]

SSgA Funds and State Street Bank and Trust Company, Notice of Application

January 14, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g) of the Act and rule 2a–7 thereunder; under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act; and pursuant to section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants SSgA Funds and State Street Bank and Trust Company (''State Street'') request an order that would permit SSgA Funds to enter into deferred compensation arrangements with certain of their directors.

FILING DATES: The application was filed on May 22, 1997 and amended on November 26, 1997. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 9, 1998 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. SSgA Funds, Two International Place, 35th Floor, Boston, Massachusetts 02110; State Street, 225 Franklin Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Staff Attorney, at (202) 942–0571, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch (tel. 202–942–8090).

Applicants' Representations

1. SSgA Funds is an open-end management investment company registered under the Act and comprised of several investment portfolios. State Street serves as investment adviser to each portfolio of SSgA Funds. Applicants request that the relief also apply to all registered investment companies or series of these companies now or in the future advised by State Street or any entity under common control with or controlled by State Street (these registered investment companies, together with SSgA Funds, the ''Funds'').[1]

2. Each member of the board of trustees of SSgA Funds (collectively, the ''Trustees'') who is not an employee of State Street or Frank Russell Investment Management Company[2] or any of their affiliates (each, an ''Eligible Trustee'') receives annual fees from SSgA Funds which collectively are, and are expected to continue to be, insignificant in comparison to the total net assets of SSgA Funds. No Trustee who is an employee of State Street or Frank Russell Investment Management

[1] Each Fund that currently intends to rely on the requested relief has been named as an applicant. Any other existing or future Fund that relies on the order will comply with the terms and conditions of the application.

[2] Frank Russell Investment Management Company is the administrator of SSgA Funds.

Company or any of their affiliates receives any remuneration from SSgA Funds.

3. SSgA Funds proposes to adopt a formal Deferred Compensation Plan (the ''Plan''). The Plan permits individual Eligible Trustees to elect to defer receipt of all or a portion of their fees, thereby also enabling them to defer payment of income taxes on such fees. The Plan may be amended from time to time by the Trustees, as long as such amendments are not inconsistent with the relief granted to applicants pursuant to the application.

4. An Eligible Trustee will be able to defer fees, but must so elect with respect to all of the Funds for which he or she serves as a Trustee. The election is to be made by execution of a notice of election to defer compensation (''Notice of Election''). Such election generally must be made prior to January 1 of each calendar year for which compensation is to be deferred.

5. Under the Plan, the deferred fees will be credited to a book entry account established by each Fund (the ''Deferred Fee Account'') as of the date such fees would have been paid to the Trustee. SSgA Funds proposes to use returns on shares (''Underlying Securities'') of certain designated Funds and of other investment companies that are not affiliated with State Street designated from time to time by the Trustees (the ''Eligible Funds'') to determine the amount of earnings and gains or losses allocated to a Trustee's Deferred Fee Account. The value of the Deferred Fee Account as of any date would be periodically adjusted by treating the Deferred Fee Account as though an equivalent dollar amount had been invested and reinvested in the Underlying Securities. The Underlying Securities for a Deferred Fee Account will be shares of any of the Eligible Funds as the participating Trustee designates in his or her Notice of Election. The Trustee may change his or her designation quarterly. Each Deferred Fee Account will be credited or charged with book adjustments representing all interest, dividends, and other earnings and all gains and losses that would have been realized had the account been invested in the Underlying Securities.

6. The Plan provides that a participating Fund's obligation to make payments from a Deferred Fee Account will be a general obligation of the Fund and payments made pursuant to the Plan will be made from the Fund's general assets and property. With respect to the obligations created under the Plan, the relationship of the Trustee to the participating Fund will be that of a general unsecured creditor.

7. The Plan also provides that the participating Fund will be under no obligation to the Trustee to purchase, hold, or dispose of any Underlying Securities. If the Fund chooses to purchase investments in order to cover its obligations under the Plan, any and all Underlying Securities will continue to be part of the general assets and property of the Fund.

8. Each Fund intends generally, and with respect to any Fund that is a money market fund and that values its assets using either the amortized cost or penny rounding method (a ''Money Market Fund'') hereby undertakes, to purchase and maintain Underlying Securities in an amount equal to the deemed investments of the Deferred Fee Accounts of its Trustees.[3] All purchases and sales of Underlying Securities will be within the limitations imposed by section 12(d)(1) of the Act.

9. Under the Plan, the Trustee's deferred fees generally will be distributed in whole or in part on a date specified in the Trustee's Notice of Election, which date may not be sooner than the earlier of the first business day of January following the termination of the Trustee's service as a trustee or one year following the deferral election. Payments will be made in a lump sum or in installments as elected by the Trustee at the time of executing the Notice of Election. In the event of the Trustee's death, amounts payable to him or her under the Plan thereafter will be payable to his or her designated beneficiary; in other circumstances, the Trustee's right to receive payments generally will be nontransferable.

10. The Plan will not obligate any Fund to retain the services of a Trustee, nor will it obligate any Fund to pay any (or any particular level of) Trustee's fees to any Trustee. Rather, it will merely permit a Trustee to elect to defer receipt of all or part of the Trustee's fees that he or she would otherwise receive.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) for an exemption from sections 13(a)(2), 13(a)(3), 18(f)(1), 22(f), and 22(g) and rule 2a–7 to the extent necessary to permit the Funds to offer deferred fee arrangements to the Eligible Trustees; under sections 6(c) and 17(b) for an exemption from sections 17(a) (1) and (2) to permit each Fund to sell its shares to and redeem its shares from other Funds as part of the deferred fee arrangements; and pursuant to section 17(d) and rule 17d–1 to permit the Funds to effect joint transactions incident to the deferred fee arrangements.

2. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Section 18(f)(1) generally prohibits a registered open-end investment company from issuing senior securities. Section 13(a)(2) requires that a registered investment company obtain shareholder authorization before issuing any senior security not contemplated by the recitals of policy in its registration statement. Applicants assert that the Plan raises none of the concerns underlying section 18(f). Applicants state that, in all cases, the liabilities for deferred fees are expected to be *de minimis* in relation to Fund net assets. Applicants submit that the Plan would not induce speculative investments by any Fund or provide opportunity for manipulative allocation of a Fund's expenses and profits; that control of each Fund would not be affected; and that the Plan would not confuse investors or convey a false impression of safety.

4. Section 22(f) prohibits undisclosed restrictions on the transferability or negotiability of redeemable securities issued by open-end investment companies. Applicants state that the restriction on transferability of a Trustee's benefits under the Plan would be clearly set forth in the Plan, would be included primarily to benefit the participating Trustee, and would not adversely affect the interests of the Trustee, the Fund, or any shareholder of any Fund.

5. Section 22(g) prohibits registered open-end investment companies from issuing any of their securities for services or for property other than cash or securities. Applicants believe that the Plan would provide for deferral of payment of Trustee fees and thus should be viewed as being issued not in return for services but in return for a Fund's not being required to pay such fees on a current basis.

6. Section 13(a)(3) provides that no registered investment company shall, unless authorized by the vote of a majority of its outstanding voting securities, deviate from any investment policy that is changeable only if

[3] Although a Fund's shares may serve as an Underlying Security with respect to deferred fees earned by a Trustee, it is not anticipated that a Fund will purchase its own shares. Rather, monies equal to the amount credited to the Deferred Fee Account with respect to the Fund's own shares will be invested as part of the general investment operations of that Fund.

authorized by shareholder vote. Applicants request relief from section 13(a)(3) only with respect to Funds that have a fundamental investment restriction prohibiting investments in securities of investment companies (the ''Restriction Funds''). Applicants submit that it is appropriate to enable the Restriction Funds to invest in Underlying Securities without a shareholder vote. Applicants note that the value of the Underlying Securities is expected to be *de minimis* in relation to the total net assets of each Restriction Fund. Furthermore, applicants state that the value of the Underlying Securities held by each Restriction Fund will at all times equal the value of each Restriction Fund's obligations to pay deferred fees. Accordingly, applicants submit that changes in the value of the Underlying Securities will not affect the value of shareholders' investments in the Restriction Fund. Applicants also represent that appropriate disclosure regarding the Plan will be included in the statement of additional information of each Fund.

7. Rule 2a–7 imposes certain restrictions on the investments of money market funds that use the amortized cost method or penny-rounding method of computing their per share price. Applicants state that the requested exemption would permit each Money Market Fund in question to achieve an exact matching of Underlying Securities with the deemed investments of the Deferred Fee Accounts, thereby ensuring that the deferred fee arrangements will not affect net asset value. Applicants assert that the amounts involved in all cases will be *de minimis* in relation to total net assets of each Money Market Fund and will have no effect on the per share net asset value of the Money Market Fund.

8. Sections 17(a) (1) and (2) generally prohibit an affiliated person of a registered investment company from selling any security to, or purchasing any security from, such company. Section 2(a)(3)(C) provides that an affiliated person of another person includes any person directly or indirectly controlling, controlled by, or under common control with, such other person. Applicants submit that because the Funds share the same or an affiliated investment manager, generally the same Trustees, and many of the same officers, each Fund might be deemed to be under common control with all other Funds, and therefore each Fund might be deemed to be an affiliated person of every other Fund. Applicants believe that the sale of securities issued by the Funds pursuant to the Plan does not implicate Congress's concerns in enacting section 17(a). Applicants assert that such sales of securities merely would facilitate the matching of a Fund's liability for deferred Trustees' fees with the Underlying securities that would determine the amount of such Fund's liability.

9. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that: (1) the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching; (b) the transaction is consistent with the policy of each registered investment company concerned; and (c) the transaction is consistent with the general purposes of the Act. Because section 17(b) may apply only to a specific proposed transaction, applicants also request an order under section 6 (c) to permit a series of transactions between Funds contemplated by the Plan. Applicants represent that their application meets the standards of section 6(c) and 17(b).

10. Applicants state that because purchases of shares of any open-end Fund pursuant to the Plan are made at net asset value, the terms of the deferred fee arrangements are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants also submit that, because the purchase of shares of another Fund would not be made for investment purposes, but solely to match the Fund's liability for deferred fees, the purchase of the shares would not be inconsistent with the policies of each of the Funds. Applicants assert that in addition, because the number of shares pursuant to the deferred fee arrangements will be *de minimis* in relation to the size of each Fund, none of the Act's concerns with affiliated sales and purchases of Fund shares would be implicated.

11. Section 17(d) of the Act prohibits affiliated persons of registered investment companies, acting as principal, from effecting any transaction in which such registered investment company is a joint or joint and several participant with such person in contravention of rules and regulations prescribed by the SEC. Rule 17d–1 under the Act provides that the SEC may approve a transaction subject to section 17(d) after considering whether the participation of such registered investment company is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Because the Plan may be deemed to be a joint arrangement within the meaning of rule 17d–1, applicants request relief under section 17(d) and rule 17d–1 to the extent that these provisions may be applicable to the Plan. Applicants submit that the participating Trustee would neither directly nor indirectly receive a benefit that would otherwise inure to the Funds or any of their shareholders. Applicants submit that the effect of the Plan merely would be to defer the payment of fees that the Funds otherwise would be obligated to pay on a current basis.

Applicants' Condition

Applicants agree that the order granting the requested relief shall be subject to the following condition:

1. With respect to the requested relief from rule 2a–7, any Money Market Fund will buy and hold Underlying Securities (other than its own shares) that determine the performance of Deferred Fee Accounts to achieve an exact match between such Fund's liability to pay deferred fees and the assets that offset that liability.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–1792 Filed 1–23–98; 8:45 am]

BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1500).

TIME AND DATE: 9 a.m. (CST), January 28, 1998.

PLACE: Centerville City Hall, 102 East Swan, Centerville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on December 9, 1997.

New Business

C—Energy

C1. Contract with Foster Wheeler Energy Corporation for pendant reheater replacements for Cumberland Fossil Plant, Units 1 and 2 boilers.

E—Real Property Transactions

E1. Abandonment of easement rights affecting 2.76 acres of the Hohenwald-Mt. Pleasant 46–kV Transmission Line easement in Lewis County, Tennessee (Tract No. HMP–30).

E2. Abandonment of easement rights affecting 5.03 acres of the Bull Run-Solway and Bull Run-Solway No. 2 Transmission Line easements in Knox County, Tennessee (Tract Nos. BRSW–

36, –37, –38, and –39 and BAST–27, –28, –29, and –30).

E3. Sale of noncommercial, nonexclusive permanent easement to Lea Anne Law for construction and maintenance of recreational water-use facilities affecting 0.30 acre of Tellico Lake shoreline in Monroe County, Tennessee (Tract No. XTELR–200RE).

E4. Grants of permanent easements to the City of Decatur for highway improvement projects affecting approximately 4.26 acres of land on Wheeler Lake in Morgan County, Alabama (Tract Nos. XTWR–104H and XTWR–105H).

E5. Sale of a nonexclusive permanent easement to the Waterworks Board of the Town of Section, Alabama, for a road affecting approximately 0.51 acre of land on Guntersville Lake in Jackson County, Alabama (Tract No. XGR–747H).

E6. Sale of a permanent easement to Brooks Fiber Communications of Tennessee, Inc., for installation and maintenance of a fiber optic cable affecting approximately 3 acres of land on Melton Hill Lake in Anderson County, Tennessee (Tract No. XMHR–58E).

E7. Modification of a release and grant of easement affecting approximately 0.03 acre of former TVA land on Norris Lake in Union County, Tennessee (Tract No. XNR–236:S–12).

E8. Grant of a permanent easement to the State of Tennessee for State Route 1 (U.S. 70) highway improvement project affecting approximately 0.36 acre of land on Kentucky Lake in Humphreys County, Tennessee (Tract No. XTGIR–147H).

Unclassified

F1. Approval to file condemnation cases in connection with permanent easements and rights-of-way for the following power transmission lines: Pickwick Dam-Memphis, Fayette County, Tennessee; and Portland-Westmoreland, Sumner County, Tennessee; and Booneville-Plumrose, Prentiss County, Mississippi.

Information Items

1. Amendments to the provisions of the TVA Savings and Deferral Retirement Plan and New Trust Agreement between the TVA Retirement System Board and Fidelity Management Trust Company.

2. Approval of pricing arrangements for the Real Time Pricing program.

3. Approval to file condemnation cases for the following transmission lines: Carriage House-Madison West Section, Jackson, Tennessee; Freeport-Miller, DeSoto County, Mississippi; Freeport-Miller Tap to Mitchell, DeSoto County, Mississippi; and Maury-Radnor Tap to Rally Hill, Maury County, Tennessee.

4. Approval for TVA Nuclear to enter into a contract in which Westinghouse Electric Corporation would purchase from TVA a space reactor coolant pump internals package located at the Watts Bar Nuclear Plant Unit 2.

5. Approval to award a fixed-price contract with Foster Wheeler Energy Corporation for intermediate waterwalls for the Cumberland Fossil Plant Units 1 and 2 boilers.

6. Approval of the Chief Financial Officer's proposed retention of new power proceeds and nonpower proceeds and payments to the U.S. Treasury in March 1998, pursuant to Section 26 of the TVA Act.

7. Approval of New Labor Relations Agreements Between TVA and Local 544, Service Employees' International Union, AFL–CIO.

8. Approval of the Chief Financial Officer's proposed financial statements for Fiscal Year 1997.

9. Approval of new Labor Relations agreements between TVA and the Engineering Association, Incorporated.

10. Approval of TVA contributions to the cost of TVA-sponsored medical coverage for TVA retirees—additional interim payment for retirees over 65, and delegation of authority to the Senior Vice President, Human Resources, or a designated representative, to take all actions necessary to implement the program.

11. Approval of revisions to the Competitive Indexed Rate program.

12. Approval of revisions to the Competitive Indexed Rate program at Powell Valley Electric Cooperative.

13. Delegation of authority to publish proposed and final regulations for TVA to implement Title IX of the Education Amendments of 1972.

14. Approval of revisions to the Competitive Indexed Rate program and of a contract for such arrangements with a customer that has been served by the City of Bristol, Virginia.

15. Approval for attainment of Fiscal 1997 Performance Incentive Plan Goals and proposed Fiscal 1997 Performance Incentive Plan awards for eligible represented and excluded employees and manager and specialist employees in pay groups 1–11.

16. Approval of amendment to Supplemental Executive Retirement Plan.

17. Approval for the sale of TVA Power Bonds and TVA subordinated debt.

18. Approval of recommendations resulting from the 62nd Annual Wage Conference, 1997—Construction Project Agreement Wage Rates.

19. Approval of amendment to the Performance Incentive Plan.

20. Approval to purchase subbituminous coal for various TVA fossil plants and rail transportation services.

For more information: Please call TVA Public Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: January 21, 1998.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 98–1885 Filed 1–22–98; 10:18 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 30, 1997, [62 FR 51175].

DATES: Comments must be submitted on or before February 25, 1998.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Certification: Pilots and Flight Instructors.

OMB Control Number: 2120–0021.

Type of Request: Extension of currently approved collection.

Affected Public: Individuals.

Form(s): 8710–1.

Abstract: The FAA is empowered to issue airmen certificates to properly qualified persons. This clearance

request covers the burden imposed on airmen directly responsible for the control of aircraft. 14 CFR part 61 prescribes requirements for pilot and flight instructor certificates. 14 CFR part 143 prescribes requirements for ground instructors. Information collected is used to determine compliance and applicant eligibility.

Annual Estimated Burden Hours: The current burden for this collection is estimated to be 252,140 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on January 20, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–1719 Filed 1–23–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week of January 16, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–3326.

Date Filed: January 13, 1998.

Parties: Members of the International Air Transport Association.

Subject:

PTC3 0151 dated December 19, 1997 r1–8

PTC3 0154 dated December 19, 1997 r9–16

PTC3 0156 dated December 19, 1997 r17–22

PTC3 0158 dated December 19, 1997 r23–29

PTC3 0161 dated December 19, 1997 r30–34

PTC3 0165 dated December 19, 1997 r35–51

PTC3 0167 dated December 19, 1997 r52–55

PTC3 Resolutions (US Territories)

Minutes—PTC3 0171 dated January 9, 1998

Tables—PTC3 Fares 0014 dated January 9, 1997

PTC3 Fares 0015 dated January 9, 1997

PTC3 Fares 0016 dated January 9, 1997

PTC3 Fares 0018 dated January 9, 1997

PTC3 Fares 0021 dated January 9, 1997

PTC3 Fares 0022 dated January 9, 1997

Intended effective date: April 1, 1998

Docket Number: OST–98–3327.

Date Filed: January 13, 1998.

Parties: Members of the International Air Transport Association.

Subject:

PTC3 dated December 19, 1997 r1–8

PTC3 0152 dated December 19, 1997 r9–17

PTC3 0153 dated December 19, 1997 r18–26

PTC3 0155 dated December 19, 1997 r27–32

PTC3 0157 dated December 19, 1997 r33–40

PTC3 0159 dated December 19, 1997 r41–48

PTC3 0160 dated December 19, 1997 r49–54

PTC3 0162 dated December 19, 1997 r55–67

PTC3 0163 dated December 19, 1997 r68–82

PTC3 0164 dated December 19, 1997 r83–106

PTC3 0166 dated December 19, 1997 r107–145

PTC3 0168 dated December 19, 1997 r146–157

PTC3 0169 dated December 19, 1997 r158–166

PTC3 Resolutions (Excluding the US Territories)

Tables—PTC3 Fares 0013 dated January 9, 1997

PTC3 Fares 0017 dated January 9, 1997

PTC3 Fares 0019 dated January 9, 1997

PTC3 Fares 0020 dated January 9, 1997

(Minutes, contained in PTC3 0171, are filed this date with the U.S.-related portion of the Agreement.)

Intended effective date: April 1, 1998

Paulette V. Twine,

U.S. D.O.T. Dockets.

[FR Doc. 98–1739 Filed 1–23–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Draft Environmental Impact Statement; Letcher County, Kentucky

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Withdrawal of Draft Environmental Impact Statement (DEIS).

SUMMARY: The FHWA is issuing this notice to advise the public that a final environmental impact statement (FEIS) will not be prepared for the proposed highway project in Letcher County, Kentucky. This is a formal withdrawal of the draft environmental document from the public record.

FOR FURTHER INFORMATION CONTACT: Jesse A. Story, Division Administrator, Federal Highway Administration, 330 W. Broadway, John C. Watt Federal Building, Frankfort, Kentucky 40602, Telephone: (502) 223–6720.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Kentucky Transportation Cabinet (KYTC) will not prepare a Final Environmental Impact Statement (FEIS) on the proposal to improve U.S. 119 in Letcher County, Kentucky. The original DEIS for the improvements (SSP 067 0119 009–018 018 D) was approved for pubic circulation on August 4, 1994. The scope of this project was identified as a 12-mile long major reconstruction and relocation of US 119 from Partridge, Kentucky to Whitesburg, Kentucky. Several new alternates were evaluated in this DEIS.

Based on an evaluation of the potentially significant environmental consequences and coupled with public and resource agency comments, the KYTC has reevaluated the proposed project and has determined that a reduced scope of work to provide a basic replacement of the two-lane facility with safety upgrades would substantially meet the purpose and need for the project. Since the reduced scope of work for the proposed project essentially negates the information contained in the DEIS, the FHWA is withdrawing the August 4, 1994 DEIS. The FHWA anticipates that no significant impacts will result from the proposed actions and that a FONSI will be issued.

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: January 16, 1998.

Jesse A. Story,

Division Administrator, Frankfort, Kentucky.

[FR Doc. 98–1725 Filed 1–23–98; 8:45 am]

BILLING CODE 4910–12–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–98–3330]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and Request for Comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before March 27, 1998.

FOR FURTHER INFORMATION CONTACT: Patricia Ann Thomas, Office of Maritime Labor, Training and Safety, MAR–250, Room 7302, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone number 202–366–2646 or fax number 202–493–2288. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Merchant Marine Medals and Awards.

Type of Request: Extension of a currently approved information collection.

OMB Control Number: 2133–0506.

Form Number: No form is required for this collection.

Expiration Date of Approval: September 30, 1998.

Summary of Collection of Information: This information collection provides the Maritime Administration with a method for documenting and processing requests for merchant marine medals and decorations to masters, officers, and crew members of U.S. ships in recognition of their service in areas of danger during World War II, Korean War, Vietnam War and Operation DESERT STORM and the replacement of previously issued awards.

Need and Use of the Information: The information collection is used by MARAD personnel to process and verify requests for service awards. The issuance of awards is based upon requests from the public.

Description of Respondents: Eligible merchant seamen.

Annual Responses: 2500 responses.

Annual Burden: 2500 hours.

Comments: Signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, S.W., Washington, D.C. 20590–0001. Specifically, address whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t. Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at http:/dms.dot.gov.

Dated: January 20, 1998.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 98–1710 Filed 1–23–98; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–97–3122; Notice 2]

Dan Hill & Associates, Inc.; Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 224

This document grants the application by Dan Hill & Associates, Inc., of Norman, Oklahoma, for a one-year temporary exemption from Motor Vehicle Safety Standard No. 224 *Rear Impact Protection*. The basis of the application was that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

Notice of receipt of the application was published on November 21, 1997, and an opportunity afforded for comment (62 FR 62398).

The applicant manufactures and sells a horizontal discharge trailer (''Flow Boy'') that is used in the road construction industry to deliver asphalt and other road building materials to the construction site. The Flow Boy is designed to connect with and latch onto various paving machines (''pavers''). The Flow Boy, with its hydraulically controlled horizontal discharge system, discharges hot mix asphalt at a controlled rate into a paver which overlays the road surface with asphalt material.

Standard No. 224 requires, effective January 26, 1998, that all trailers with a GVWR of 4536 Kg or more, including Flow Boy trailers, be fitted with a rear impact guard that conforms to Standard No. 223 *Rear impact guards*. Installation of the rear impact guard will prevent the Flow Boy from connecting to the paver. Thus, Flow Boy trailers will no longer be functional and contractors will be forced to use standard dump body trucks or trailers with their inherent limitations.

The applicant, which manufactured 81 Flow Boy trailers in 1996 (plus 21 other trailers), asked for a one-year exemption in order to explore the feasibility of a rear impact guard that will allow the Flow Boy trailer to connect to a conventional paver. In the absence of an exemption, it believes that approximately 60 percent of its work force would have to be laid off. Its gross revenues would decrease by $6,000,000 (these have averaged $13,885,000 over its 1994, 1995, and 1996 fiscal years). Present studies show that the placement of the retractable rear impact guard would likely catch excess asphalt as it was discharged into the pavement hopper. Further, the increased cost of the Flow Body would likely cause contractors to choose the cheaper alternative of dump trucks. Finally, the applicant asserted that the increased weight of the retractable rear impact guard would significantly decrease the payload of the Flow Boy.

Applicant sent its Product Specialist to Germany in 1994 to view underride protection guards installed by a German customer on Flow Boy trailers but the technology proved inapplicable because of differences between German and American pavers. Manufacturers of paving machines are not interested in redesigning their equipment to accommodate a Flow Boy with a rear impact guard. The applicant has contacted a British manufacturer of a retractable rear impact guard but the information received to date does not look encouraging. If an exemption is granted, the applicant will continue to explore the feasibility of a retractable rear guard that allows connection with a paver.

The applicant believes that an exemption would be in the public interest and consistent with traffic safety objectives because the Flow Boy aids in the construction of the national road system. It spends very little of its operating life on the highway and the likelihood of its being involved in a rear-end collision is minimal. In addition, the design of the Flow Boy is such that the rear tires act as a buffer and reduce the likelihood of impact with the trailer.

No comments were received in response to the **Federal Register** notice.

The applicant differs from the usual hardship petitioner in that it is a corporation whose net revenues are positive and healthy. The hardship to be borne in this instance is the effect of a denial upon the company. The applicant's production is limited in number; it produced 102 trailers in 1996, of which 86 are of the type for which exemption is sought. This is approximately 85 percent of its production. Although the remaining trailer types appear to contribute a proportionally greater part of the company's gross revenues, these revenues would decline by a significant percentage. There is also the economic cost, not discussed by the company, of maintaining unused manufacturing facilities and settling accounts with suppliers for goods ordered and canceled.

The company's efforts to comply appear to have been stymied by the unacceptability of a redesign of the Flow Boy to its consumers. Its application indicates that, for the past three years, it has looked at home and abroad in search of a solution that meets both safety and market needs. It will continue to do so if granted an exemption.

The applicant has argued that an exemption is in the public interest because the Flow Boy aids in construction of the national highway system. While the company did not quantify its work force, it estimated that approximately 60 percent of it would have to be laid off in the wake of a denial. Thus, the company could have argued that continued full employment of its work force is also in the public interest.

Finally, the company believes that an exemption is consistent with objectives of motor vehicle safety because the Flow Boy spends very little of its operating life on the highway and the likelihood of it being involved in a rear-end collision is minimal. NHTSA understands this to mean that proportion of time spent in transit on the roads from one job site to another will be small in comparison with the time spent at rest at construction sites amidst other road equipment. This indicates that the exposure of a Flow Boy without a rear underride guard to a potential crash situation will be reduced. The small number of trailers that may be produced under the exemption, less than 100, further reduces the crash potential.

In consideration of the foregoing, it is hereby found that requiring compliance with Standard No. 224 as of its effective date would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. It is also found that an exemption would be in the public interest and consistent with the objectives of motor vehicle safety. Accordingly, the company of Dan Hill & Associates is hereby granted NHTSA Temporary Exemption No. 98–1 from 49 CFR 571.224 Motor Vehicle Safety Standard No. 224 *Rear Underride Protection,* expiring February 1, 1999.

Authority: 49 U.S.C. 30113, 49 CFR part 555; delegation of authority at 49 CFR 1.50.

Issued on January 20, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–1784 Filed 1–23–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33542]

CSX Transportation, Inc.—Trackage Rights Exemption—Consolidated Rail Corporation and Indiana Harbor Belt Railroad

Consolidated Rail Corporation (Conrail), as owner, and Indiana Harbor Belt Railroad Company (IHB), as operator,[1] have agreed to grant overhead trackage rights to CSX Transportation, Inc. (CSXT), to operate its trains, locomotives, cars, and equipment with CSXT's own crews over Conrail's Kankakee Line between Michigan Avenue, Indiana Harbor, IN, milepost 0.0±, and Osborn, IN, milepost 4.8±, at the connection between Conrail's Kankakee Line and the Norfolk and Western Railway Company, a total distance of approximately 4.8 miles. The trackage rights are restricted to bridge traffic only between the termini of the trackage rights for trainload movements of finished automobiles and associated empty equipment to and from the Ford Mixing Center in the Calumet Yard area.

The transaction is expected to be consummated on January 19, 1998, the effective date of the exemption.

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 the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33542, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001 and served on: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc., 500 Water Street, J-150, Jacksonville, FL 32202.

Decided: January 16, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–1755 Filed 1–23–98; 8:45 am]

BILLING CODE 4915–00–P

[1] Pursuant to a trackage rights agreement, dated April 9, 1906, Conrail granted trackage rights to IHB to operate over portions of its railroad, including that portion of the Kankakee Line which CSXT will acquire upon the effective date of this exemption. Since IHB acts as agent on behalf of Conrail in the performance of supervision, control and maintenance of this line of railroad, IHB is included as a party to the trackage rights agreement.

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Regulations Governing United States Savings Bonds Series E/EE and H/HH.

DATES: Written comments should be received on or before March 30, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing United States Savings Bonds Series E/EE and H/HH.

OMB Number: 1535–0095.

Abstract: The regulations mandate the payment of H/HH interest by Direct Deposit (ACH Method).

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals, Businesses or other for-profit, and state or local governments.

Estimated Total Annual Burden Hours: 1.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 20, 1998.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 98–1727 Filed 1–23–98; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the transaction request for U.S. Treasury Securities State and Local Government Series and Early Redemption Request for U.S. Treasury Securities State and Local Government Series.

DATES: Written comments should be received on or before March 30, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Transaction Request for U.S. Treasury Securities State and Local Government Series and Early Redemption Request for U.S. Treasury Securities State and Local Government Series.

OMB Number: 1535–0121.

Form Numbers: PD F 5376 and PD F 5377.

Abstract: The information is requested to process accounts for the owners of securities of State and Local Government Series.

Current Actions: None.

Type of Review: Extension.

Affected Public: State or Local Government.

Estimated Number of Respondents: 3,350.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,675.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 20, 1998.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 98–1728 Filed 1–23–98; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the U.S. Savings Bonds EasySaver Plan Enrollment Application Series EE.

DATES: Written comments should be received on or before March 30, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: U.S. Savings Bonds EasySaver Plan Enrollment Application Series EE.

Form Number: PD F 5391.

Abstract: The information is requested from the purchaser to issue Series EE Savings Bonds.

Current Actions: None.

Type of Review: New.

Affected Public: Individuals or households.

Estimated Number of Respondents: 100,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 17,000.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 20, 1998.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 98–1729 Filed 1–23–98; 8:45 am]

BILLING CODE 4810–39–P

UNITED STATES ENRICHMENT CORPORATION

Sunshine Act Meeting

AGENCY: United States Enrichment Corporation Board of Directors.

TIME AND DATE: 8:00 a.m., Wednesday, January 28, 1998.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, Maryland 20817.

STATUS: The Board meeting will be closed to the public.

MATTER TO BE CONSIDERED:

- Review of commercial, operational and financial issues of the Corporation.

CONTACT PERSON FOR MORE INFORMATION: Joseph Tomkowicz 301–564–3345.

January 21, 1998.

William H. Timbers, Jr.,

President and Chief Executive Officer.

[FR Doc. 98–1886 Filed 1–22–98; 10:18 am]

BILLING CODE 8720–01–M

federal register

Monday
January 26, 1998

Part II

Department of Education

Office of Postsecondary Education; Availability of the Federal Perkins Loan and National Direct Student Loan Programs Directory of Designated Low-Income Schools for Teacher Cancellation Benefits for the 1997–98 School Year; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.037]

Office of Postsecondary Education; Availability of the Federal Perkins Loan and National Direct Student Loan Programs Directory of Designated Low-Income Schools For Teacher Cancellation Benefits For the 1997–98 School Year

ACTION: Notice of availability of the Federal Perkins Loan and National Direct Student Loan Programs Directory of Designated Low-Income Schools for Teacher Cancellation Benefits for the 1997–98 School Year.

SUMMARY: The Secretary announces that the 1997–98 Federal Perkins Loan and National Direct Student Loan Programs Directory of Designated Low-Income Schools (Directory) is now available. Under the Federal Perkins Loan and National Direct Student Loan programs, a borrower may have repayment of his or her loan deferred and a portion of his or her loan canceled if the borrower teaches full-time for a complete academic year in a designated elementary or secondary school having a high concentration of students from low-income families. In the 1997–98 Directory, the Secretary lists, on a State-by-State and Territory-by-Territory basis, the schools in which a borrower may teach during the 1997–98 school year to qualify for deferment and cancellation benefits.

DATES: The Directory is currently available.

ADDRESSES: Information concerning specific schools listed in the Directory may be obtained from Sherraine Green, Systems Administration Branch, Campus-Based Programs Systems Division, Office of Postsecondary Education, U.S. Department of Education, 600 Independence Avenue, SW., (Regional Office Building 3, Room 4621), Washington, DC 20202–5447, Telephone (202) 708–5182. Information concerning deferment and cancellation of a National Direct or Federal Perkins loan may be obtained from Sylvia Ross or Gail McLarnon, Program Specialists, Campus-Based Loan Programs Section, Loans Branch, Policy Development Division, Office of Postsecondary Education, U.S. Department of Education, 600 Independence Avenue, SW., (Regional Office Building 3, Room 3045), Washington, DC 20202–5447, Telephone (202) 708–8242. 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.

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FOR FURTHER INFORMATION CONTACT: Directories are available at (1) each institution of higher education participating in the Federal Perkins Loan Program, (2) each of the fifty-seven (57) State and Territory Departments of Education, (3) each of the major Federal Perkins Loan billing services, and (4) the U.S. Department of Education, including its regional offices.

SUPPLEMENTARY INFORMATION: The Secretary selects the schools that qualify the borrower for deferment and cancellation benefits under the procedures contained in the Federal Perkins Loan program regulation in 34 CFR 674.53, 674.54 and 674.55.

The Secretary has determined that, for the 1997–98 academic year, full-time teaching in the schools set forth in the 1997–98 Directory qualifies a borrower for deferment and cancellation benefits.

The Secretary is providing the Directory to each institution participating in the Federal Perkins Loan Program. Borrowers and other interested parties may check with their lending institutions, the appropriate State or Territory Department of Education, regional offices of the Department of Education, or the Office of Postsecondary Education of the Department of Education concerning the identity of qualifying schools for the 1997–98 academic year. The Office of Postsecondary Education retains, on a permanent basis, copies of past Directories.

Dated: January 14, 1998.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

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FEDERAL REGISTER PAGES AND DATES, JANUARY

1–138 2
139–398 5
399–654 6
655–1050 7
1051–1320 8
1321–1734 9
1735–1888 12
1889–2134 13
2135–2304 14
2305–2592 15
2593–2872 16
2873–3016 20
3017–3246 21
3247–3446 22
3447–3634 23
3635–3790 26

CFR PARTS AFFECTED DURING JANUARY

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:
7062 2871
7063 3243
7064 3245

Executive Orders:
12947 (See Notice of January 21, 1998) 3445

Administrative Orders:
Notice of January 2, 1998 653
Notice of January 21, 1998 3445
Presidential Determinations:
No. 98–9 of January 6, 1998 3635
No. 98–10 of January 12, 1998 3447

5 CFR

251 2305
551 2304

Proposed Rules:
890 446

7 CFR

301 ..... 1, 1321
905 3247
925 655
930 399
944 3247
966 139
980 139
982 3251
997 ..... 2846, 3254
998 ..... 2846, 3254
1703 3637
1730 3449
1930 2135
2003 3256

Proposed Rules:
610 446
868 2353
930 3048
1001 3667
1002 3667
1004 3667
1005 3667
1006 3667
1007 3667
1012 3667
1013 3667
1030 3667
1032 3667
1033 3667
1036 3667
1040 3667
1044 3667
1046 3667
1049 3667
1050 3667
1064 3667
1065 3667
1068 3667
1076 3667
1079 3667
1106 3667
1124 3667
1126 3667
1131 3667
1134 3667
1135 3667
1137 3667
1138 3667
1139 3667
1301 ..... 1396, 3267
3200 3481

8 CFR

103 1331
212 1331
214 1331
235 1331
274a 1331

Proposed Rules:
3 2901
103 1775
292 2901

9 CFR

1 3017
2 3017
3 ..... 1, 3017
78 3637
92 1889
93 ..... 1889, 3638
94 ..... 406, 1889
95 1889
96 ..... 406, 1889
97 1889
98 1889
130 1889
145 2
147 2
310 1735
319 147

Proposed Rules:
54 3671
79 3671
304 1797
305 1797
310 1800
327 1797
335 1797
381 1797
500 1797

10 CFR

9 2873
30 1890
32 1890
40 1890
50 ..... 1335, 1890

52 1890
60 1890
61 1890
70 1890
71 1890
72 1890
110 1890
150 1890

Proposed Rules:

50 ....3052, 3673
430 ....2186, 3053
708 374

12 CFR

207 2806
220 2806
221 2806
224 2806
226 2723
265 2806
560 1051
900 3453
932 3453
933 3453

Proposed Rules:

10 2640
220 2840
221 2840
224 2840
309 29
563 563
563b 563

14 CFR

25 3023
39 ....4, 658, 1335, 1337, 1735, 1737, 1738, 1901, 1903, 1905, 1907, 1909, 1911, 1912, 1913, 2593, 2596, 3031, 3455, 3458
61 660
71 ....924, 1884, 1915, 1916, 1997, 2136, 2137, 2138, 2598, 2599, 2600, 2601, 2884, 2885, 2887, 2888, 2889, 2890, 3618
91 ....1917, 2304
93 1917
97 ....666, 2139, 2601, 2603, 2604, 2891
19 4
121 ....4, 1917, 2304
135 ....4, 1917
142 2304

Proposed Rules:

25 2186
39 ....167, 169, 171, 172, 174, 1070, 1072, 1074, 1076, 1930, 2911, 3054, 3056, 3267, 3270, 3272, 3273, 3275, 3276, 3278, 3483
71 ....2913, 3673, 3674, 3675
91 126
121 126
125 126
129 126
255 3491

15 CFR

732 2452
740 2452
742 2452
743 2452
744 2452
746 2452
762 2452
774 2452
806 3459
902 ....290, 667

16 CFR

Proposed Rules:

Ch. I 1802
Ch. II 3280
303 ....447, 449
1210 1077

17 CFR

Ch. II 451
230 3032
232 3462
240 ....1884, 2854

Proposed Rules:

1 ....695, 2188, 3492
140 3285

19 CFR

Proposed Rules:

201 3505
207 3505

20 CFR

200 2140

Proposed Rules:

200 34
209 2914

21 CFR

175 3463
178 3463
510 408
520 ....148, 408
558 ....408, 2306
820 3465

Proposed Rules:

101 1078
201 176

22 CFR

40 669
41 669

Proposed Rules:

228 3506

23 CFR

1327 149

24 CFR

207 1302
251 1302
252 1302
255 1302
266 1302
3500 3214

Proposed Rules:

81 1997

25 CFR

Proposed Rules:

291 3289

26 CFR

1 ....6, 409, 411, 671, 1054, 1740, 1917, 2892, 3186, 3256
40 24
48 24
513 2723
602 ....6, 1917, 2723, 2892

Proposed Rules:

1 ....35, 39, 42, 453, 707, 1803, 1932, 1933, 3057, 3296, 3677
31 3680
54 708
301 ....1086, 3186

29 CFR

1610 1610
1910 1152
1926 ....1152, 1919
4044 2307

30 CFR

203 2605
206 3618
260 2626
924 1342

Proposed Rules:

Ch. II 185
56 ....290, 2642
57 ....290, 2642
62 ....290, 2642
70 ....290, 2642
71 ....290, 2642
904 1396
913 2916
916 2916
918 712
920 2919
935 3507
936 ....454, 1399
943 3508
944 2192

31 CFR

103 ....1919, 3640

32 CFR

104 3465
270 3472

33 CFR

100 3036
117 ....1746, 2141, 2308, 2894

Proposed Rules:

165 1089

35 CFR

115 2141
117 2141
119 2141

Proposed Rules:

133 186
135 186

36 CFR

1151 1924
1153 1924
1155 1924
1191 ....2000, 2060

37 CFR

203 1926
253 2142

Proposed Rules:

201 3685

38 CFR

3 ....412, 413

39 CFR

20 3642
111 153
255 2304

40 CFR

9 ....673, 926, 1059, 1318
51 ....414, 1362
52 ....26, 414, 415, 674, 1060, 1362, 1369, 1927, 2146, 2147, 3037, 3650
60 ....414, 1746
61 ....414, 1746
62 2154
63 ....1746, 2630
68 640
81 2726
85 926
86 926
140 1318
180 ....156, 416, 417, 676, 679, 1369, 1377, 1379, 2156, 2163
185 2163
186 ....1379, 2163
228 682
244 683
245 683
271 ....683, 2167
272 2896
712 684
716 684
721 ....673, 685, 686, 3394

Proposed Rules:

Ch. I 3686
52 ....456, 714, 1091, 1804, 1935, 2194, 3687, 3693
55 2642
60 2194
61 2194
62 ....2195, 3509
63 2194
73 714
81 2804
122 1536
123 1536
180 3057
185 3057
186 3057
300 3061
440 2646

41 CFR

Proposed Rules:

51–5 3530
51–6 3530
51–8 3530
51–9 3530
51–10 3530

42 CFR

Ch. IV 2920
405 687
411 1646
413 ....292, 1379
424 2926
440 292
441 292
489 292

Proposed Rules:

411 1659
424 1659
435 1659
455 1659
1001 187

43 CFR

Proposed Rules:

2360 3531
3100 1936
3106 1936
3130 1936
3160 1936

44 CFR

11 1063
65 ....3039, 3041
67 3044

Proposed Rules:

67 3063

45 CFR

1301 2312
1304 2312
1305 2312
1306 2312
1630 1532

Proposed Rules:

302 187
303 187
304 187

46 CFR

Proposed Rules:

10 3070
15 ....2939, 3070

47 CFR

0 990
1 ....990, 2170, 2315
20 2631
21 2315
24 ....2170, 2315
26 2315
27 2315
36 2094
54 ....162, 2094
69 2094
73 ....164, 160, 2350, 2351
90 2315
95 2315

Proposed Rules:

1 ....460, 770
21 770
24 770
26 770
27 770
64 1943
73 ....193, 194, 2354, 2355
76 1943
79 3070
90 770
95 770
101 3075

48 CFR

4 1532
6 1532
8 1399
12 1532
13 1532
16 1532
19 1532
32 1532
33 1532
41 1532
42 1532
43 1532
49 1532
52 1532
53 ....648, 1532
1505 690
1514 690
1535 418
1537 690
1548 690
1552 ....418, 690, 691, 1532
1842 3652

Proposed Rules:

Ch. XXVIII 1399
44 649
922 386
952 386
970 386

49 CFR

10 2171
173 1884
195 3653
382 2172
393 1383
571 ....27, 3654, 3662
653 418
654 418
1111 2638

Proposed Rules:

232 ....195, 1418, 2631
571 46

50 CFR

17 ....692, 1752
32 2178
226 1388
285 667
600 419
622 ....290, 443, 1772
648 ....444, 1773, 2182, 2184, 3478
660 419

Proposed Rules:

14 3298
17 ....1418, 1948, 3301
222 1807
227 1807
300 ....1812, 3693
622 1813
648 ....466, 2651
660 ....2195, 3532
679 2694

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 JANUARY 26, 1998

AGRICULTURE DEPARTMENT

Rural Utilities Service

Rural development:

Distance learning and telemedicine loan and grant program; correction; published 1-26-98

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Illinois; published 11-26-97

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:

Tennessee; published 11-25-97

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Hawaii; published 12-18-97

Missouri; published 1-5-98

New York; published 12-19-97

Texas; published 12-22-97

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Acquisition regulations:

Contract administration; miscellaneous amendments; published 1-26-98

SECURITIES AND EXCHANGE COMMISSION

Electronic Data Gathering, Analysis, and Retrieval System (EDGAR):

Flier Manual—

Update and incorporation by reference; published 1-23-98

TRANSPORTATION DEPARTMENT

Coast Guard

Ports and waterways safety:

Vessels bound for ports and places; international safety management code verification status; published 12-11-97

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Rear impact guards; petition denied; published 1-26-98

Rear impact guards; rear impact protection; published 1-24-96

TREASURY DEPARTMENT

Currency and foreign transactions; financial reporting and recordkeeping requirements:

Bank Secrecy Act; implementation—

Funds transmittals by financial institutions; conditional exceptions to full compliance with safe harbor provisions of Travel Rule; published 1-26-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cherries (tart) grown in—

Michigan et al.; comments due by 2-5-98; published 1-21-98

Tart cherries grown in Michigan et al.; comments due by 2-5-98; published 1-6-98

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Interstate transportation of animals and animal products (quarantine):

Brucellosis in cattle and bison—

State and area classifications; comments due by 2-2-98; published 12-4-97

Plant-related quarantine, domestic:

Karnal bunt disease—

Approved alternative treatments; comments due by 2-3-98; published 12-5-97

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Pathogen reduction; hazard analysis and critical control point (HACCP) systems—

Generic HACCP models and guidance materials; availability; comments due by 2-2-98; published 11-3-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Magnuson Act provisions; comments due by 2-5-98; published 1-6-98

West Coast States and Western Pacific fisheries—

West Coast salmon; comments due by 2-2-98; published 12-3-97

COMMODITY FUTURES TRADING COMMISSION

Commodity option transactions:

Futures-style margining of options traded on regulated futures exchanges; comments due by 2-2-98; published 12-19-97

DEFENSE DEPARTMENT

Civilian health and medical program of uniformed services (CHAMPUS):

Payments due from persons unaware of eligibility loss; collection waiver; comments due by 2-2-98; published 12-4-97

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Alabama; comments due by 2-6-98; published 1-7-98

Indiana; comments due by 2-5-98; published 1-6-98

Drinking water:

National primary and secondary drinking water regulations—

Disinfectants and disinfection byproducts; data availability; comments due by 2-3-98; published 11-3-97

Interim enhanced surface water treatment; disease-causing organisms, protection against; data availability; comments due by 2-3-98; published 11-3-97

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Fluorine compounds; comments due by 2-3-98; published 12-5-97

Maleic hydrazide; comments due by 2-3-98; published 12-5-97

Pyrimethanil; comments due by 2-2-98; published 12-2-97

Sodium chlorate; comments due by 2-2-98; published 12-3-97

EXPORT-IMPORT BANK

Freedom of Information Act and Privacy Act; implementation; comments due by 2-2-98; published 12-4-97

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Competitive bidding procedures

Spectrum auction program; minority-based and gender-based designated entity provisions, etc.; comments due by 2-6-98; published 1-7-98

Radio stations; table of assignments:

Florida; comments due by 2-2-98; published 12-18-97

Mississippi; comments due by 2-2-98; published 12-18-97

Oklahoma; comments due by 2-2-98; published 12-18-97

Texas; comments due by 2-2-98; published 12-18-97

Television broadcasting:

Cable television systems—

Program access proceeding; complaint resolution; comments due by 2-2-98; published 1-13-98

FEDERAL DEPOSIT INSURANCE CORPORATION

Freedom of Information Act; implementation; comments due by 2-2-98; published 1-2-98

Risk-based capital:

Recourse and direct credit substitutes; comments due by 2-3-98; published 11-5-97

FEDERAL RESERVE SYSTEM

Risk-based capital:

Recourse and direct credit substitutes; comments due by 2-3-98; published 11-5-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption:

Food labeling—

Baking powder, baking soda, pectin; reference amount and serving size; comments due by 2-2-98; published 11-18-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicare:

Medicare+Choice plans and risk-sharing contractors; user fee collection; comments due by 2-2-98; published 12-2-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Kauai cave wolf spider and Kauai cave amphipod; comments due by 2-3-98; published 12-5-97

INTERIOR DEPARTMENT

Hearings and Appeals Office, Interior Department

Hearings and appeals procedures:

Stay of decisions; comments due by 2-6-98; published 12-8-97

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Kansas; comments due by 2-4-98; published 1-20-98

Louisiana; comments due by 2-6-98; published 1-7-98

Maryland; comments due by 2-4-98; published 1-20-98

Oklahoma; comments due by 2-5-98; published 1-6-98

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Acquisition regulations:

Contruction contracts, dismantling, demolishing, or removing improvements; equitable adjustments; comments due by 2-6-98; published 12-8-97

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:

Investment and deposit activities

Broker-dealer provisions revised; comments due by 2-2-98; published 12-4-97

Mergers or conversions of federally-insured credit unions—

Plain English disclosure statement; comments due by 2-2-98; published 12-4-97

Voluntary termination or conversion of insured status; disclosure forms amended; comments due by 2-2-98; published 12-4-97

PANAMA CANAL COMMISSION

Canal tolls rates and vessel measurement rules:

Small vessels transiting Canal, fixed minimum toll rate; comments due by 2-6-98; published 1-5-98

PERSONNEL MANAGEMENT OFFICE

Health benefits; Federal employees:

Minimum salary requirement removed; comments due by 2-5-98; published 1-6-98

RAILROAD RETIREMENT BOARD

Railroad Retirement Act:

Creditable railroad compensation; comments due by 2-2-98; published 12-4-97

SECURITIES AND EXCHANGE COMMISSION

Securities:

Disclosure documents; household delivery; comments due by 2-2-98; published 11-20-97

SOCIAL SECURITY ADMINISTRATION

Organization and procedures:

Social security numbers for aliens; information collection from State Department and Immigration and Naturalization Service; comments due by 2-2-98; published 12-2-97

TRANSPORTATION DEPARTMENT

Coast Guard

Boating safety:

Recreational boating education; federal requirements; comments due by 2-2-98; published 10-23-97

Recreational boating—

Personal flotation devices; Federal requirements; comments due by 2-2-98; published 9-25-97

TRANSPORTATION DEPARTMENT

Computer reservation systems, carrier-owned; comments due by 2-3-98; published 1-23-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

de Havilland; comments due by 2-4-98; published 1-5-98

Aerospatiale; comments due by 2-6-98; published 12-23-97

Airbus; comments due by 2-6-98; published 1-7-98

Allison Engine Co.; comments due by 2-6-98; published 12-8-97

Bombardier; comments due by 2-6-98; published 12-8-97

Dassault; comments due by 2-4-98; published 1-5-98

Eurocopter France; comments due by 2-2-98; published 12-3-97

General Electric Co.; comments due by 2-6-98; published 12-8-97

Pratt & Whitney; comments due by 2-6-98; published 12-8-97

Raytheon; comments due by 2-4-98; published 12-3-97

Class D airspace; comments due by 2-3-98; published 12-5-97

TRANSPORTATION DEPARTMENT

Federal Railroad Administration

Railroad power brakes and drawbars:

Train and locomotive power braking systems; advanced technology use; two-way end-of-train telemetry devices; comments due by 2-2-98; published 1-16-98

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

National Driver Register problem driver pointer system; procedures for participating in and receiving data from system:

Coast Guard Commandant; authorization to request and receive information; comments due by 2-2-98; published 12-2-97

TREASURY DEPARTMENT

Comptroller of the Currency

Risk-based capital:

Recourse and direct credit substitutes; comments due by 2-3-98; published 11-5-97

TREASURY DEPARTMENT

Fiscal Service

Marketable book-entry Treasury bills, notes, and bonds; sale and issue; uniform offering circular:

Fungible stripped interest components for Treasury inflation-indexed securities; comments due by 2-6-98; published 12-8-97

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Cafeteria plans; tax treatment; cross reference; comments due by 2-5-98; published 11-7-97

TREASURY DEPARTMENT

Thrift Supervision Office

Risk-based capital:

Recourse and direct credit substitutes; comments due by 2-3-98; published 11-5-97

LIST OF PUBLIC LAWS

The List of Public Laws for the 105th Congress, First Session, has been completed. It will resume when bills are enacted into Public Law during the second session of the 105th Congress, which convenes on January 27, 1998.

Note: A Cumulative List of Public Laws was published in the **Federal Register** on December 31, 1997.

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[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.

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